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## Choice, freedom, and freedom of choice

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**Abstract.** This paper argues in favour of a distinction between ‘freedom’ and ‘freedom of choice’ – a distinction that economists and political philosophers have so far either ignored or drawn wrongly. Drawing the distinction correctly may help to resolve a number of disputes in contemporary political philosophy and non-welfarist normative economics regarding the so-called ‘preference-based’ account of freedom and the relevance, to judgements about freedom, of degrees of similarity between agents’ options. The paper begins by setting out three much discussed axioms for the measurement of freedom (of choice?) originally put forward by Pattanaik and Xu. It is suggested that the problems these axioms give rise to can be solved by distinguishing correctly between ‘freedom’ and ‘freedom of choice’. The paper then sets out definitions of ‘freedom’, ‘choice’ and ‘freedom of choice’, justifying these in philosophical terms and arguing their superiority to alternative definitions. Finally, on the basis of these definitions and with reference to Pattanaik and Xu’s axioms, it is shown that an agent can enjoy freedom without enjoying freedom of choice, and that she can enjoy an increase in one of these without enjoying an increase in the other.

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## 1 Introduction

Normative economists and social choice theorists often fail to distinguish between ‘freedom’ and ‘freedom of choice’, tending rather to see the former term as simply short for the latter. Political and social philosophers do often distinguish between ‘freedom’ and ‘freedom of choice’, but have paid little attention to the latter concept, their main concern being to warn us that freedom of choice is not to be confused with freedom *simpliciter*, or with ‘social’ freedom, or in any case with the kind of freedom which they, as political and social philosophers, consider most important or interesting. I shall attempt here to defend the philosophers’ idea of distinguishing between the two concepts, but in an alternative way that is sensitive to the intuitions behind the work of the normative economists. A careful analysis reveals that we are indeed working with distinct concepts when we talk of freedom on the one hand and of freedom of choice on the other. The latter concept is, I shall claim, more complex than the former, and can be reconstructed using the more basic concepts of choice and freedom.

Distinguishing between ‘freedom’ and ‘freedom of choice’ in the way I suggest allows us to make sense of apparently conflicting intuitive judgements about comparative degrees of freedom, for it will follow from my definitions of these concepts that a person may enjoy an increase in freedom of choice without enjoying an increase in freedom *simpliciter*, and *vice versa*. If this implication turns out to be plausible, my proposed definitions ought to be of use not only in the general sense of clarifying two concepts frequently found at the interface between philosophy and social choice theory but also, more specifically, in helping to resolve current disputes in the social choice literature over the validity of the so-called ‘preference-based’ account of freedom (of choice?) and over the related problem of whether or not measurements of freedom (of choice?) should take into account degrees of variety among options.

I shall illustrate the relevance of my analysis to these disputes through an assessment of the truth value of three much-discussed axioms originally set out by Prasanta Pattanaik and Yongsheng Xu (1990). Like most social choice theorists, Pattanaik and Xu do not distinguish between ‘freedom’ and ‘freedom of choice’, and it seems to me that the confusion of these two concepts has infected much of the subsequent discussion.

An analysis that is fine-grained enough to distinguish between ‘freedom’ and ‘freedom of choice’ may seem pedantic to some. But once we see how the distinction helps to resolve the above-mentioned disputes, we shall see that this is far from being the case. Ordinary language may not often distinguish between ‘freedom’ and ‘freedom of choice’, but conceptual analysis needs to go beyond ordinary language, revealing those concepts which, though important, are expressed only implicitly. People often argue at cross-purposes over crucial policy questions simply as a result of confusions and misunderstandings about these merely implicit concepts.

## 2 The axioms of indifference, monotonicity and independence

It will be helpful to begin by setting out Pattanaik and Xu's three axioms for the measurement of freedom (of choice?), as I intend to use these to illustrate the ways in which I think my distinction between 'freedom' and 'freedom of choice' can throw light on the disputes among political philosophers and social choice theorists about freedom and its measurement. In setting out the axioms, I follow Pattanaik and Xu in treating 'freedom' as synonymous with 'freedom of choice':

1. *Indifference between no-choice situations.* Option sets containing only one member always offer the same amount of freedom. Intuitively, 'if neither of two feasible sets offers the agent any choice in the sense that both the feasible sets are singletons, then the degrees of freedom offered by the two feasible sets are identical (being 'zero' from an intuitive point of view)' (Pattanaik and Xu 1990, pp. 386–387; cf. Jones and Sugden 1982 p. 56).
2. *Strict monotonicity.* For any two alternative options  $x$  and  $y$ , having options  $x$  and  $y$  gives a person more freedom than having only option  $x$ . In other words, adding a new option to an existing option always increases freedom (Pattanaik and Xu 1990, pp. 386–387).
3. *Independence.* 'If  $A$  and  $B$  are two possible available sets [of options] and if  $x$  does not belong either to  $A$  or to  $B$ , then the ranking of  $A$  and  $B$  in terms of freedom corresponds to the ranking of  $A \cup \{x\}$  and  $B \cup \{x\}$ ' (Pattanaik and Xu 1990, p. 387). In other words, if you add the same option to two different sets, the ranking of the two sets remains unchanged: if sets  $A$  and  $B$  rank equally before the new option is added to each, they continue to rank equally after the new option has been added; if  $A$  ranks higher than  $B$  before the new option is added to each,  $A$  continues to rank higher than  $B$  after the new option has been added.

From these seemingly weak axioms, Pattanaik and Xu deduce the necessity of a 'simple cardinality-based ordering', such that one set of opportunities is ranked higher than another (in terms of freedom) if and only if it has a larger number of members. The result is therefore a simple counting rule for the measurement of freedom: more options means more freedom, fewer options means less.

