

WOMEN AND
HUMAN DEVELOPMENT

The Capabilities Approach

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ADAPTIVE PREFERENCES AND WOMEN'S OPTIONS

The doctor was rightly upset about [the unsanitary conditions in the women's quarters]; but he was wrong in one respect. He thought that it was a source of constant pain for us. Quite the contrary . . . To those with low self-regard, neglect does not seem unjust, and so it does not cause them pain. That is why women feel ashamed to be upset about the injustice they encounter. If a woman must accept so much injustice in the life ordered for her, then it is perhaps less painful for her to be kept in total neglect; otherwise, she is bound to suffer, and suffer pointlessly, the pain of injustice, if she cannot change the rules governing her life. Whatever the condition that you kept us in, it rarely occurred to me that there was pain and deprivation in it.

Rabindranath Tagore, "Letter from a Wife"¹

When we make videos, and women like us watch them, we get confidence to try and make changes. When we see women like us who have done something brave and new, then we get the confidence that we can learn something new too. When poor women see other poor women as health workers on the video, they say, "I can also learn about health and help solve these problems in my neighborhood." When other self-employed women see me, a vegetable vendor, making these films, they also have the confidence that they can do things which at first seem impossible.

Lila Datania, SEWA, Ahmedabad, 1992²

1 In Bardhan, *Of Women, Outcastes*, 99.

2 Quoted in Rose, *Where Women Are Leaders*, 158.

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I. PREFERENCE AND THE GOOD: TWO UNSATISFACTORY EXTREMES

Any defense of universal norms involves drawing distinctions among the many things people actually desire. If it is to have any content at all, it will say that some objects of desire are more central than others for political purposes, more necessary to a human being's quality of life. A wise approach will go even further, holding that some existing preferences are actually bad bases for social policy. The list advanced in Chapter 1 contains many functions that many people over the ages have preferred not to grant to women, either not at all, or not on a basis of equality. To insist on their centrality is thus to go against preferences that have considerable depth and breadth in traditions of male power. Moreover, the list contains many items that women over the ages haven't wanted for themselves, and some that even today many women don't pursue – so in putting the list at the center of a normative political project aimed at providing the philosophical underpinning for basic political principles, we are going against not just other people's preferences *about* women, but, more controversially, against many preferences (or so it seems) *of* women about themselves and their lives. To some extent, the list avoids these problems of paternalism by insisting that the political goal is capability, not actual functioning, and by dwelling on the central importance of choice as a good. But the notion of choice and practical reason used in the list is a normative notion, emphasizing the critical activity of reason in a way that does not reflect the actual use of reason in many lives.

Think, once again, of Vasanti and Jayamma. Vasanti stayed for years in an abusive marriage. Eventually she did leave, and by now she has very firm views about the importance of her bodily integrity: indeed, she and Kokila spend a lot of their time helping other battered women report their cases to the police and goading the police to do something about the problem. But there was a time when Vasanti did not think this way – especially before her husband's vasectomy, when she thought she might still have children. Like many women, she seems to have thought that abuse was painful and bad, but still a part of women's lot in life, just something women have to put up with as part of being women dependent on men, and entailed by having left her own family to move into a husband's home. The idea that it was a

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violation of rights, of law, of justice, and that *she herself* has rights that are being violated by her husband's conduct – these ideas she didn't have at that time, and many many women all over the world don't have them now. My universalist approach seems to entail that there is something wrong with the preference (if that's what we should call it) to put up with abuse, that it just shouldn't have the same role in social policy as the preference to protect and defend one's bodily integrity. It also entails that there is something wrong with not seeing oneself in a certain way, as a bearer of rights and a citizen whose dignity and worth are equal to that of others.

Or consider Jayamma, a great defender of her bodily integrity, but very acquiescent in a discriminatory wage structure and a discriminatory system of family income sharing. When women were paid less for heavier work at the brick kiln and denied chances for promotion, Jayamma didn't complain or protest. She knew that this was how things were and would be. Like Tagore's character in my epigraph, she didn't even waste mental energy getting upset, since these things couldn't be changed. Again, when her husband took his earnings and spent them on himself in somewhat unthrifty ways, leaving Jayamma to support the children financially through her labor, as well as doing all of the housework, this didn't strike her as wrong or bad, it was just the way things were, and she didn't waste time yearning for another way. Unlike Vasanti, Jayamma seemed to lack not only the concept of herself as a person with rights that could be violated, but also the sense that what was happening to her was a wrong.

Finally, let me introduce one new example, to show the way entrenched preferences can clash with universal norms even at the level of basic nutrition and health. In the desert area outside Mahabubnagar, Andhra Pradesh, I talked with women who were severely malnourished, and whose village had no reliable clean water supply. Before the arrival of a government consciousness-raising program, these women apparently had no feeling of anger or protest about their physical situation. They knew no other way. They did not consider their conditions unhealthful or unsanitary, and they did not consider themselves to be malnourished. Now their level of discontent has gone way up: they protest to the local government, asking for clean water, for electricity, for a health visitor. They protect their food supplies from flies, they wash their bodies more often. Asked what was the biggest change that

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the government program had brought to their lives, they immediately said, as if in chorus, “We are cleaner now.” The consciousness-raising program has clearly challenged entrenched preferences and satisfactions, taking a normative approach based on an idea of good human functioning.

The normative approach based on human functioning and capability developed in Chapter 1 rejected utilitarian preference-based approaches as a basis for fundamental political principles precisely because they were unable to conduct a critical scrutiny of preference and desire that would reveal the many ways in which habit, fear, low expectations, and unjust background conditions deform people’s choices and even their wishes for their own lives. So it is no surprise that the capabilities view ends up conducting just such a critique. But we must now confront head on, and more extensively, the intellectual problem this undertaking raises. For feminists who challenge entrenched satisfactions are frequently charged with being totalitarian and antidemocratic for just this way of proceeding. Who are they to tell real women what is good for them, or to march into an area shaped by tradition and custom with universal standards of what one should demand and what one should desire? Aren’t they just brainwashing women, who already had their own ideas of what was right and proper?³

It is easy to make a rhetorical connection between the feminist critique of desire and discredited totalitarian ideologies – in part because Marx was among the most interesting and influential developers of a view of “false consciousness,” and because feminist strategies of consciousness raising, in the developing world as in the West, frequently show the influence of Marx’s account. And yet, the idea that some preferences are deformed by ignorance, malice, injustice, and blind habit has deep roots in the liberal tradition of political philosophy as well: in Adam Smith’s ideas about greed and anger, in Mill’s ideas about the sexes, in Kant’s ideas about the many ways in which people get accustomed to treating one another as means rather than ends, in John Rawls’s ideas about the ways in which unjust background conditions shape desire and choice. More recently, the idea of preference

3 See Christina Hoff Sommers, *Who Stole Feminism?* (New York: Simon and Schuster, 1994), discussed in Chapter 5 of my *Sex and Social Justice*, and in Chapter 6 of my *Cultivating Humanity: A Classical Defense of Reform in Higher Education* (Cambridge, MA: Harvard University Press, 1997).

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deformation has become central in mainstream economic and political thought, in the writings of people as otherwise diverse as Amartya Sen, Jon Elster, and Gary Becker.⁴

One of the things this liberal tradition has emphasized is that people's preference for basic liberties can itself be manipulated by tradition and intimidation; thus a position that refuses to criticize entrenched desire, while sounding democratic on its face, may actually serve democratic institutions less well than one that takes a strong normative stand about such matters, to some extent independently of people's existing desires. (As we shall see, even some committed utilitarians have diverged from utilitarianism for this reason.) So the question of preference deformation should be approached without an initial presumption that there is a problematic tension between a normative sorting of preferences and liberal-democratic values.

There are many questions that might be asked about the role of preferences in personal and political life. The question to be confronted in this chapter concerns the role of existing preferences in grounding political judgments as we formulate political principles that can be used as the basis of constitutional guarantees. Our question is: under what conditions are preferences a good guide to such fundamental issues of social choice, and under what conditions might we be justified in departing from or criticizing some of them in the name of important norms such as justice and human capability? How should such a justification go?

In confronting preference-based views of social choice, we are pursuing a further part of the project of political justification mapped out in Chapter 1. Having made a case for the capabilities approach in intuitive terms by laying out its positive aspects and showing how it can solve certain pressing political problems, we now turn to a detailed confrontation with a major rival conception, the type of welfarism currently dominant in neoclassical economics. By looking at what motivates that view and showing, as I think we can, that the capabilities view responds to those concerns while offering a better treatment of issues that pose problems for welfarism, we advance further toward the goal of a full justification of the capabilities approach.

The capabilities approach, as stated in Chapter 1, has two related

4 The work of all these people will be discussed in detail in section IV.

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uses. My central project is to work out the grounding for basic political principles to which all nations should be held by their citizens; but an ancillary and related project is to map out the space within which comparisons of quality of life across nations can most revealingly be made. These two parts of the argument are to some extent independent. One might hold that the preference-based view is perfectly all right as a basis for quality of life comparisons, while doubting that it could be an adequate basis for the selection of basic political principles – if, for example, one held that what we want from quality of life measurement is something relatively unambitious, simply an index of how people see their situations. This would, I think, be an implausible position to hold, once one confronts the specific defects of preference-based views: the reasons for thinking them bad bases for political principles are also reasons why they do not do a good job of quality of life measurement. And surely it would be far less plausible to hold that preferences are a bad basis for quality of life measurement, but a good basis for the selection of basic political principles: for if preferences cannot even tell us how people are really doing, then it seems hard to see how they could ground a normative account of constitutional principles. However, throughout this chapter I will focus on the bases for social choice, in the area of fundamental principles, commenting occasionally on how the evolving argument bears on the issue of quality of life measurement.

A further complication now emerges. Economists and others who defend preference-based views rarely make a clear distinction between their use in social choice generally and their use in selecting basic principles that can be embodied in constitutional guarantees. Instead, they tend to make general pronouncements about social choice. Insofar as they do so, I shall simply assume that they make no exception for the special situation in which one is selecting basic political principles, and my critique will be focused on this special situation, rather than other situations in which appeals to preference might well play a valuable role. I think this is perfectly fair, because I do think that my opponents intend their position as a perfectly general account of social choice.

In the debate about how preferences should figure in social choice, we can identify two extreme positions, between which I shall situate my own. The first position can be called *subjective welfarism*.⁵ This

⁵ See Cass R. Sunstein, *The Partial Constitution* (Cambridge, MA: Harvard University Press, 1993), Chapter 5, 162–66.

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position holds that all existing preferences are on a par for political purposes, and that social choice should be based on some sort of aggregation of all of them. (In what follows I shall abstract from the problems I have already raised in Chapter 1 about the notion of aggregation and the plurality of goods; I shall assume that the welfarist concedes that there is a plurality of relevant metrics along which preferences will be aggregated.)⁶

The second position can be called *platonism*.⁷ According to this view, the fact that people desire or prefer something is basically not relevant, given our knowledge of how unreliable desires and preferences are as a guide to what is really just and good. Actual desire and choice play no role at all in justifying something as good. What we need to do is to provide an argument for the objective value of the relevant state of affairs that is independent of the fact that people desire or prefer it; once we have such an argument, we are justified in making even radical departures from people's actual wants.

Both positions are motivated by genuinely important concerns. Welfarism springs from respect for people and their actual choices, from a reluctance to impose something alien upon them, or even to treat the desires of different people unequally. In effect, it starts from respect for persons, interpreting that as equivalent to respect for preferences. Platonism springs from an urgent concern for justice and human value, and from the recognition that in the real world these values are frequently subordinated to power, greed, and selfish indulgence. But both contain obvious problems. Embraced as a normative position, subjective welfarism makes it impossible to conduct a radical critique of unjust institutions; it forces us to say, for example, that because Jayamma has accepted an unjust wage structure as the way things must be, that's the way they should remain; that because the women in Andhra Pradesh don't agitate for medical care and clean water, they don't need those things; that so long as Vasanti puts up with an abusive marriage, that's just her lot. This limitation is especially grave when we are in the process of selecting basic political principles that can be embodied in

6 For one picture of such a utilitarian view, see Amartya Sen, "Plural Utility," *Proceedings of the Aristotelian Society* 81 (1980/81), 193–215.

7 This may or may not be a position held by Plato, who does seem to have given experienced choice a role in his account of value, though it is difficult to say what that role is. (If it is only a heuristic role, and not a justificatory role, then Plato may still be a platonist in my sense.)

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constitutional guarantees. Platonism, on the other hand, seems too disdainful of the wisdom embodied in people's actual experience: it seems to care too little about what Jayamma and Vasanti think about changes in their lives, and about the relevance to political choice of the fact that the women in Andhra Pradesh are happy with the improvements made by the government program and wouldn't choose to return to the way they lived before. Any viable modern position, it seems, must try to preserve the important values contained in each of these two extremes, while avoiding their defects.

Probably no modern thinker about social welfare is a thoroughgoing platonist. Certainly no feminist is; feminists, insofar as they endorse a radical critique of desire and choice, typically buttress it with appeals to ideas of what women really want, what will make them truly happy or satisfy their deepest desires. And although there used to be some real subjective welfarists in utilitarian economic thought,⁸ nowadays one rarely finds an unqualified version of that position either. In searching for an appropriate "mean" between these extremes, it will be useful to look, first, at why utilitarian economists have rejected pure subjective welfarism, and how they have tried to refurbish the welfarist view. Here I shall focus on arguments of John Harsanyi, Richard Brandt, and Gary Becker, all of whose attempts to say something sensible within the welfarist framework end up revealing just how hard it is to do that. Next, I shall look at some reasons we might have for concluding that the problem of preference-deformation requires us to depart altogether from the utilitarian framework; here I draw on arguments by Richard Posner, Amartya Sen, Jean Hampton, Jon Elster, Cass Sunstein, and Thomas Scanlon. Finally, I shall show how my own view of the central capabilities addresses these issues, arguing that at the level of the central capabilities there is considerable convergence between a "substantive good" approach to social goods and an "informed desire" approach.⁹ The list was derived in Chapter 1 using an independent

8 For example, Milton Friedman, "The Methodology of Positive Economics," in Daniel M. Hausman, ed., *The Philosophy of Economics* (Cambridge: Cambridge University Press, 1984), 210–24; more recently, one sees such a view in Robert Bork, *The Tempting of America: The Political Seduction of the Law* (New York: 1990), 251–9. Sommers in *Who Stole Feminism?* also seems to hold some such view.

9 For these terms, see Thomas Scanlon, "Value, Desire, and Quality of Life," in QL, 201–207. Scanlon actually uses the term "substantive list," but also notes that the term is

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philosophical argument; but it converges in many respects with what an informed-desire approach could be expected to deliver, and this is important. I shall argue that desire continues to play both a heuristic role in arriving at the list of the central capabilities and a limited ancillary role in their justification; nonetheless, it is fruitful to begin from a substantive account of central goods rather than to attempt to derive them from a strictly procedural approach. At any rate, any procedural approach that we can accept will be so laden with normative values that it collapses, in effect, into a substantive good approach. I shall illustrate this conclusion by comparing my own approach to the strongest feminist approach of a proceduralist (albeit non-utilitarian) kind, namely that of Jean Hampton in her important article “Feminist Contractarianism.”¹⁰ I shall end with a reflection on the obstacles posed by power and fear to the convergence I envisage between desire and justice.

II. PROBLEMS WITH THE CONCEPT OF PREFERENCE

But first, a note on preferences. I have spoken, so far, of both “desires” and “preferences.” In the economic literature, there are two distinct conceptions of what a preference is. According to one approach, championed most notably by Paul Samuelson, there is no conceptual distinction between preference and action: a preference is just something that is taken to be “revealed” by the action that in fact is chosen.¹¹ There are a number of problems with this approach – among other things, it does not give us any resources for speaking about the wishes and in general the deliberative life of a person except insofar as this mental life gets translated into action. This problem the approach shares with

somewhat perilous, in that it suggests we are talking about a laundry list of unrelated items, rather than a coherent view.

10 In *A Mind of One's Own: Feminist Essays on Reason and Objectivity*, ed. Louise M. Antony and Charlotte Witt (Boulder: Westview Press, 1993), 227–56.

11 This approach was strongly linked with behaviorism in psychology. Thus John Hicks (who at first did not endorse the approach, but later embraced it) stated that the approach permitted us to study human beings “only as entities having certain patterns of market behaviour; it makes no claim, no pretence, to be able to see inside their heads”: *A Revision of Demand Theory* (Oxford: Clarendon Press, 1956), 6. For other examples of the idea (characteristic of that era) that a purely behaviorist approach is more scientifically respectable than a mentalist approach, see Sen, “Internal Consistency of Choice,” *Econometrica* 61 (1993), 495–521.

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its cousin, psychological behaviorism; and psychology has long since concluded that behaviorism is an inadequate explanatory theory.¹² But there are even more obvious problems. Construed as actions, preferences do not obey certain very basic axioms of rationality, such as transitivity and consistency.¹³ But this observation takes us to a deeper conceptual issue. An action is not like a statement: it does not wear its characterization on its face. Thus before we can even ask whether preferences construed as actions are either consistent or inconsistent, we must interpret them. But in order to interpret them we must allude to something external to the act of choice, something like the underlying objectives or values that are pursued in choice.¹⁴ Such arguments have long been used against psychological behaviorism;¹⁵ they are equally devastating to the claims of revealed-preference theory.

A more promising approach to the idea of a “preference” is that favored by, among others, Gary Becker and Amartya Sen. According to this view, preferences lie behind actual choices and have psychological reality. They are entities that, together with beliefs, go to explain choices. For users of this approach, preferences are rather like desires; indeed, it would appear that desires are one subset of preferences.

But here is where any philosopher is likely to begin scratching her head. For why are we trying to explain such complex human actions with such an impoverished repertory of explanatory entities!¹⁶ Western philosophers, ever since Plato and Aristotle, have agreed that the explanation of human action requires quite a few distinct concepts; these include the concepts of belief, desire, perception, appetite, and emotion – *at the very least*. Many philosophers, including some contemporary ones, have felt that Aristotle was basically right and that we need no

12 For one good discussion of the demise of behaviorism in cognitive psychology, see Richard Lazarus, *Emotion and Adaptation* (New York: Oxford University Press, 1991).

13 See Amartya Sen, “Internal Consistency of Choice”; and the earlier “Choice Functions and Revealed Preference,” *Review of Economic Studies* 38 (1971), 307–17, reprinted in CWM, and “Behaviour and the Concept of a Preference,” *Economica* 40 (August 1973), 241–59, reprinted in CWM, 54–73.

14 Sen, “Internal Consistency.”

15 See especially Martin Seligman, *Helplessness* (New York: W. H. Freeman, 1975); and in philosophy Charles Taylor, *The Explanation of Behaviour* (London: Routledge, 1964).