According to Pattanaik and Xu, as well as to a number of commentators, this result is counterintuitive and therefore suggests the falsity of one or more of the axioms, however obviously true these initially may have seemed. The supposed counterintuitivity derives from the fact that the simple counting rule fails to take account of degrees of similarity between options. For example, common sense tells us that the option set {travelling by train, travelling by blue car} offers us more freedom than the option set {red car, blue car}, despite the fact that on the simple counting rule all two-member sets are to be ranked equally (Pattanaik and Xu 1990, pp. 389–390). Various solutions to this problem have been proposed, usually involving the replacement of one or more of the original axioms with axioms referring to *preferences* – either to

the agent's actual preferences (Sen 1991), or to 'reasonable' preferences (Pattanaik and Xu 1998) or to 'potential' preferences (Sugden 1998). Reference to preferences may allow us to rank the set {train, blue car} higher than the set {red car, blue car}. However, the incorporation of preferences into measures of freedom has also been criticised (Steiner 1994; Carter 1996, 1999; van Hees and Wissenburg 1999; van Hees 2000), in particular for confusing the value of the freedom specifically to perform this or that action (or this or that set of specific actions) with the value freedom has independently of the value of those specific freedoms – i.e., with freedom's 'non-specific' value, which is exactly the value we are supposed to be measuring when we measure degrees of overall freedom (Carter 1999, ss. 2.1, 5.2).

It seems to me that the best solution to the problem highlighted by Pattanaik and Xu consists in distinguishing between freedom of choice and freedom *simpliciter*. As I shall try to show, while an explication of freedom *simpliciter* should reject the first axiom while incorporating the third, an explication of freedom of choice should reject the third axiom while incorporating the first. To prepare the terrain for this solution, I now turn to an examination of the concepts of freedom and choice.

### 3 Freedom *simpliciter* and freedom of choice

#### 3.1 Having freedom and having choice

When defining the concepts of freedom and choice, it is important to be clear from the beginning whether the *definiendum* in question is an *opportunity* concept or an *exercise* concept.<sup>1</sup> Where freedom is treated as an opportunity concept, it means the *possibility* for an agent of performing some action or actions (where 'possibility' is normally understood as meaning a lack of *constraints* of various kinds). In this sense, freedom is concerned with actions that *might* (given an absence of constraints) be performed at some moment subsequent (or identical) to that at which the agent possesses the freedom in question. Where freedom is treated as an exercise concept, on the other hand, it means the *performance* by the agent of some action or actions. In this sense, to be free is to *do* certain things – usually things that exhibit self-mastery or realize one's 'true nature'. It is to achieve certain results in a certain way. The difference between 'having freedom' and 'exercising freedom' makes perfect

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<sup>1</sup> The distinction between an 'opportunity concept' and an 'exercise concept' comes from Charles Taylor (1979, p. 177), although Taylor probably had in mind a sense of 'opportunity' that is more restricted than the one I shall assume. I shall here follow the normative economists in using the term 'opportunity' to cover all kinds of possibility for an agent. This usage is not to be confused with a usage prevalent among philosophers of action according to which an agent's possibilities should be divided into opportunities (or 'circumstantial possibilities') and abilities (or physical and mental powers) (see, for example, Kenny 1975, Chapt. 7).

sense as long as one adopts an opportunity concept of freedom, but dissolves if one instead adopts an exercise concept of freedom.

The concept that interests us here is freedom as an opportunity concept. Following MacCallum's classic analysis, we can define this concept in terms of a triadic relation between an agent, constraints, and possible actions: an agent is free if he or she lacks certain constraints on the performance of certain actions (MacCallum 1967).<sup>2</sup> As MacCallum pointed out, the differences between various interpretations of this definition of freedom (or, if you like, between definitions of freedom at a more precise level) will depend on the extension assigned to each of these three variables (for example, on whether the agent is to be conceived of as an individual or as some collectivity, on whether only obstacles external to the agent or also internal obstacles count as constraints on freedom, and on whether any actions or only preferred or rational actions count as actions one can be correctly described as free to perform). Most of the disputes about the extension of these variables are not relevant to our present concern, which is with the essential difference between freedom and choice at MacCallum's conceptual level. We may therefore content ourselves, for the most part, with MacCallum's open-ended definition.

It might be suggested that the most accurate label for freedom in the above sense is 'freedom of action' (cf., Gorr 1989). I shall continue, however, to use the simpler term 'freedom', in line with the practice of most contemporary political philosophers. One good reason for doing so is that some philosophers have treated 'freedom of action' as synonymous with 'freedom of choice',<sup>3</sup> whereas my own aim is to drive a wedge between them. Another reason is that on my account, 'freedom of action' is pleonastic: freedom just is the absence of constraints on *action*; when used in its proper sense, the term 'freedom of *x*' expresses a more complex concept constructed using those of 'freedom (of action)' and '*x*'.

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<sup>2</sup> To be precise, the third variable in MacCallum's triadic relation is 'doing *or being*' something. My restriction of the third variable to actions (i.e. doings, not beings) has recently been disputed by Matthew Kramer (2003, pp. 156–69). Even if Kramer is right, however, the object of choice (and therefore of freedom of choice) will remain actions, and this will only serve to strengthen my claim that one can have freedom without having freedom of choice (see s. 4.1, below). In particular, I shall no longer need to rely (in s. 4.1), in the case of a 'pure negative' definition of freedom, on Steiner's argument that singleton sets are sets of possible *actions*.

<sup>3</sup> In Oppenheim (1961, 2001), we find the term 'freedom of choice' whereas in Oppenheim (1981) we find the term 'freedom of action'. The terms are apparently used to denote the same concept. Sugden (1998, p. 311) also uses the term 'freedom of action' to refer to what Hayek calls 'choice' or 'range of choice'. Below, I argue against the definition of 'freedom of choice' advocated by Oppenheim and Hayek. Other authors take 'freedom of action' to mean 'the freedom with which an action is performed' and, furthermore, treat this as synonymous with 'the freedom with which a choice is made' (on this point, see below).

The equivocation between an opportunity concept and an exercise concept is even more clear in the case of choice than in that of freedom. The noun 'choice' is used in everyday language to refer either to a choice the agent *makes* or to a choice the agent *has*. In the first case, it denotes an exercise concept; in the second, it denotes an opportunity concept. Once again, the concept that interests us here is that of choice as an opportunity concept. In what follows, where it is not obvious from the context which kind of concept I have in mind, I shall use the terms 'o-freedom' and 'o-choice' when employing the opportunity concepts of freedom and choice respectively, and 'e-freedom' and 'e-choice' when employing the exercise concepts of freedom and choice respectively.

Like the opportunity concept of freedom, the opportunity concept of choice can be explicated in terms of a triadic relation: it, too, can be described as the lack of constraints on an agent's doing something. Where is the difference, then, between having o-freedom and having o-choice? The difference lies in the third variable: to make a choice is not merely, and not necessarily, to perform an action (except in the limited sense of forming, and perhaps expressing, a preference); what choosing essentially consists in is the *selection* of some item from a choice-menu, where a selection is necessarily made from a set of items greater than one. To be more precise, we should add that choosing consists in making a *reasoned* selection. This addition is necessary if we wish to distinguish, further, between 'picking', as the *mere* making of a selection, and 'choosing', as the making of a selection on the basis of a reason (Ullmann-Margalit and Morgenbesser 1977). I shall return to this distinction later.