16 See my “Flawed Foundations: The Philosophical Critique of (a Certain Type of) Economics,” *University of Chicago Law Review* 64 (1997), 1197–1214.

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concepts beyond the ones he introduced.¹⁷ Others have not been so satisfied. The Stoics introduced the further notion of *impulse* (*hormê*), in the belief that the Aristotelian categories didn't sufficiently capture the innate tendency of living things to persist in their being; Spinoza converted this concept into his central category of *conatus*. Kant was partial to the notion of *inclination* (*Neigung*), feeling, it seems, that it captured features of emotion and desire not adequately emphasized in the medieval/Aristotelian framework. Some contemporary philosophers have argued that the concept of *intention* is both irreducible to belief/desire/emotion and an essential part of explaining action.¹⁸ And of course others have defended various concepts introduced by psychoanalysis, such as instinct and drive. Finally, moral philosophers, prominently including the late Jean Hampton, have insisted on the complex multilayered structure of real mental life: individuals have not just preferences, but also preferences about those preferences, and perhaps preferences about those as well.¹⁹ They also have commitments that may be in tension with their preferences; such commitments may even reflect their judgment that their preferences are likely to prove unreliable.²⁰

One thing that is clearly wrong with subjective welfarism is that it does not capture this complexity. Because it doesn't explore distinctions such as the distinction between an appetite and an emotion, it cannot adequately reveal the ways in which social conditioning shapes the content of what may be called a "preference." (One standard way of making the distinction would be to say that an appetite, such as the appetite for food, is at least to some extent impervious to social conditioning, whereas emotions have a rich cognitive and emotional content

17 See, for example, G. H. von Wright, *The Varieties of Goodness* (London: Routledge, 1963); Donald Davidson, *Essays on Actions and Events* (Oxford: Clarendon, 1980).

18 See Michael E. Bratman, *Intentions, Plans, and Practical Reason* (Cambridge, MA: Harvard University Press, 1987). See also G. E. M. Anscombe, *Intention* (Ithaca: Cornell University Press, second edition 1969).

19 See Harry Frankfurt, "Freedom of the Will and the Concept of a Person," *Journal of Philosophy* 67 (1971), 5–20; G. Dworkin, *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988), 14–20; Gary Watson, "Free Agency," *Journal of Philosophy* 72 (1975), 205–20; Jean Hampton, "The Failure of Expected Utility Theory as a Theory of Reason," *Economics and Philosophy* 10 (1994), 195–242.

20 See Sen, "Rational Fools: A Critique of the Behavioural Foundations of Economic Theory," in CWM, 84–108; J. Elster, *Ulysses and the Sirens* (Cambridge: Cambridge University Press, 1979); G. Dworkin, *The Theory and Practice*, 14–15.

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that is usually heavily influenced by social conditioning. Whether this is right or not, it is the sort of point that needs to be explored.) Similarly, it does not consider the possibility that desires themselves may have a complex intentional content, and that different types of desires may have different levels and types of intentional content.²¹ Finally, by treating individuals as just bags of unscrutinized desires, it ignores the critical and deliberative character of people in real life, who usually do not respect all of their own desires on an equal footing, but apply some kind of ranking and ordering to their own lives. Welfarism thus puts itself in a position from which it is unlikely to be able to fulfill its own central goal, which (as I have characterized it) is to show respect for persons. Treating them as simple infants rather than as reflective adults is not likely to be a good way of showing respect for them.

In what follows, then, we have to grapple with the sad fact that contemporary economics has not yet put itself onto the map of conceptually respectable theories of human action. (Indeed, it has repudiated the rich foundations that the philosophical anthropology of Adam Smith offered it.) Sometimes it seems like an odd exercise, finding subtle errors in economic theories of behavior, when one's inclination is really to say, we can't even assess a theory this crude, let's throw it all out and begin all over again. And this will become relevant when we come to discuss the issue of respect for people and their mental lives. Nonetheless, we will try to get on with the subtle criticisms, choosing those that would be of interest even against a more complex theory.

III. WELFARISM: THE INTERNAL CRITIQUE

Although subjective welfarism is commonly found in brief gestures toward a normative approach in economics, very few utilitarian economists have been willing to be thoroughgoing subjective welfarists, once

21 On this issue, see Warren Quinn, "Rationality and the Human Good," in *Morality and Action* (Cambridge: Cambridge University Press, 1993), 210–27. This point is a very old one; Aristotle thinks of even appetite as taking "the apparent good" for its object, and as at least sometimes responsive to ethical and social training; Hellenistic philosophers, Epicurean and Stoic, debated this issue with much sophistication, holding, for example, that the need for food, and some general desire for food, are innate and ineliminable, but that social training substantially shapes the sorts of foods that people find desirable. Epicureans held the desire for meat to be entirely the product of social teaching.

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they consider normative issues head on and extensively. Milton Friedman probably was the real article: he clearly did hold that concerning differences of value “men can ultimately only fight,”²² and that, in consequence, there was nowhere for normative theory to go beyond subjective welfarism. Another genuine subjective welfarist about public policy, much influenced by economic discussions, is Robert Bork, who holds that the aggregation of subjective preferences is the only rational way to proceed in normative matters, including the determination of basic constitutional principles. He supports this judgment by stating that the evaluator is “adrift on an uncertain sea” with “no principled way to make the necessary distinctions” that would adequately ground a normative judgment.²³ Usually, however, economists have recognized that it is implausible to treat all existing preferences as on a par for normative purposes, and have recommended at least some winnowing or correcting.

The most obvious such correction involves false belief and lack of information. Even Hume, who in general thought that passions and desires could not be coherently deemed “unreasonable,” made exceptions for cases in which one mistakenly believes an object to exist that does not exist, or holds false beliefs about appropriate means to further ends.²⁴ But most utilitarian followers of Hume go somewhat further than he did in the recognition of cognitive error. To take a representative example, Christopher Bliss, while defending subjective welfarism in a very strong form in connection with the measurement of quality of life in developing countries,²⁵ recognizes the need to correct for inadequate or false information: “The inhabitants of a poor country for example, may not realize how unhealthy they are, and the consequences of that ill health, whereas an expert will know.” Another case in which Bliss would admit expert corrections of existing views is the case in which we need a global overview and individuals are unable to provide this. Again, holds Bliss, this correction is acceptable because it

22 Friedman, “The Methodology of Positive Economics,” 210.

23 Bork, *The Tempting of America*, 252, 258; see also “Neutral Principles and Some First Amendment Problems,” *Indiana Law Journal* 47 (1971), 1, 6 (arguing that a “value-choosing Court” is inconsistent with the democratic process).

24 Hume, *A Treatise of Human Nature*, book 2, part 3, section 3, concluding with the famous judgment, “It is not contrary to reason to prefer the destruction of the whole world to the scratching of my finger.”

25 Christopher Bliss, “Lifestyle and the Standard of Living,” in QL, 415–36, at 418–19.

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involves “imperfect vision” on the part of the individual. We can correct the individual’s vision – give her eyeglasses, so to speak – without losing hold of “the fundamental point that man, if not the measure of all things, is at least the measure of the standard of living.”²⁶ Bliss does not discuss the grounding of basic political principles that underlie constitutional guarantees, so it is possible that he would not endorse a preference-based view in that domain; on the other hand, his zealous defense of preferences in all areas that concern quality of life gives no suggestion that he sees any area in which reliance on preferences would prove problematic.

A much more ambitious set of corrections to existing preferences has been proposed by John Harsanyi, still apparently within the general framework of subjective welfarist theory.²⁷ Harsanyi begins by announcing “the important philosophical principle of *preference autonomy*. By this I mean the principle that, in deciding what is good and what is bad for a given individual, the ultimate criterion can only be his own wants and his own preferences.”²⁸ (Harsanyi does not clearly explain his reasons for holding this principle, but it would appear that, in addition to the usual concerns about democracy, he is also motivated by the thought that we simply cannot make sense of the idea that what A wants is bad for A, except as a claim that, at some deeper level, A really prefers something else.)²⁹ On the other hand, Harsanyi recognizes that people’s preferences are frequently “irrational.” He believes that “any sensible ethical theory” must recognize this fact. “It would be absurd to assert that we have the same moral obligation to help other people in satisfying their utterly unreasonable wants as we have to help them in satisfying their very reasonable desires.”³⁰ But what content can we give to this distinction, compatibly with maintaining the welfarist principle? A normative hedonist, he observes, could easily make the relevant distinction: a rational want will be one whose object really does produce pleasure, and an irrational want will be one whose object

26 Bliss, 419.

27 John C. Harsanyi, “Morality and the Theory of Rational Behavior,” in *Utilitarianism and Beyond*, ed. Amartya Sen and Bernard Williams (Cambridge: Cambridge University Press, 1982), 39–62.

28 Harsanyi, 55.

29 *Ibid.*

30 *Ibid.*

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doesn't really produce pleasure. But if we don't accept that sort of definite normative theory (and Harsanyi has already rejected it, apparently in favor of a theory that derives normativity from preferences themselves), then what are we to say?

We must say, Harsanyi concludes, that people's manifest preferences are frequently at odds with their "true preferences." A person's rational wants are those that are consistent with his true preferences, the irrational are those that are not. The distinction between the manifest and the true is defined as follows:

[A person's] manifest preferences are his actual preferences as manifested by his observed behaviour, including preferences possibly based on erroneous factual beliefs, or on careless rational choice. In contrast, a person's true preferences are the preferences he *would* have if he had all the relevant factual information, always reasoned with the greatest possible care, and were in a state of mind most conducive to rational choice.³¹

Social utility, he then concludes, should be defined in terms of the true, rather than the manifest, preferences of individuals, and the maximization of social utility is the appropriate social goal. Harsanyi puts forward this idea as a perfectly general theory of social choice, especially in the area of fundamental principles: he characterizes his preference-based ethical theory as an alternative to Rawls's theory of justice.³²

Notice that to come up with something that seems even *prima facie* satisfactory, Harsanyi has had to add not only the usual corrections to belief and information, but also the strongly normative procedural idea of careful reasoning and the "state of mind most conducive to rational choice." He does not further describe this last ingredient, but when we think of our cases we can easily spot some people who are *not* in a state of mind that seems conducive to rational choice: Vasanti, intimidated by her husband's physical abuse and terrified about her survival prospects should she leave him; Jayamma, habituated to thinking that unequal control over household income is just women's lot; Tagore's character Mrinal in my epigraph, used to thinking of herself as of little worth. Those conditions certainly don't strike us as conducive to rational choice, and this is just the point Tagore's character is making

³¹ *Ibid.*

³² Harsanyi, pp. 40–41.

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when she explains to her husband how she has finally decided to leave him. For her, adequate choice-making required, first of all, throwing off the slumberous state induced by years of contempt and neglect. But if we were to put absence of traditional hierarchy, absence of fear, and a sense of one's own worth and dignity into the rational choice process, we would be moving very far indeed from a standard welfarist approach. I shall suggest later that these additions really do help us construct an informed-desire approach that is of some heuristic value; but it is quite unclear whether Harsanyi means to take us so far from his welfarist starting point.

Again, consider the women of SEWA in my second epigraph, who see videos of women doing daring new things and thereby gain confidence that they can do these things too. Now clearly it is Lila Datania's point that the experience of watching the videos helps these women make adequate choices for the future – not only by giving them new information but by enhancing their sense of their own possibilities and worth. But we wouldn't think of this as progress, or a correction of malformed preferences in the direction of "true" preferences, if the women were taught by the videos to hide away in the house all day, or to believe that they were made for physical abuse. And yet we know well that videos (violent pornographic videos, for example) can teach people such attitudes about themselves and others. It is because we have an implicit theory of value that holds self-respect and economic agency to be important goods that we think the preferences constructed by the videos are good; it's not clear that there would be any purely formal way to make the distinction.

Datania's point is very similar to one made by economist Gary Becker in his 1992 Nobel address, when he observed that women and minorities frequently underinvest in their own human capital, where education and training are concerned, making bad decisions because they have been brought up to believe that they can't do certain things that other people can do.³³ Becker argued that social prejudices of various sorts, especially "the *beliefs* of employers, teachers, and other influential groups that minority members are less productive *can* be self-

33 Gary Becker, "The Economic Way of Looking at Behavior," in *The Essence of Becker*, ed. Ramón Febrero and Pedro S. Schwartz (Stanford, CA: Hoover Institution Press, 1995), 633–58, at 634.

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fulfilling,” causing the members of the disadvantaged group to “underinvest in education, training, and work skills” – and this underinvestment does subsequently make them less productive. In short, disadvantaged groups – among whom Becker includes “blacks, women, religious groups, immigrants, and others” – internalize their second-class status in ways that cause them to make choices that perpetuate that second-class status.³⁴ In his normative public policy mode, Becker clearly considers these decisions bad for the people, and contrary to what a wise social policy should encourage.³⁵ But in making this observation Becker has clearly moved quite far from a standard welfarist normative approach, in a way that, once again, implicitly demands a normative theory of justice and human capability. Harsanyi does not appear prepared to take such a radical step.³⁶ But his own criteria clearly point in the direction of some such further normative account, and he gives us too little information to tell whether he could spell out his last condition in a way compatible with his welfarist principle. Certainly in practical terms the murky exercise of imagining all the relevant counterfactuals would have to be guided by some sort of relatively independent normative theory.

Harsanyi makes one further correction to welfarism that takes him more clearly away from welfarism. This is, that some people’s “true” preferences will have to be excluded altogether from the social-utility function. “In particular, we must exclude all clearly antisocial prefer-

34 It is not made clear here whether the preferences are deformed or whether the women are led to make choices that are contrary to what they really prefer (since Becker, unlike Paul Samuelson and other advocates of the “revealed-preference” view of choice, makes a conceptual distinction between preference and choice). Probably one should distinguish two levels of generality: at a more general level, the woman’s preference for a flourishing life is not distorted, but is frustrated by the counterproductive choice she makes; at a more concrete level, however, her preference for not getting very much education – which may seem to her the best route available to a flourishing life – can be held to be distorted by the false beliefs she holds.

35 See “Why the Third World Should Stress the Three R’s” and “Let’s Defuse the Population Bomb – with Free Markets,” reprinted in Gary S. Becker and Guity Nashat Becker, *The Economics of Life* (New York: McGraw Hill, 1996), 67–8, 287–9. The former defends increased public spending on education and health for the poor in Brazil and other developing countries; the latter echoes the now familiar point that education is a key to holding down population growth.

36 In part this is because he has convinced himself that the only two normative theories on the table are hedonism and the ideal mental states theory of G. E. Moore, and he does not find either of these very plausible: see Harsanyi, 54.

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ences, such as sadism, envy, resentment, and malice.”³⁷ Harsanyi’s justification for this move is fascinating for the way in which it reveals moral intuitions of a nonwelfarist kind that lie beneath his welfarism. The “fundamental basis” of our moral commitments to others in utilitarianism, he says, is “a general goodwill and human sympathy.” Thus “[u]tilitarian ethics makes all of us members of the same moral community.” But if this idea of a moral community is what lies behind utilitarianism and gives its normative judgments their appeal, then we must interpret utilitarianism to demand the exclusion of parts of real people’s personalities that are hostile to the idea of a moral community: “A person displaying ill will toward others does remain a member of this community, but not with his whole personality. That part of his personality that harbours these hostile antisocial feelings must be excluded from membership, and has no claim for a hearing when it comes to defining our concept of social utility.”³⁸

Harsanyi began his article by saying that three ethical theories have influenced his own: the ideal-observer theory of Adam Smith, classical utilitarianism, and Kant’s categorical imperative.³⁹ Throughout most of his argument, the utilitarian influence predominates, and we see rather little of Kant and Smith; but at this point they surface. It appears that an idea of quite a Kantian sort lies, for Harsanyi, at the bottom of the utilitarian social choice function – and it is only as regulated by that ideal vision of a community of ends (or perhaps by Smith’s conception of a community of ideally judicious and sympathetic agents) that the utility function can prove acceptable as a basis of social policy. Harsanyi does not say enough here for us to ascribe to him a very definite ethical conception. But we may conclude that Harsanyi’s real interest in preferences is, at bottom, something like a Kantian interest in respecting persons, their equality and their autonomy, and that he is not really averse to any departure from utilitarianism that preserves these essential Kantian features. In short, his view is only in appearance a

37 Harsanyi, 56, taking issue with J. J. C. Smart’s version of normative utilitarian theory.

38 *Ibid.*

39 Harsanyi, 39–40. The debt to the utilitarians is called his “greatest,” but Kant and Smith are given considerable emphasis. He says that he has “benefited from” Kant; he also alludes to the contemporary Kantian theory of R. M. Hare – whose influence might well explain Harsanyi’s tendency to think of Kantianism and Utilitarianism as allies rather than antagonists.

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welfarist view; in reality, considerations without which welfarism wouldn't appeal to him in the least lead him to propose a radical critique of welfarism.

One more outpost on the road away from welfarism should now be considered, since it probably represents the most intelligent and consistent attempt to refurbish the preference-based view of social choice. This is Richard Brandt's view of "cognitive psychotherapy" in *A Theory of the Good and the Right*.⁴⁰ Like Harsanyi, Brandt sees his view as an alternative to John Rawls's theory of justice, and thus as a view that tells us how to choose basic political principles, as well as how to make many other personal and social choices.⁴¹

Brandt, like Harsanyi (or the apparent Harsanyi) is, ultimately, a welfarist. He holds that the ultimate criterion of both personal and social rationality must be found within each person, not by importing any values external to that person's own values. But since Brandt recognizes that errors are frequently deeply implanted in people and cannot always be driven out by a simple disclosure of the relevant facts, he concludes that we can get to the person's true preferences only by a prolonged process of "cognitive psychotherapy." The desires that result from this process are used to define rationality for persons.⁴² The basic principles of society are then defined in terms of what a fully rational person would support. Thus the account of cognitive psychotherapy forms the core of Brandt's view of how to choose basic political principles. We may examine it to see whether Brandt has really produced a consistently welfarist account of social choice.

Cognitive psychotherapy is carefully defined as "value-free reflection" that "relies simply upon reflection on available information, without influence by prestige of someone, use of evaluative language, extrinsic reward or punishment, or use of artificially induced feeling-states like relaxation."⁴³ This process is then used to define rationality in desire: "I shall call a person's desire, aversion, or pleasure 'rational' if

40 Richard B. Brandt, *A Theory of the Good and the Right* (Oxford: Clarendon Press, 1979).

41 See the discussion of Rawls's theory at 234–45.

42 The argument here has two stages: first, therapized desire is used to define the good for persons; then it is used to define what is morally right. The key link between the two arguments is Brandt's assumption that it is appropriate to appraise morality in terms of the utility or good of agents (184).

43 *Ibid.*, 113.