As in the case of o-freedom, I shall leave open, for the most part, what kinds of obstacle count as constraints on o-choice. Furthermore, in order to compare o-choice and o-freedom at MacCallum's broad conceptual level, I shall make the following important assumption: that whatever the precise terms in which constraints on o-choice are defined, these will be the same as those in which constraints on o-freedom are defined. In other words, I shall assume that the extension of the second variable is the same in the two triadic relations. Thus, if only external obstacles count as constraints on freedom, then only external obstacles count as constraints on choice; if certain internal obstacles restrict freedom, then they restrict choice too, and so on. Clearly, if one relaxes this assumption then one will find some very obvious differences between o-freedom and o-choice. But these are not the kinds of difference I am trying to expose in this paper.

In distinguishing o-freedom from o-choice by saying that the third variable of the triadic choice relation is the selection of an item from a menu, I do not mean to deny that the objects of our choices are nevertheless always actions (*beyond* the mere formation and expression of a preference). On the contrary, the items on choice menus are necessarily limited to events over which humans have some sway. When we choose, we choose that the world *go* one way rather than another. We choose that certain events be brought about, and the bringing about of events is just what action consists in.

However, the actions between which a person chooses (or has choice) need not be the actions of that same person. One may have the choice of doing  $x$  or doing  $y$ , but one may also have the choice of someone else's doing  $x$  or their doing  $y$ . An example of the first kind of choice is the choice whether to turn left or right at a crossroads. Here, a single agent chooses and subsequently turns either left or right. An example of the second kind is a father's choice of a wedding partner for his son (a so-called 'arranged marriage'). Here, the choice is made by the father but the object of that choice is an action (or series of actions) on the part of the son (as well as of other people). A mixed example is that of a choice whether to send a letter to Smith or to Jones. Here, the object of choice is a set of actions that includes actions of the chooser and actions of others (here, various postal workers).

We have therefore identified two characteristics that distinguish the concept of o-choice from that of o-freedom. The first is that having a choice necessarily involves the availability of a (reasoned) selection; the second is that the items on a choice menu need not consist in actions of the chooser herself. Nevertheless, it might be objected that the above account still underplays the difference between the two concepts, and that, unlike in the case of freedom, the items on a choice menu need not be actions at all, whether of the chooser or of other agents. For it is surely the case that we often talk of choices being made between objects rather than between events. Indeed, the social-choice literature on freedom often appears to refer to choices between *commodities* rather than between actions (this is noted, for example, in van Hees 2000, p. 106). It certainly does not seem out of the ordinary to say that I can have a choice between, say, an apple and an orange. Once we reflect on such examples, however, it becomes clear that talking of my having a choice between objects is really short for talking of my having a choice between events (or sets of events) involving changes in objects or in the relations between them. For example, talking of my having a choice between an apple and an orange is likely to be short for talking of my having a choice between another person's giving me an apple and their giving me an orange, or between my eating an apple and my eating an orange, or between someone else's eating an apple and their eating an orange.

It might nevertheless be insisted that there remain some examples of choices that turn out, even on closer inspection, to be between objects rather than events, thus involving no activity beyond the formation (and perhaps the expression) of a preference. For example, suppose I have the opportunity of considering all of the paintings in the Louvre so as to decide which is my favourite. I can surely do this without intending to steal my favourite painting or otherwise affect it in any physical way. Do I not have a choice here between objects that is not reducible to a choice between events? It seems to me that in such a case we should not normally want to say that I 'have a choice' between the paintings in the Louvre. What is available here is not an event of volition but an event of cognition: a consultation of various pieces of information and the subsequent deduction of a favourite. The expression 'choose which is your favourite' seems to me to involve a misuse of the term 'choose'. Neither is the

expression ‘choose a picture’ normally taken to mean ‘deduce which is your favourite’. If you are admiring my private art collection and I say to you ‘choose a picture’ (and this is *all* I say), you should certainly be excused for thinking that I am offering to *give* you the picture of your choice.

Perhaps the reason for the apparent validity of the counter-example of the ‘choice’ between the paintings in the Louvre lies in the perception of a truth that holds of e-choice (i.e., a choice one *makes*), even though it does not hold of o-choice (i.e., a choice one *has*). In ordinary usage, the noun ‘choice’ (where this means e-choice) *can* refer to the mere formation and expression of a preference. Thus, we can say without any degree of linguistic discomfort that a father chooses a bride for his son even though the son subsequently ignores his father’s decision and marries another woman. We would say in such a case that the son has not respected the *choice* made by his father. The same does not hold of the choices we *have*. For it would be incorrect to say beforehand that the father ‘has the choice’ (meaning o-choice) whether his son will marry woman *A* or woman *B* if we happen to know beforehand that the son will ignore his wishes. Moreover, the only reason we say in the above example that the father has *made* a choice, rather than that he has merely formed and expressed a preference, is that he was under the illusion, at the time of forming and expressing his preference, that he *had* a choice. There being an e-choice depends only on the chooser’s *thinking* he has the relevant options. There being an o-choice, on the other hand, depends on there *being* those options (Schick 1997, p. 9). More precisely, where one’s o-choice ranges over actions of one’s own, it presupposes one’s being unconstrained from performing those actions; and where (as in the above example) one’s o-choice ranges over actions of others, it depends on the truth of the counterfactual that those actions would be performed should one select them.

In the light of the above discussion, I propose that the expressions ‘having freedom’ and ‘having choice’ be defined in the following ways:

*Having freedom.* A person has freedom iff she lacks constraints on the performance of an action (or set of actions).

*Having choice.* A person has choice iff she lacks constraints on (i) the reasoned selection and performance of one or more of the items on an action-menu or (ii) the reasoned selection of one or more such items that would, if selected, be performed by another person or persons.