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it would survive or be produced by careful ‘cognitive psychotherapy’ for that person. I shall call a desire ‘irrational’ if it cannot survive compatibly with clear and repeated judgements about established facts.” We notice already that the absence of authority, intimidation, and hierarchy in the method is itself not so clearly value-neutral; it expresses values – independence, liberty, self-driven choice – that Brandt actually thinks very important. These are indeed important values to build into a procedure for the cognitive scrutiny of desire. They are, moreover, highly pertinent to the situation of women in oppressive surroundings: for frequently what women will say in the presence of oppression is very different from what they will say to those they trust, or reveal in their covert actions.⁴⁴ What is questionable is that we should think of the resulting method as entirely value-free.

Brandt now identifies four categories of mistake that cognitive psychotherapy would, in his view, remove.⁴⁵ First, there is the large category of desires that depend upon false beliefs (and recall that this must not include beliefs about matters of value, which remain unaffected by the cognitive process). Second, there are generalizations from untypical examples; these, too, can ultimately be dislodged by a more extensive confrontation with a wider range of examples. Third,⁴⁶ there is the category called “artificial Desire-Arousal in Culture-Transmission.” What Brandt means here is that cultures transmit values by example and precept, frequently in ways that could not have been produced by the real experience of what is talked about, without cultural interference. Brandt’s two examples are the occupation of garbage collecting, and “marriage to a person of another race, religion, or nationality.” Actual experience with these activities, says Brandt, could prove very satisfying, and certainly there’s no reason to suppose that they would produce an intrinsic aversion in someone who had had no prior cultural conditioning. Of course, he continues, the social attitudes of others are themselves real facts with which people have to deal. “But in-

44 See Agarwal, *A Field of One’s Own*, 422–38, discussing evidence of everyday resistance by women in South Asia, and also discussing the Malaysian evidence presented in J. C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven: Yale University Press, 1976).

45 Brandt, 115–26.

46 I have inverted the order of categories two and three, since I find Brandt’s original third straightforward and his original second very problematic.

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tense concern with the attitudes of other people is itself founded upon error – the false belief that the attitudes of others are crucially important for an adult, especially if the attitudes in question are those of one's own parents only.”

In this fascinating paragraph we see Brandt trying to the utmost to squeeze conclusions that please him out of the allegedly value-free method that he recommends. Brandt's love of liberty, his democratic respect for those who do manual labor, and his dislike of superstition all make him see the attitudes of those who shrink from intermarriage and garbage collecting as profoundly irrational. Probably he is right to say that an untutored child would experience no natural disdain for these things, but it is not clear that this is the line he should take, since an untutored child might also lack the basis for many social attitudes Brandt does not want to get rid of, such as an aversion to cruelty, a concern for the well-being of the poor, a love of free speech, a passion for justice. So the value-free science removes too much, if it really removes all attitudes that require evaluative learning in a culture for their transmission. As for the allegedly value-free false belief that the attitudes of others, including one's parents, are unimportant, once again this is so only given a certain scheme of ends and values, and not given others. In short, Brandt's liberal and democratic instincts clash, as did Harsanyi's, with what his argument can actually deliver – despite the fact that he is more hard-headed than Harsanyi in his attempts to do without values.

Brandt's fourth category of mistake is that of “Exaggerated Valences Produced by Early Deprivation.”⁴⁷ His example is a letter to the *Dear Abby* newspaper column, in which a woman complains about her husband, who grew up fatherless during the depression and has now become quite wealthy. Nonetheless, he is obsessed with saving for his old age, to a degree that makes his family unhappy: he buys second-hand clothes, eats stale bread, and so on. (Brandt notes that similar behavior can be observed in laboratory rats.)⁴⁸ Here, he says, we have a syndrome in which early deprivation and its associated anxieties lead to an exaggerated later development of desire. He claims that such abnor-

47 Brandt, 122–26.

48 *Ibid.*, 123: rats who have been deprived of food respond by massive hoarding when food becomes abundant.

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mally strong desires would diminish once their root causes were brought to the surface – both in the case of money and in the case of other goods, such as love or affection, that might be lacking in one's early life.

But of course the unresolved question is, when is a desire for money, or for love, “exaggerated”? Are we supposed to be able to tell that without a theory of value? And what counts as “deprivation” in early life? Again, we need a normative account of proper love, and proper material support, to get started here. By choosing a very bizarre case, Brandt conceals the depth of this problem. But here again, clearly, he is getting to some characteristic Brandtian value conclusions (for example, that people should not be very dependent on the love and approval of others) through an allegedly factual exercise. A useful parallel is in an earlier article on suicide, in which Brandt judges that suicide for love is “irrational,” since “[i]f a person is disappointed in love, it is possible to adopt a vigorous plan of action which carries a good chance of acquainting him with someone else he likes at least as well.”⁴⁹ Well, perhaps – but that's a substantive moral position, masquerading as value-free science.

In short, the welfarist attempt to refurbish the preference- or desire-based view runs into difficulty; it appears unable to deliver all that the welfarist philosopher/economists themselves would like to get. We can get a certain distance by adding information and correcting logical error. But to get all the way to Harsanyi's ideal of a moral community of equals, or to Brandt's ideal of an independent hard-headed unsuperstitious democratic citizenry, or to Becker's ideal of educated free citizens making choices that are untainted by low self-worth, these thinkers have had to inject value judgments into the procedures of revision – contrary to the original intentions of Harsanyi and Brandt, though Becker more circumspectly keeps a distance between his positive and normative projects.

No discussion of the self-criticism of economists would be complete without mentioning the well-known problems for welfarism raised by two results in formal social choice theory: Kenneth Arrow's impossibility result and Amartya Sen's Paradox of the Paretian Liberal.⁵⁰ These

49 R. B. Brandt, “The Morality and Rationality of Suicide,” in James Rachels, ed., *Moral Problems* (N.Y.: Harper and Row, 1975), 363–87.

50 Kenneth Arrow, *Social Choice and Individual Values* (New York: Wiley, 1951; 2nd ed. 1963); for further discussion of Arrow's paradox and the wide range of impossibil-

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results are so widely discussed in the technical literature that little could be added by a brief discussion in this context; and yet to omit them would be to omit an important part of the story of welfarist dissatisfaction with welfarism. Arrow's theorem showed that there is no social welfare function that can satisfy four conditions, each individually plausible, and each rather weak: *Unrestricted Domain* (all possible n -tuples of individual preference orderings are included); *Weak Pareto Principle* (for any pair of alternatives, if everyone strictly prefers one of these to the other, that one will be chosen); *Non-Dictatorship* (there is no person whose strict preference over any pair of alternatives is invariably reflected in social strict preference); and *Independence of Irrelevant Alternatives* (put informally, the idea that the ordering is independent of the relationship of the choices under deliberation to other alternatives not available for the purposes of deliberation). This important result, debated and extended in many ways, has certainly not caused social choice theorists to give up hope for a welfarist (preference-driven) theory of social choice. But it does raise questions, certainly. Such a theory commended itself on grounds of simplicity and rationality; but if even these very weak axioms run into impossibility, then it seems that the entire enterprise needs rethinking in some direction. But the Weak Pareto Principle and Non-Dictatorship, in particular, seem to be assumptions so weak and so fundamental to any preference-based normative theory, that it would certainly be difficult to give them up or even to modify them significantly.

Sen's result is, for our purposes, even more striking. For he shows formally what philosophers have frequently observed intuitively: that a preference-based theory has trouble accommodating liberal rights. Sen shows that we get an impossibility result if we combine Arrow's principle of Unrestricted Domain and his weak version of the Pareto principle with a formal representation of the idea that society should protect spaces within which individuals pursue their own preferences. The reason for this is that, obviously enough, people have preferences about

ity results it generated, see Amartya Sen, "Social Choice Theory: A Re-Examination," in Sen, CWM, 158–200 (based on a paper published in *Econometrica* 45 (1977), 58–89); I follow Sen's discussion of the 1963 version of the theorem. For the Paretian Liberal paradox, see Amartya Sen, "The Impossibility of a Paretian Liberal," *Journal of Political Economy* 78 (1970), 152–7, reprinted in Sen, CWM, 285–90; "Liberty, Unanimity and Rights," *Economica* 43 (1976), 271–45, reprinted in CWM, 291–326; and, for Sen's review of the voluminous literature on his paradox, see CWM, Introduction, 25–8.

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the activities of others: Sen's Prude does not want his neighbor, Lewd, to gratify his preference to read *Lady Chatterley's Lover*. This insight, of course, is closely related to the group of insights expressed by Harsanyi when he insisted that malicious, sadistic, and other antisocial preferences must be excluded from the social choice function; given the wide influence of Sen's essay, the issues it raises were inescapable by the time Harsanyi wrote. But Sen's result has a special importance for the development of economic thought on this issue, since it generated the impossibility result using the usual materials of welfarist social choice theory, without importing any surprising Kantian notions or any other philosophical norms. In effect, it gave formal substance and respectability to the idea that some of the deepest commitments of welfarism are in internal tension and require thorough rethinking.