### 3.2 *Having freedom of choice*

How, then, is ‘freedom of choice’ to be defined? Although our concern here is with freedom of choice as an opportunity concept, it would be counterintuitive to define it as identical either to o-freedom or to o-choice. On the one hand, the presence of the term ‘choice’ in ‘freedom of choice’ suggests that the latter implies the possibility of making a (reasoned) selection rather than (as in the case of freedom *simpliciter*) merely the possibility of *acting*. On the other hand, the presence of the term ‘freedom’ in ‘freedom of choice’ suggests that ‘having freedom of choice’ is something more narrow than simply

‘having choice’, and that the former should always involve the possibility of actions *on the part of the chooser*. My suggested definition of ‘having freedom of choice’ is therefore constructed out of a combination of the above definitions of ‘having freedom’ and ‘having choice’, in the following way:

*Having freedom of choice.* A person has freedom of choice iff she lacks constraints on the reasoned selection and performance of one or more of the items on an action-menu.

This definition locates the opportunity concept of freedom of choice at the *intersection* between those of freedom and choice. Freedom of choice is both a *species* of o-freedom and a *species* of o-choice, denoting as it does the area in which these two concepts *overlap*. It picks out *those o-freedoms* that are freedoms to perform actions *among which one can make a reasoned selection*, and it picks out *those o-choices* that are choices between actions *of one’s own*.

Perhaps the above conception of freedom of choice will be thought to be ultimately reducible to that of freedom. After all, it might be objected, the performance of an action will always be preceded by the selection of that action from an action menu. I shall turn to this objection in the next section, where I shall examine the distinction between freedom of choice and freedom *simpliciter*. In the remainder of this section I shall consider, and reject, two alternative definitions of ‘freedom of choice’.

One alternative definition of ‘freedom of choice’ is based on a more literal interpretation of that expression, and states that ‘freedom of choice’ refers to the fact of choices being *made freely*. The basic intuition here is that the only work done by the term ‘freedom’, in ‘freedom of choice’, is that of qualifying the term ‘choice’ (cf., Olsaretti 2000, p. 114). Given this first alternative definition, the notion of ‘freedom of choice’ is closer, if not equivalent, to the notion which some philosophers have called ‘voluntariness’, or ‘acting freely’, or even (as noted above) ‘freedom of action’. Thus, if the son marries a woman of his father’s choosing under threat of some severe sanction, his choice to do so (as well as his action of doing so) might plausibly be said to lack voluntariness, or freedom, in the sense that it is a choice made (and an action performed) *unfreely* (despite the fact that he was *free to* marry the woman in question – a point to which I shall return in Sect. 4.1).

There are two problems with this alternative definition of ‘freedom of choice’, each of which rules it out as a serious candidate in the context of the present analysis. The first is that the definition assumes ‘freedom of choice’ to be an exercise concept rather than an opportunity concept: it takes the concept to be concerned with the freedom with which certain choices are *made*. Yet the normal understanding among normative economists is clearly that freedom of choice is to be interpreted as an opportunity concept. The second problem is that this alternative definition refers to choices in too broad a sense, rather than only to those choices the objects of which are actions on the part of the chooser. Intuitively, we should want to rule out of the sphere of one’s ‘freedom of choice’ those choices which have as their objects the actions of agents other than the chooser, for to admit such cases

would be to confuse the concept of freedom with that of social power. Having power over others certainly involves having *choice*. Yet freedom of choice is not a sub-species of power but a sub-species of freedom, and the freedom of a person involves, as we have seen, the possibility of that person's performing actions. Intuitively, one's freedom of choice is given by the extent of the sphere of *personal action* over which one is unconstrained from exercising choice.

A second alternative definition, which has had considerable influence among political philosophers, treats freedom of choice as an opportunity concept but differs from my definition in terms of the degree of complexity it attributes to the concept. On this second alternative definition, the opportunity concept of freedom of choice is simpler, not more complex, than that of freedom: while the concept of freedom expresses a triadic relation (between an agent, constraints, and actions), that of freedom of choice is said to express a merely dyadic relation (between an agent and actions). More specifically, on this view, the extent to which an agent is free depends on how far she is subjected to constraints imposed by other human agents – it depends, for example, on how far the actions of others prevent her from doing things or subject her to coercion – whereas the extent of her freedom of choice depends simply on the range of alternatives open to her, without regard to the causes, human or otherwise, of the extent of that range.

There is some support for this second alternative definition of 'freedom of choice' in the work of Friedrich von Hayek. Admittedly, in his endorsement of that definition, Hayek uses either the term 'choice' or the term 'range of choice' where I have used the term 'freedom of choice'. What matters, however, is his basis for distinguishing between what he calls 'freedom' and what he calls 'choice' or 'range of choice', which turns, as in the view just mentioned, on the question of the source of obstacles. Freedom, for Hayek, is limited only by coercion on the part of others, and is therefore not to be confused with 'the range of physical possibilities from which a person can choose': 'The rock climber on a difficult pitch who sees only one way out to save his life is unquestionably free, though we would hardly say he has any choice' (Hayek 1960, p. 12; see also Jones and Sugden 1982, p. 51; Dowding 1992, p. 301). My range of choice is given simply by the range of action that is physically possible for me, whereas my degree of freedom depends on how that range has been limited.<sup>4</sup>

Another source of support for this second alternative definition of 'freedom of choice' is to be found in the work of Felix Oppenheim. Admittedly, Oppenheim uses the term 'social freedom' where I have used the term 'freedom'. What matters, however, is the reason behind his use of this

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<sup>4</sup> If one limits constraints on freedom and choice to physical impossibility (as Hayek does not), Hayek can here be accused of confusing the unpalatableness of o-choice with its non-existence (the climber can, after all, still jump into the precipice).

term, which is similar to that behind Hayek's use of the term 'freedom'. The use of the adjective 'social' to qualify 'freedom' renders explicit in Oppenheim's *definiendum* what is explicit only in Hayek's *definiens*: i.e., that Oppenheim's 'social freedom', like Hayek's 'freedom', is the absence of constraints *imposed by other human agents*. Social freedom is therefore a triadic relation between two actors and a possible action or set of actions – it is a *social* relation – whereas 'freedom of choice' is, according to Oppenheim, simply a dyadic relation between an actor and possible actions: 'Social freedom indicates a relation between two actors [and an action], but freedom of choice signifies a relationship between one actor and one action or kind of action, either actual or potential. [Agent] *X* has freedom of choice as to [action] *x* to the extent that it is possible for *X* to do *x*' (Oppenheim 1961, p. 140, cf., 2004).