We now arrive at the turning in the road, so to speak, where a dedicated welfarist states that welfarism is inadequate as a basis for public policy. Throughout his early work in law and economics, Richard Posner adopted a fairly standard preference-based view, using it for both positive and normative purposes. Frequently he criticized political choices as irrational (in the normative sense) if they failed to maximize utility, defined in terms of preference-satisfaction.⁵¹ But Posner is also a Millian libertarian. And he eventually became convinced that utilitarianism offers insufficient protection for basic liberties. What Brandt and Harsanyi merely hinted at, Posner states openly: preference-based economic thought is "a potential menace to basic liberties" and "could furnish economic justification for every manner of discrimination against despised minorities." These "illiberal implications" cannot be made to disappear "by judicious assignment of rights." These implications, moreover, don't just include jeopardy to basic liberties; they "seem to include condoning torture and gruesome punishments, enforcing contracts of self-enslavement, permitting gladiatorial contests in which the contestants fight to the death, enforcing Shylock's pound-of-flesh bond, and abolishing all welfare programs and other forms of social insurance." The utilitarian may say that we ought to give effi-

51 See, for example, *The Economics of Justice* (Cambridge, MA: Harvard University Press, 1981), criticizing Supreme Court privacy jurisprudence in this way: 329-347, calling the leading cases a "topsy-turvy world." Posner has since taken a very different view of the privacy cases and the recognition of a right of privacy: see *Sex and Reason* (Cambridge, MA: Harvard University Press, 1991).

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ciency priority over liberty. Posner responds: "Why should we? Our liberal intuitions are as deep as our utilitarian ones, and there is no intellectual procedure that will or should force us to abandon them."⁵² Posner's points are hardly new; philosophers and non-utilitarian economists have been saying just this for a long time. But his decisive statement is interesting for the way in which it confronts forthrightly a deep problem that other economic thinkers try to bury.

IV. ADAPTIVE PREFERENCES AND THE REJECTION OF WELFARISM

It is not surprising, when zealous defenders of the welfarist project still find themselves diverging from it, that others, less wedded to the project, should conclude that for normative purposes – and especially for the purposes of choosing basic political principles – the informed-desire approach is inadequate. In recent years there has been an explosion of work attacking the preference-based approach to normative issues of public choice. But it is worth reviewing the different arguments that have been made, in order to see exactly how far they do break with a preference-based view, and in what ways. Since there are so many interesting writers in this area, it will be best to proceed by argument, rather than by thinker.

1. *The Argument from Appropriate Procedure.* The informed-desire approach struck even Harsanyi and Brandt as in need of procedural supplementation: in different ways, they each built into the procedure the idea of a community of equals, unintimidated by power or authority, and unaffected by envy or fear inspired by awareness of their place in a social hierarchy. And this of course has been a tremendous area of normative work, among thinkers who continue to believe that some form of proceduralism will suffice as a basis for social choice. The views of John Rawls and Jürgen Habermas about fair procedures of public choice are both too familiar and too complex for me to get involved in discussing them here, but both clearly do with rigor and detail what Harsanyi didn't fully do, but only mentioned: that is, model

52 All citations from Richard A. Posner, *Overcoming Law* (Cambridge, MA: Harvard University Press, 1995), 23.

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a Kantian ideal of moral community, by introducing constraints on information and procedure. To this distinguished list we should add Jean Hampton, whose feminist proceduralism, in the important article “Feminist Contractarianism,”⁵³ I shall later compare to my own normative proposal. Still other thinkers about the autonomy of preference and desire, for example Gerald Dworkin and Jon Elster,⁵⁴ have placed special emphasis on a procedure of critical scrutiny through which one examines the origins of one’s desires in order to make certain that they are not merely the result of habit. This idea of practical reason as engaged in the critical scrutiny of tradition and the construction of a plan of life is clearly a normative notion, and none of the thinkers in question believes it to be just a minor adjustment to the utilitarian project.

Thus, especially in the context of fundamental political choices, even those thinkers who prefer a proceduralist derivation of principles to one based from the start on judgments about goals nonetheless design procedures that incorporate substantive ethical values that are incompatible with welfarism. I shall later suggest that there is, and ought to be, a substantial convergence between such morally laden forms of proceduralism and an approach like mine, which begins from a set of fundamental social goals.

2. *The Argument from Adaptation.* Closely linked to these normative criticisms of utilitarianism is a set of arguments that focus on the phenomenon of *adaptation*, in which individuals adjust their desires to the way of life they know. Jon Elster’s account of adaptation is rather narrowly focused. For him, a desire counts as adaptive only if it really has a fox-and-grapes structure: having desired the grapes, the fox, seeing that he can’t get the grapes, judges that they are sour. Such preferences are to be distinguished from desire-changes based on learning and experience: for the latter are likely to be irreversible, whereas adaptive preferences (for city life when in the city, for country life when in the

53 For a related view, see Thomas E. Hill, Jr., “Servility and Self-Respect” and “Self-Respect Reconsidered,” in *Autonomy and Self-Respect* (Cambridge: Cambridge University Press, 1991), 4–24.

54 Gerald Dworkin, “The Nature of Autonomy,” in Dworkin, *The Theory and Practice of Autonomy*, 3–20; Jon Elster, “Sour Grapes,” in Sen and Williams, 219–38, and in the book of the same title. Subsequent page references are to the article.

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country) are far from irreversible. Elster also distinguishes his adaptive preferences from preferences that are the result of precommitment (a deliberate narrowing of the feasible set), from preferences based on deliberate character shaping, from preferences based on wishful thinking (which alter the perception of the situation rather than the desire),⁵⁵ and finally, from desires induced by the deliberate manipulation of one's psychology by someone else. Adaptive preferences are formed without one's control or awareness, by a causal mechanism that isn't of one's own choosing – and that is why Elster finds them suspect, bad bases for social choice. He contrasts them with “autonomous preferences,” which have in some manner been the object of reflection and have been deliberately chosen or at least endorsed by the agent. Elster's contrast between the adaptive and the autonomous has many applications; but one area in which Elster seems interested in putting it to work is the area of choice of basic social or political principles: for his central example is that of the social revolutions that were inspired by the discontent brought on by the industrial revolution.

Elster's somewhat romantic preference for striving and yearning makes him suspicious of any desire that is formed through adjustment to reality. But it is not at all clear that he should in such a sweeping way condemn adaptive preferences. We get used to having the bodies we do have, and even if, as children, we wanted to fly like birds, we simply drop that after a while, and are probably the better for it.⁵⁶ Again, someone as a child may want to be the best opera singer in the world (as I did), or the best basketball player – but most people adjust their aspirations to what they can actually achieve. It seems that these changes do involve the fox-and-grapes structure that Elster rules out as incompatible with autonomy: they are adjustments in response to a perception of one's circumstances, rather than the result of deliberate character formation, and they lack the condition of “freedom to do

55 Here we should note that Elster appears to be operating with a rather noncognitive notion of desire, in which desire and perception can be so cleanly separated because desire doesn't have much intentional content. If he is wrong about many desires and emotions (and I believe he is), then this distinction becomes much harder to maintain.

56 Contrast, however, Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984), 122, who uses the example of flying as a paradigm of rational desire: “This is something worth desiring; we can rationally envy birds.” I need not deny that it might be rational to envy birds in order to make the point I am making here, that it is not necessarily bad to give up such a desire.

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otherwise” that Elster introduces as a necessary condition for autonomous wants, to distinguish them from adaptive wants.⁵⁷ I am not free to be a leading opera singer, nor is a short adult free to be a leading basketball player. We have failed to reach the grapes, and we have shifted our preferences in keeping with that failure, judging that such lives are not for us. But clearly this is often a good thing, and we probably shouldn’t encourage people to persist in unrealistic aspirations.⁵⁸

The cases that Elster actually has in mind are interestingly different: the way in which feudalism made people not aspire to political equality and material well-being, the way the industrial revolution unleashed a storm of class-based discontent that was ultimately very productive politically and economically. But to distinguish this case from my cases of the bird and the basketball player, he needs something he doesn’t give us, a substantive theory of justice and central goods. It was fruitful for these people to hold onto their (pro tempore) unrealizable desires because they were desires for central goods, things people as people have a right to have. People’s liberty can indeed be measured, not by the sheer number of unrealizable wants they have, but by the extent to which they want what human beings have a right to have. Thus Vasanti, who hated her domestic abuse, seems a little more free than Jayamma, who acquiesced in discrimination and oppression. Both, however, were unfree in one further crucial way: they lacked an understanding of themselves as citizens who have rights that are being violated. That type of adjustment to bad circumstances is indeed deplorable, and we view it as progress when they come to realize they have a right to better treatment, even if that better treatment is not yet forthcoming. But to say this, we need an account of what types of treatment people have a right to expect in central areas of their lives.

57 See 228–9: “We can exclude operationally at least one kind of non-autonomous wants, viz. adaptive preferences, by requiring freedom to do otherwise. If I want to do *x*, and am free to do *x*, and free not to do *x*, then my want cannot be shaped by necessity. . . . And so we may conclude that, other things being equal, one’s freedom is a function of the number and the importance of the things that one (i) wants to do, (ii) is free to do and (iii) is free not to do.”

58 Contrast Elster, 228, holding that a person’s degree of autonomy can be measured by the number of things he wants to do but is not at liberty to do, for such unrealizable wants show that his preference-structure “is not in general shaped by adaptive preference formation.”

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Once again, proceduralism – even of a more complicated sort – seems insufficient without something in the way of a substantive theory.