Distinguishing in this way between 'freedom' and 'freedom of choice' seems to me to involve the same kind of category mistake that is involved in distinguishing between a black dog and a white cat by saying that dogs are black and cats white. The colours of these two particular animals do not capture any of the essential differences between their species, since dogs may also be white and cats black. Similarly, freedom may be understood and defined either as a social relation or as a non-social (or not necessarily social) relation. The same is true of freedom of *choice*. Both are *triadic* relations – the first, between an agent, constraints, and the performance of an action; the second, between an agent, constraints, and the selection (and performance) of an action on an action menu. Either of them is appropriately called a *social* relation where the constraints in question have been defined as having their source in the action of others. Where the constraints are not so defined, a non-social (or a not-necessarily-social) relation is instead implied. Where Oppenheim writes that '*X* has freedom of choice as to *x* to the extent that it is possible for *X* to do *x*', the word 'possible' is doing more work than he is letting on. For it still needs to be said which kinds and sources of constraints (e.g., natural, social, preventive, coercive) are to count as making it 'impossible' for *X* to do *x*. There is always an implicit specification of the kinds and sources of constraints in uses of words like 'possible', 'impossible', 'can' and 'can't'. What is implicit in Oppenheim's own use of 'possible' (in the case of freedom of choice) is that the constraints in question can be the result of either human actions, natural causes or self-inflicted disabilities. But there is nothing in the concepts themselves to suggest the greater appropriateness to 'freedom of choice' than to 'freedom' of this inclusive definition of 'constraints'. Since, then, there can be social or non-social (or not necessarily social) freedom of choice, just as there can be social or non-social (or not necessarily social) freedom, the 'constraints' factor (the second variable in the triadic relation) is not the feature that captures the essential difference between freedom and freedom of choice. Rather, the feature that captures that difference lies in the third variable: in the case of 'freedom', the third variable is an action (or set of actions); in the case of freedom of choice, the third variable is the reasoned

selection of an action (of one's own) from an action menu – that is, from a range of at least two alternative actions.<sup>5</sup>

It is true that social choice theorists and normative economists usually treat the concept of freedom of choice *as if* it expressed a merely dyadic relation – a relation between an agent and options (cf., Carter 1996, pp. 17–18). But this does not show that what the concept expresses is a merely dyadic relation; all it shows is that the analysis of that concept provided by social choice theorists and normative economists is an incomplete one (cf., Bavetta 2004). It is indeed very difficult to imagine *any* opportunity concept – whether of freedom, of power, of choice or of freedom of choice – expressing a merely dyadic relation.

It might turn out that the concepts that matter most to us are those of social freedom and non-social (or not necessarily social) freedom of choice. That is a question I can leave aside here, since my present concern is with the essential difference between freedom and freedom of choice, not with the distinction between socially and non-socially created obstacles.

#### 4 The three axioms reconsidered

Assuming my definitions to be correct, let us now return to Pattanaik and Xu's axioms and see how each fares when assessed as referring to freedom *simpliciter* on the one hand and to freedom of choice on the other.

##### 4.1 *Having freedom simpliciter without having freedom of choice*

Consider the first axiom – that of indifference between no-choice situations. Where one's concern is with choice, or with freedom of choice, this axiom is surely indisputable, for it is *analytically* true that no-choice situations offer 'no choice' and therefore that they offer 'no freedom of choice' (freedom of choice itself being a *kind* of choice). Yet surprisingly, its validity as an axiom for freedom of choice has been disputed, both by Amartya Sen (1990, 1991) and by Robert Sugden (1998).

Sen suggests that of two options,  $x$  and  $y$ , if I prefer  $x$  to  $y$  then the singleton set  $\{x\}$  offers 'more freedom' than the singleton set  $\{y\}$  (Sen 1991, p. 24). Now it is clear, throughout Sen's writings, that he treats 'freedom' and 'freedom of choice' as synonymous (distinguishing only between an 'opportunity aspect' and a 'process aspect' of that concept, which

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<sup>5</sup> Oppenheim (2004) claims that 'unfreedom refers to a single kind of action, freedom to a range of alternatives'. On my account, this confuses 'freedom' with 'choice'. Both unfreedom and freedom can refer to single actions. It is choice that we have or lack *only* with respect to a 'range' of alternatives. Where Oppenheim uses the expression 'range of freedom', I find it more felicitous to use the expression 'degree of freedom', since it is choice, not freedom, of which one has a 'range'.

correspond, roughly speaking, to what I would call ‘freedom of choice as an opportunity concept’ and ‘freedom of choice as an exercise concept’ respectively).<sup>6</sup> Therefore, he must also say that the singleton set  $\{x\}$  offers ‘more *freedom of choice*’ than the singleton set  $\{y\}$ . If, however, as I have suggested, freedom of choice is a kind of choice, then it is surely puzzling to claim that the singleton set  $\{x\}$  offers ‘more freedom of choice’ than the singleton set  $\{y\}$ , for no singleton set can offer ‘more choice’ than another. If ‘freedom of choice’ is synonymous with ‘freedom’, moreover, it is similarly puzzling to claim that the singleton set  $\{x\}$  offers ‘more freedom’ than the singleton set  $\{y\}$ .

Sugden suggests that the axiom should be rejected as an axiom for the measurement of ‘opportunity’ if one interprets ‘opportunity’ as meaning ‘autonomy’ – i.e., the range of possibilities open to the individual – but not if one interprets ‘opportunity’ as meaning the ‘scope for significant choosing’ – i.e., the possibility of exercising one’s powers of reason and deliberation (Sugden 1998, pp. 320, 328). However, in his explication of ‘opportunity as autonomy’ he clearly implies that this concept, too, is to be defined in terms of that of *choice*: ‘A person’s actions are autonomous to the extent that they are chosen by him. But one cannot *choose* one action unless there are other actions which one might have chosen instead’ (Sugden 1998, p. 311, emphasis in original). This again makes it puzzling to say that one can have more ‘opportunity as autonomy’ where  $x$  is the only option than where  $y$  is the only option.

But the intuition behind the axiom of indifference between no-choice situations *can* be plausibly challenged as an axiom for *freedom*. The way in which this point is to be argued depends on the way in which one defines a constraint on freedom (the second element in MacCallum’s triadic formula defining freedom) at the more precise level, but I believe that the same conclusion can be reached for each of the rival definitions. I shall here consider two definitions of a constraint on freedom commonly assumed by liberal political philosophers.