Such a theory is to some extent provided by the other prominent economist who discusses adaptive preferences, Amartya Sen.⁵⁹ Sen focuses on the situation of women and other deprived people; his central case is that of women who do not desire some basic human good because they have been long habituated to its absence or told that it is not for such as them. For example, in 1944, the year after the Great Bengal Famine, the All-India Institute of Hygiene and Public Health did a survey in an area near Calcutta, including in the survey many widows and widowers. Among the widowers, 45.6% ranked their health as either “ill” or “indifferent.” Only 2.5% of widows made that judgment, and none at all ranked their health as “indifferent” (as Sen notes, a more subjective category than “ill”). This was in striking contrast to their real situation, since widows tend to be a particularly deprived group with regard to basic health and nutrition. Sen concludes: “Quiet acceptance of deprivation and bad fate affects the scale of dissatisfaction generated, and the utilitarian calculus gives sanctity to that distortion.” One can also make a remark in the other direction: privileged people get used to being pampered and cared for, and may feel an unusually high level of discontent when the one that did the pampering isn't around any longer. Sen concludes that this makes utility quite inadequate as a basis of social choice.

Sen's group of cases is, notice, both broader and narrower than Elster's. It is broader, because Sen includes lifelong habituation, and doesn't focus simply on giving up a desire one once had. And this is important where women are concerned, since most of the interesting cases do involve lifelong socialization and absence of information. The group is narrower because the cases on which he dwells all involve a central human capability. Although Sen has never been willing to endorse a substantive theory of the central capabilities, in practice he does so, and therefore doesn't trouble himself about the adaptive preference of someone who gives up his dream of basketball stardom when he

⁵⁹ See, for example, “Gender Inequality and Theories of Justice,” in WCD, 259–73; “Rights and Capabilities,” in RVD, 307–24; there are many other articles in which Sen has discussed the phenomenon. On the deprivations associated with widowhood in India, see Martha Chen, *Permanent Moving: Widowhood in Rural India* (Delhi and Philadelphia: Oxford University Press and University of Pennsylvania Press, 1999).

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finds that he is never going to be taller than five-feet-four (and let us suppose he's not Muggsy Bogues).⁶⁰ There is no romantic preference for striving as a good in itself in Sen's view; the appropriateness of desire is tethered, implicitly at any rate, to a sense of the basic goods of life.

Sen's analysis of adaptation corresponds well to what we find in the cases of Jayamma, Vasanti, and the women of Andhra Pradesh. All to some extent undervalue basic human capabilities that they later come to value, because of social habituation and social pressure. Vasanti's adaptation was the shallowest; for she believed all along that the conditions under which she was living in her marriage were bad. She wanted an end to domestic violence, and she wanted more control over the sources of her economic well-being. But she did not yet have the conception of herself as someone who has *been wronged*, who *has a right* not to be abused, and to seek both employment and credit on a basis of equality with men. Over the years she learned those concepts, and now she teaches other women to see themselves as rights-bearers. Jayamma and the women of Andhra Pradesh had preferences that were in some respects more deeply adaptive, with respect to some central human capabilities. Jayamma didn't think it bad that her husband should use his income on luxuries and make her do all the housework; she didn't think the division of labor at the brick kiln bad. The women in Andhra Pradesh, similarly, didn't think that the absence of electricity, teachers, and bus services was a bad thing, that being the only way they had known. So these women had to go through a two-stage process of awareness: coming to see themselves as in a bad situation, and coming to see themselves as citizens who had a right to a better situation. Sen's analysis of adaptation implicitly points to these two stages; but his analysis can usefully be fleshed out by making them explicit.

Finally, the phenomenon of adaptive preferences was discussed in a particularly illuminating and important way, where women's desires are concerned, by John Stuart Mill in *The Subjection of Women*. Of course Mill is here simply following more or less the whole Western philosophical tradition, most of which has stressed the social origin of

⁶⁰ Muggsy Bogues, five feet four inches tall, was an extraordinary player for the Charlotte Hornets professional basketball team, whose jumping, speed, and dexterity made him a key to his team's success.

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many baneful passions (such as anger and excessive greed). But he applies it with fascinating effect to the case of women's subordination, using, like Elster, a judicious analogy with feudalism. What he newly does is to bring out the similarity between the adaptive preferences of lords and vassals and the adaptive preferences of men and women. Just as lords get used to being superior and vassals to being inferior, so too with women and men – with one salient difference. This is, that lords maintained their power by physical force. Men often do so, but they also want something more:

Men do not want solely the obedience of women, they want their sentiments. All men, except the most brutish, desire to have, in the woman most nearly connected with them, not a forced slave but a willing one, not a slave merely, but a favourite. They have therefore put everything in practice to enslave their minds. The masters of all other slaves rely, for maintaining obedience, on fear . . . The masters of women wanted more than simple obedience, and they turned the whole force of education to effect their purpose. All women are brought up from the very earliest years in the belief that their ideal of character is the very opposite to that of men; not self-will, and government by self-control, but submission, and yielding to the control of others.⁶¹

Mill argues, further, that these ideals shape not only moral sentiments, but also sexuality itself: for men come to eroticize submissiveness, and women to believe submissiveness erotically essential. (With Andrea Dworkin, he could have added that they in turn frequently learn to eroticize power and domination.)⁶²

How does Mill, a Utilitarian, criticize these adaptive preferences? Clearly, with a normative theory of liberty and equality. He makes some instrumental arguments about the social good that will be done by a more thorough use of women's talents, but the central advantage to which he points is "the advantage of having the most universal and pervading of all human relations regulated by justice instead of injustice."⁶³

This is hardly an occasion on which to conduct a probing examination of Mill's Utilitarianism and its connection with his theory of lib-

61 Mill, SW, 15–16.

62 See my "Rage and Reason," *The New Republic*, August 11 and 18, 1997, pp. 36–42, and Chapter 9 in *Sex and Social Justice*.

63 SW, 86.

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erty. But we can say at least this, and it is revealing for our purposes. Mill does think it highly relevant that the values he defends are in some sense rooted in human desire – that people who have tried both liberty and its lack will prefer liberty, that justice is a prominent object of human striving. He supports his proposals in *On Liberty* with reference to a quite Aristotelian account of the human powers and their flourishing, referring to “a Greek ideal of self-development,” and calling human nature “a tree, which requires to grow and develop itself on all sides.”⁶⁴ In a manner closely related to my argument in Chapter 1, he speaks of liberty as a development of basic human mental powers, which, like physical powers, are developed only by being used; in a society without liberty, “human capacities are withered and starved.”⁶⁵ But he also links this Aristotelian notion of self-development to a notion of experienced desire, saying that liberty is good in part because it satisfies certain “permanent interests” of human beings and, further, because it permits individuals to satisfy more of their other interests (given differences of taste that need liberty for their expression). His notion of utility is plural, more like an Aristotelian notion of flourishing than like Bentham’s hedonism; he famously insists that pleasures differ in quality as well as quantity, a view that undermines key aspects of Bentham’s maximization strategy. But, like Aristotle, Mill regards it as more than a contingent matter that the constituent parts of flourishing are in fact powerfully and deeply desired. This doesn’t rescue the welfarist project in its original form – but it does constrain the move to platonism, in an appropriate way. For it would hardly be plausible to say that good nutrition for women in Andhra Pradesh, or Vasanti’s bodily integrity, or Jayamma’s equality as a laborer, are things to be pursued altogether independently of their relationship to human desire and choice. The welfarist project fails, in its simplest form; but it gets something important right.

3. *The Institutional Argument.* A closely related group of arguments has recently been advanced, in law, political philosophy, and public policy. These arguments show, in various ways, that people’s preferences are in many ways constructed by the laws and institutions under

64 John Stuart Mill, *On Liberty* (1859) (Indianapolis: Bobbs Merrill, 1956), 76, 72.

65 *Ibid.*, 71, 75.

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which they live. This being the case, we can hardly use preferences as a bedrock in our deliberation about what laws and institutions we wish to construct. John Rawls, for example, emphasizes that “the institutional form of society affects its members and determines in large part the kind of persons they want to be as well as the kind of persons they are.”⁶⁶

Legal theorist Cass Sunstein develops this point with a rich range of examples.⁶⁷ Welfarist views, he argues, entrench the status quo. But people’s preferences are shaped by the sheer fact of existing endowments. Studies of the so-called endowment effect, for example, show that people value the very same item more highly when they have it and the question of parting with it arises than when they do not have it, but have an option to purchase it. In short: “A powerful status quo bias affects reactions to risks and losses. It is for this reason that status quo neutrality is not neutrality at all.”⁶⁸ But if legal rules are involved in the creation of preferences, then they cannot be justified simply by appealing to those same preferences. Sunstein concludes that democracy needs a normative notion of free preference formation with substantive moral constraints; instead of simply responding to the way preferences already are, the basic constitutional structure must protect the process of free deliberation.⁶⁹

These arguments are really just new instances of the adaptation argument, since they speak of the way in which habituation shapes desire and aspiration. (Sunstein refers to Sen’s arguments.) But Sunstein’s focus on society’s basic institutional and legal/constitutional structure makes his arguments worth considering separately. The point is that here we see a particularly acute problem for welfarists in the area of the present project: precisely what thinkers such as Haranyi and Brandt want to use preferences to construct – the public institutional structure

66 John Rawls, PL, 269.

67 Sunstein, *The Partial Constitution*, Chapter 6: “Democracy, Aspirations, Preferences”; also “Preferences and Politics,” *Philosophy and Public Affairs* 20 (1991), 3–34, reprinted in revised form in *Free Markets and Social Justice* (New York: Oxford University Press, 1997), 13–31.

68 Sunstein, *Partial Constitution*, 168. Sunstein cites John Dewey as another thinker who made similar criticisms of existing preferences, holding that “social conditions may restrict, distort, and almost prevent the development of individuality”; Dewey calls for “the positive construction of favorable institutions, legal, political, and economic” (Sunstein, *Partial Constitution*, 176, citing “The Future of Liberalism”).