First, it might be said that an agent becomes unfree to refrain from doing  $x$  if she is subjected to the threat of a sufficiently strong sanction should she refrain from doing  $x$ . (This remains the mainstream view among theorists of negative liberty). Now, if we restrict our attention to the options  $x$  and not- $x$ , it is surely more plausible to say of such a threatenee that she has ‘no choice’ than that she has ‘no freedom’, for while it is plausible to say that such an agent has ‘no choice but to do  $x$ ’, it is no less plausible, and is wholly consistent, to add that she remains ‘free to do  $x$ ’. G. A. Cohen has argued along these lines that one is free to do what one is forced to do: before you are forced to do  $x$ , Cohen says, you are, in normal circumstances, both free to do  $x$  and free to do not- $x$ . ‘The force removes the second freedom and not the

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<sup>6</sup> More precisely, Sen says that Pattanaik and Xu’s first axiom is untrue only of the ‘opportunity aspect’ of freedom (Sen 1990, p. 471).

first' (Cohen 1979, p. 9, cf., 1986, pp. 241-44).<sup>7</sup> Where coercive threats are deemed sufficient to produce unfreedom, then, the availability of the singleton set  $\{x\}$  offers some freedom despite offering no freedom of choice.

Secondly, it might be said that an agent becomes unfree to do  $x$  only if doing  $x$  is made physically impossible for her. This amounts to affirming the so-called 'pure negative' conception of freedom defended by Hillel Steiner among others. Now it should be recalled that we are assuming the 'constraints' variable in the triadic o-freedom relation to be coextensive with that of the 'constraints' variable in the triadic o-choice relation. This implies that for the defender of the pure negative conception of freedom, a 'no-choice' situation will occur only where the agent is *physically* forced to do something (and not where she is merely coerced into doing that thing). Even in this case, however, the intuition behind the axiom of indifference can be plausibly challenged. In fact, Steiner has himself affirmed that one is free to  $x$  even if one is physically forced to do  $x$ . The most obvious objection to this view consists in distinguishing between 'doing something' as an action and 'doing something' as mere behaviour. Freedom is the freedom to act, not simply to behave in certain ways, and 'action as opposed to mere behaviour ... requires more than one option' (Rosenbaum 2000, p. 211): even if not- $x$  is described as something the agent is *unfree* to do, the objection goes, not- $x$  must nevertheless remain an option in the minimal sense of being *physically unprevented* if one's possible *doing* of  $x$  is to count as a possible *action*. Steiner notes this objection, but denies failing to distinguish between action and mere behaviour. Citing the example of a bouncer who physically forces me out of a nightclub, he notes that our first instinct 'would definitely not be one to describe the bouncer as respecting my freedom to leave the club'. However, 'first instincts are not infallible'. It is true that certain conditions need to be satisfied in order that the behavioural event of my leaving the club count as an action on my part. But these conditions do not include the physical unpreventedness of my not leaving. They consist, rather, in my forming the *intention* to leave and in my intention to leave being a *determinant* of my leaving. Now, regardless of the question of whether these two conditions are in fact *realized* in the example – a question that need concern only the defenders of an *exercise* concept of freedom – neither of them is physically *prevented* by the bouncer when he physically forces me out of the club. The bouncer has not prevented me from forming the intention to bring about the

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<sup>7</sup> Cohen has since changed his mind and claimed that the force does not even remove the second freedom. If, however, 'force' is taken to mean bare *physical* force, then, Cohen holds, the force removes both the freedom to do  $x$  and the freedom to do not- $x$  (Cohen 1986, p. 245). This is because Cohen agrees with Rosenbaum's claim (quoted in the next paragraph) that an action's being available requires there to be an alternative. But note that even the later Cohen believes many no-choice situations to be ones of freedom, since he still shares the mainstream view that a coercive threat is sufficient to remove o-choice with respect to  $x$  and not- $x$ , despite apparently embracing the 'pure negative' view that it is insufficient to remove the freedom to do not- $x$ .

event of my leaving the club; neither has he prevented that intention from being a determinant of that event, since ‘nothing in this story rules out the possibility of that intention including his pushing me as the means of bringing that event about’. The bouncer has therefore not prevented me from performing the action of leaving. What he *has* prevented is my leaving ‘under my own steam’. But that is not necessarily part of the *action of leaving*. The freedom to leave under my own steam, which the bouncer has denied me, ‘is just not the same as the freedom to leave *per se* – just as the freedom to fly business class to New York is not the same as the freedom to fly to New York *per se*’ (Steiner 2001, pp. 63-64; cf., 1994, pp. 17–18).

Although Steiner’s argument might prove controversial, it certainly does not defy analyticity, as does the denial that no-choice situations offer no freedom of choice.<sup>8</sup> Moreover, those most disposed to deny Steiner’s conclusion tend also to be those most disposed to reject his definition of a constraint on freedom in favour of a definition that incorporates coercion as well as physical force, and we have seen that if one assumes this broader, mainstream definition of a constraint on freedom then the claim that one is free to do what one is forced to do is fairly uncontroversial.

From these arguments I conclude that we can have some freedom without having any freedom of choice: we have some freedom even if the set of alternative freedoms we face is a singleton. This is sufficient to refute the intuition behind the indifference axiom when applied to freedom – i.e., the intuition that singleton sets offer ‘no freedom’. Moreover, once that intuition has been abandoned, the axiom itself must be abandoned in the case of freedom. For the availability of different actions can contribute in differing degrees to one’s overall freedom, as we shall see below.

#### 4.2 *Increasing freedom simpliciter without increasing freedom of choice*

So much for the difference between having and not having ‘freedom’ on the one hand, and having and not having ‘freedom of choice’ on the other. Let us now turn to a consideration of the conditions under which these two quantitative attributes can be *increased*. To this end, it will be useful to assess the truth value of the second and third axioms of Pattanaik and Xu – those of monotonicity and independence.

As many critics have pointed out, one does not necessarily increase an agent’s choice among freedoms simply by adding a new freedom to her existing set of freedoms; since choice is *between* options, the critics point out, the new option must be distinguishable – indeed, it must be ‘significantly’ different – from those the agent already has. Suppose an agent’s range of options increases from including the drinking of a bottle of beer to including the drinking of one or the other of two qualitatively indistinguishable bottles of beer. In

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<sup>8</sup> My book on the measurement of freedom (Carter 1999) is non-committal on this point, neither confirming nor contradicting Steiner’s argument.

such a case, we should not normally say that the agent's freedom of choice has increased. The distinction between 'picking' and 'choosing' is of fundamental importance here (Ullmann-Margalit and Morgenbesser 1977; Dowding 1992, pp. 309–310). Making a choice involves selecting for a reason; having a choice therefore involves having the *possibility* of selecting for a reason. Yet, it would seem, there are no possible reasons (at least, there are no possible reasons that are sufficiently strong to be significant) for selecting one beer bottle rather than the other. All that the agent can do in this situation is 'pick' a bottle, as a result of having made the choice between 'one bottle' and 'no bottle', and this choice (between 'one bottle' and 'no bottle') is one she had before the number of available bottles was increased. It is therefore plausible to say that measures of degrees of freedom of choice should not distinguish between options that are, to all potential intents and purposes, identical (Sugden 1998). The concept of qualitative difference serves to *individuate* the set of actions that one is either constrained or unconstrained from performing, for the purpose of measuring *freedom of choice*. Moreover, qualitative differences between actions are usually thought to exist in degrees rather than being all-or-nothing matters, and in this case it is arguable that the *degree* to which actions differ affects the *degree* to which their being unconstrained would contribute to freedom of choice (and their being constrained would contribute to unfreedom of choice) (cf., Rosenbaum 2000, pp. 215–218). The reason for this is that the more actions differ from one another, the more or the stronger the potential reasons are for making a *selection* from among them.

With an important qualification (to be made below), judgements about qualitative distinguishability are always made against the background of some set of values and purposes, whether of the agent herself, of the hypothetically 'reasonable' agent, or of some specified set of current or past agents. From within the value perspective that provides this background, we might judge as very similar two options that from some other perspective would seem very different. Christians are sensitive to more of the differences between Methodists and Baptists than are Buddhists. Eskimos are sensitive to more of the differences between kinds of snow than are Somalians. New value perspectives – and hence new perceived differences – will exist in the future that we are at present unable to predict. Given the importance of value perspectives in determining degrees of difference between freedoms, the general recourse to preferences in the social-choice literature on 'freedom of choice' is understandable.<sup>9</sup>

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<sup>9</sup> To describe our judgements about the differences between options as value-based is not, on the other hand, to endorse Sen's stronger claim that our preferences directly affect how much an option contributes to our freedom of choice. It is not to say, with Sen (1991), that if option *x* is preferable to option *y*, *x* offers more freedom of choice than *y*. Similarly, to accept (as I do) Jones and Sugden's condition of 'distinguishability' (which refers to *sets* of options) is not necessarily to accept their condition of 'eligibility' (which refers to the value of a *single* option) (Jones and Sugden 1982, pp. 56–57).

In the case of ‘freedom’, we can cut off this line of reasoning at the first step, for we have seen that there is no necessary connection between freedom and choice. There is therefore no necessary connection between freedom judgements and the above-mentioned value judgements, either regarding the identification of single freedoms or regarding the measurement of degrees of overall freedom. A single freedom exists if a specific action is unconstrained (however ‘unconstrained’ is interpreted), regardless of the value of that action for the agent or anyone else (Oppenheim 1961, 1981, 2004; Berlin 1969; Gray 1991; Steiner 1994). As far as the question of aggregation is concerned, I have argued elsewhere that the only valid criterion for judgements of extents of overall freedom is that of the extension of actions in spatio-temporal terms (Carter 1999, Chaps. 5 and 7). A single action should be thought of as the bringing about of the movement of a spatio-temporally specified object through fixed space-time units. The greater the movement implied (in terms of these space-time units), the more the availability of that action contributes to one’s freedom.<sup>10</sup>

In the light of the above, we might be tempted to say of both the monotonicity axiom and the independence axiom that they are true in the case of freedom but false in the case of freedom of choice. For both would seem to be affected by the fact that an agent can enjoy an increase in the number of actions available to her (and thus an increase in her *freedom*) without enjoying an increase in the number of actions from which she can make a reasoned selection (i.e., without enjoying an increase in her *freedom of choice*). On closer inspection, however, we can see that there is a way of saving the monotonicity axiom in the case of freedom of choice, which depends on a particular interpretation of the term ‘new option’ in that axiom. On that interpretation, the addition of a ‘new option’ to an already existing set is *necessarily* the addition of a significantly different option – i.e., of one that adds a new possibility of making a reasoned selection. In this case, our imagined scenario involving an increase in freedom without an increase in freedom of choice is possible precisely because there is *no* increase in the number of options the counting of which is relevant for the measurement of freedom of choice, and the monotonicity axiom is therefore as true of freedom of choice as it is of freedom *simpliciter*.

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<sup>10</sup> Rosenbaum (2000, pp. 212–214) objects that the physical characteristics of actions are insufficient to distinguish between those that are meaningful (e.g., criticising the government) and those that are not (e.g., uttering meaningless babble), since this distinction depends on their symbolic (non-physical) characteristics. In my view, this objection confuses act-types and act-tokens. *Given* a certain set of conventions, some physical movements of the mouth and vocal chords (some tokens of the type ‘mouth and vocal chord movements’) will constitute criticism of the government, while others will not. Governments that are determined on not being criticised render punishable the former set of physical movements, and this is reflected in measurements of overall freedom on my account. Symbolic meanings are of course important determinants of the value of *specific* freedoms (Carter 1999, Chapt. 2).

The independence axiom, on the other hand, cannot be similarly saved in the case of freedom of choice. Although we may adopt the same interpretation of ‘new option’ here as that adopted above in the case of the monotonicity axiom, the independence axiom is nevertheless falsified as soon as it is admitted that *degrees* of similarity between new options and old ones are relevant to degrees of freedom of choice. For if degrees of similarity between options affect degrees of freedom of choice, then the ‘same new option’ may increase the freedom of choice offered by one set *more* than it increases the freedom of choice offered by another, thanks to its *greater* dissimilarity to the options already contained in the former set. Thus, while the independence axiom is obeyed by freedom, it is not obeyed by freedom of choice.

Some might object that they nevertheless find it hard to abandon a basic intuition that degrees of similarity count in the case of ‘freedom’ *simpliciter* as well as in that of ‘freedom of choice’, and that the independence axiom is therefore false in both cases. This doubt is understandable, if ill-founded. For there is a further, alternative explanation for the intuition behind this objection – an explanation that is nevertheless compatible with my non-value-based account of freedom *simpliciter*. As I have argued elsewhere (Carter 1999, pp. 198–204), there are in fact *two* possible explanations for the judgement that two alternative options are qualitatively similar. One explanation consists in pointing out that the two alternatives are means to *producing the same particular value*. The other consists in pointing out that the two alternatives are means to *doing the same thing*. The second kind of explanation accounts, at least in part, for the judgement about the similarity of the two bottles of beer: if each of two bottles of beer will produce exactly the same effects on my body when I drink it, or on your body when I bring it down on your head, and so on, then there is an identical set of actions, individuated in purely physical terms, to which the two alternatives are means. Thus, if my situation changes from one in which I do not have the option of buying a bottle of beer to one in which I can buy one bottle, my freedom (*simpliciter*) increases *more* than where my situation changes from the latter to one in which I can buy one of two qualitatively identical bottles. To the extent that this second kind of explanation is valid, the simple counting procedure partly accommodates the intuition that degrees of increases in freedom (*simpliciter*) track degrees of qualitative difference between additional options and existing ones.<sup>11</sup>

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<sup>11</sup> Matthew Kramer (2003, pp. 466–471) has convincingly shown that my argument accommodating certain kinds of qualitative difference (presented immediately above and in Carter 1999, ss. 7.7–7.8) is inconsistent with my proposed formula for measuring overall freedom (presented in Carter 1999, p. 182). I would like to think that what is at fault here is my proposed formula for measuring overall freedom, but I have yet to find a satisfactory alternative formula.

This does not mean, on the other hand, that we must reject the axiom of independence in the case of freedom as well as in that of freedom of choice. Suppose that of two sets of alternative options  $A$  and  $B$ ,  $A$  includes drinking bottle-of-beer  $x$  while  $B$  does not. It is true that, given the above argument, adding the freedom to drink bottle  $y$  to both  $A$  and  $B$  increases the freedom (*simpliciter*) made available by  $A$  less than it does the freedom (*simpliciter*) made available by  $B$ . However, the reference here to the addition of the freedom to drink bottle  $y$  is really short for a reference to the addition of a *set* of options (including getting drunk, giving you a head injury, and so on), and that set is *different* in the case of the addition to set  $A$  and the addition to set  $B$ , since some of the options added to set  $B$  are options *already present* in set  $A$ . These are not options added to *both* sets that somehow increase the freedom implied by one set more than that implied by the other. The axiom of independence is therefore *not* denied in the case of freedom (as it is in the case of freedom of choice), despite the fact that degrees of increases in freedom *are* partially correlated to degrees of qualitative difference between additional options and existing ones.

#### 4.3 Increasing freedom of choice without increasing freedom simpliciter

While one can have freedom without having freedom of choice, the converse is not true. Since freedom of choice is a kind of freedom, one cannot have freedom of choice without having freedom.

For the sake of symmetry, it is nevertheless worth pointing out that in aggregative terms, one's freedom of choice can *increase* without one's freedom *increasing* (and indeed that an increase in the former is compatible with a *decrease* in the latter). Certainly one cannot gain an option that gives one freedom of choice without gaining an option that gives one freedom. My hypothesized scenario can obtain, however, where the agent gains some freedoms while losing others. By removing from the agent's initial set of freedoms one subset of freedoms and adding some other set of freedoms, such that the amount of freedom offered by the removed subset is greater than that offered by the new additional set, yet the amount of freedom of choice offered by the removed subset is smaller than that offered by the new additional set, we increase that agent's overall freedom of choice while decreasing her overall freedom *simpliciter*. This condition might be met because the removed subset is a set of physically more extensive yet qualitatively more similar available actions, whereas the new additional set is a set of physically less extensive yet qualitatively more dissimilar actions. The condition might also be met, in part, because of a greater similarity between the removed subset and the original set of freedoms (minus the removed subset) than between the new additional set and the original set (minus the removed subset).

#### 4 Conclusion

On the definitions I have proposed, the axiom of indifference between no-choice situations is obeyed by freedom of choice but not by freedom *simpliciter*, while the axiom of independence is obeyed by freedom but not by freedom of choice. (The axiom of monotonicity, on the other hand, is, on one plausible interpretation, obeyed by both freedom and freedom of choice.) This seems to me to provide a neat solution to the quandary originally posed by Pattanaik and Xu. First, it explains the initial appeal both of the indifference axiom and of the independence axiom. Each of the axioms is *true*, but of a different opportunity concept: the former is true of freedom of choice but not of freedom; the latter, of freedom but not of freedom of choice. Secondly, it explains not only why some have been drawn towards the so-called ‘preference-based’ account of freedom but also why others have opposed such a move: the first group of theorists is thinking, at least implicitly, in terms of the concept of freedom of choice; the second is thinking, at least implicitly, in terms of the concept of freedom *simpliciter*. Thirdly, it accounts in a similar way for disputes over whether and in what ways to take account of the qualitative diversity of options.

It is, of course, not enough to point out that freedom of choice and freedom *simpliciter* are different things. One must also ask which of these concepts matters most – which is more important as a constituent of human well-being and which is to count, or to have priority, as the relevant *distribuendum* in a theory of justice. Many, perhaps, will immediately feel that what matters most for well-being is having freedom of choice. Elsewhere, I have argued that freedom *simpliciter* is also important, in particular to liberal normative political theory. The reason for this is that freedom, understood in purely empirical and non-qualitative terms, has that particular kind of value (mentioned earlier in this paper) that can be called ‘non-specific’ or ‘content-independent’ (Carter 1999, Chapt. 2; cf., van Hees 2000, Chapt. 8; Kramer 2003, Chapt. 5) – that is to say, a value wholly independent of the value of the freedom specifically to do those things one is free to do, and which therefore consists in the value freedom has *as such*. Whether or not freedom of choice can also have some kind of non-specific value is, I have found, a surprisingly intractable question, and one that I must therefore put off for a future occasion. On the face of it, however, the value of freedom *simpliciter* seems to be independent of preferences (whether of the agent herself, of the reasonable agent, or of the set of past and present agents within given geographical confines) in a way that the value of freedom of choice does not, given our inevitable reliance on value perspectives in making judgements about degrees of qualitative similarity. If this is so, then there may be reasons not only for political philosophers to accord more normative space to freedom of choice, but also for ‘non-welfarist’ economists to accord more normative space to freedom *simpliciter*.

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