69 Sunstein, *Partial Constitution*, 177.

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– is what turns out to be a major source of the preferences themselves. Rather than using preferences to model institutions, Sunstein argues, we should use institutions to create free preferences.

4. *The Argument from Intrinsic Worth.* Even if the welfarist can show that people desire liberty and justice, and even if some modification of the welfarist procedure could be devised that reliably generated those goods (without smuggling them somehow into the structure of the procedure itself), it would not be clear that this is the right way to justify our social interest in these goods. In general, the failure of a person to have various basic human capabilities is important in itself, not just because the person minds it or complains about it.⁷⁰ As Amartya Sen puts this point, “If a person is unable to get the nourishment he or she needs, or unable to lead a normal life due to some handicap, that failure . . . is itself important, and not made important only because he or she incurs dissatisfaction or disutility from that failure.” Another way to put this is to say that even if we could engineer things so that people were reliably adapted to a very low living standard – and, as Mill says, the “masters of women” have in many areas done exactly that – this would not be the end of the issue of what is good or right. These failures themselves have importance, and just the bare fact that human beings are undergoing them should be enough for us.

This argument is the flip side of the adaptation argument. It tells us positively what that argument told us negatively, that we need a normative theory – preferably a theory of human capability that includes accounts of equality and liberty – to provide the normative basis that desire fails reliably to provide us.

Notice, however, that there are a number of ways of making this argument, many stopping well short of outright platonism. The platonist will indeed say that these eternal intrinsic values have the value they do altogether independent of human history, human choice, and human desire. But one might adopt a different account of justification, one that would make at least a qualified reference to choice and desire. Rawls’s Socratic account of justification proceeding toward “reflective equilibrium” may be one such account; Aristotle’s use of the person of practical wisdom as normative criterion is another; Dewey’s pragma-

70 See Sen, “Family and Food: Sex Bias in Poverty,” in RVD, 346–65, at 363.

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tism offers another;⁷¹ as we have seen, various norm-laden forms of proceduralism also justify with at least a certain sort of qualified reference to desire and choice.

Thus we can accept the argument from intrinsic value without accepting the extreme rejection of desire urged, for example, by Thomas Scanlon in his "Value, Desire, and the Quality of Life," and repeated in his recently published book.⁷² Scanlon argues that there are only two reasons that desire is of any interest at all in the process of justifying an account of quality of life. One reason is hedonic: the satisfaction of a desire may bring pleasure, and pleasure is an intrinsic good. The other reason is heuristic: desire steers us in the direction of some intrinsic goods. But in either case, the reference to desire is dispensable: the hedonic reason points back to the intrinsic value of pleasure, which is (on this view) not valuable simply because it is desired; the heuristic reason points to items whose value must be independently arrived at. Given all this, and given that desire is frequently not such a good guide, there is no particular reason to be interested in it in constructing an account of quality of life.

I am not fully persuaded by this argument, for two reasons. First, in his article Scanlon never asks how, in the long run, we are actually going to justify a "substantive list" of values of the sort he prefers, without making at least some sort of reference to desire. He probably is not a thoroughgoing platonist, but in this article he never tells us what he really is, and what the "other grounds" are on which he would rest a judgment of desirability. In the book (and in his earlier "Preference and Urgency"),⁷³ Scanlon adopts a contractualist procedure of justification; but then he appears to be distinguishing choice strongly from desire, and it seems to me that he does not say enough to justify such a position. Kantian accounts of choice distinguish choice strongly from desire; Aristotelian accounts hold that choice is a deliberative type of desire. The absence of argument on these issues of moral psychology

71 See Hilary Putnam, "Pragmatism and Moral Objectivity," in WCD, 199–224. See also H. Putnam, *Pragmatism: An Open Question* (Oxford and Cambridge, MA: Blackwell, 1995), 57–75.

72 See note 9, and Scanlon, *What We Owe to Each Other* (Cambridge, MA: Harvard University Press, 1999), 41–49.

73 Thomas Scanlon, "Preference and Urgency," *The Journal of Philosophy* 72 (1975), 655–69.

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leaves Scanlon with only inconclusive arguments for his platonist conclusion.

Second, Scanlon fails to consider a very strong reason we have for giving desire at least some role in our process of justification: the reason of respect I have already endorsed. The fact that human beings desire something does count; it counts because we think that politics, rightly understood, comes from people and what matters to them, not from heavenly norms. I do not think Scanlon disagrees with this; but then I remain puzzled by the dismissive attitude he takes to informed-desire approaches. We may perhaps make progress in understanding Scanlon's view by turning to "Preference and Urgency."⁷⁴ In that paper, Scanlon does endorse the reason of respect that I have discussed, but he argues that, so understood, the appeal to desire once again points back to an "objective" substantive good, viz., respect for persons; once again, desire is of no weight in and of itself.⁷⁵ Now this all seems very true, and yet I am not sure that it gets us all the way to a platonist conclusion: for we still need to know why respect for persons is appropriately shown by giving their desires some weight. And the answer to that question seems to be that we think of persons in a certain way, namely as creatures of whom it is true that the fact that they reach out for something has itself some importance, some dignity. They are not a passive herd or flock, but active and striving beings. Saying this, we are surely, in the terms of "Preference and Urgency," ascribing an objective value to desire. But I do not think this suffices to support the conclusion of the later article, in which all reference to desire becomes ultimately dispensable, being cashed out either in terms of the intrinsic value of pleasure or in terms of the other substantive goods on the list.

Once again, the puzzles generated by Scanlon's position appear to

74 A problem in putting this article together with the article in QL is that the basic conceptual categories of the two articles are rather different; in the earlier, the operative contrast is between "subjective" and "objective" factors; in the latter, the contrast is instead between informed-desire approaches and "substantive good" approaches.

75 "A high objective value may be attached to providing those conditions which are necessary to allow individuals to develop their own preferences and interests and to make these felt in the determination of social policy . . . What I take to be central to the objectivist position, however, is the idea that . . . it is an objective evaluation of the importance of these interests, and not merely the strength of the subjective preferences they represent, that is relevant."(658)

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be created by his implicit adoption of a Kantian view of desire, which distinguishes sharply between desire and choice, desire and reason. Even if one thought of desire as brutish and unintelligent, as just a mindless “push” that moves people toward objects without involving any selectivity or intentionality, such a view would still not entail Scanlon’s dismissive position – one might still think we have reason to attend to the pushes that people have in their natures and to give these some weight – but it would at least explain why a basically Kantian moral position would be inclined to bypass desire in favor of something that resides in the moral domain. On the other hand, if one thinks of desire, as I do, in a more Aristotelian way, as a reaching out for “the apparent good,” and thus as involving, even at the level of appetite, a high degree of selective intentionality and responsiveness, one will have in that very picture of desire some strong reasons not to bypass it, for it seems to be a part of our humanity worthy of respect and voice.⁷⁶ In his recent book, discussing the views of Warren Quinn, Scanlon seems to grant that many desires have an evaluative element; and yet he continues to deny that, even so construed, they provide any independent reason for pursuing the object so evaluated. Once again, he argues, either they provide no reason at all, or the reason points back to pleasure, or some other independent good.⁷⁷ Once again, he endorses a strong distinction between desire and choice. Thus he seems to be willing to grant desire a heuristic role, while denying it any independent role in justification.

Scanlon’s position is subtle, and its differences from my own are narrow. One way of putting his argument is to say that he thinks about

76 For my own account of emotions, appetites, and desires, see *Upheavals of Thought: A Theory of the Emotions* (Cambridge: Cambridge University Press, forthcoming); really, such a discussion needs the richer moral psychology I mentioned above, and needs to make distinctions among these three notions. For an account of desire I would favor, see Warren Quinn, “Rationality and the Human Good” and “Putting Rationality in Its Place,” in Quinn, *Morality and Action* (Cambridge: Cambridge University Press, 1993), 210–55.

77 See also “Putting Desire and Irrationality in Their Places,” paper delivered at a memorial conference for Warren Quinn, UCLA, April 15, 1995. In the latter paper, Scanlon agrees with Quinn that subjectivist accounts of desire that leave out the element of “evaluation” internal to desire are “impoverished,” and he concludes that the term “desire,” as used in many such discussions, is a slippery and ambiguous one; some desires are relatively independent of practical reason and some are not. The “desire satisfaction” model ignores such distinctions at its peril.

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desire what I have already argued to be true of the concept of preference: that it is not a single concept but a multiple concept, whose different elements are frequently confused. Once we disentangle them, we are left, on the one hand, with impulses that do not by themselves provide reasons for action; on the other hand, with intelligent choice-like elements of the personality that do contain, and provide the agent with, reasons. I am not unhappy with this way of formulating the issue, but I think that it may possibly obscure a continuity between the intelligence and selectivity of basic appetitive elements in our animal nature and more complex choice-like elements, a continuity that is recognized and made salient by the general Aristotelian concept of desire, of which these types are multiple species. I shall argue that the very fact that human beings characteristically desire play, and intimacy, and control over their environment provides at least some reason for politics to secure these things to people, a reason that is not fully reducible to the other reasons we have for saying that these things are good. (In saying this I differ from Scanlon at least in the emphasis of my argument, and perhaps in substantive matters of moral psychology.) As we shall see, this will give desire a role in political justification that is more than merely heuristic.

V. DESIRE AND JUSTIFICATION

In my own view, the account of the central capabilities provides a necessary focus for political planning, giving not a complete account of the good or of human flourishing, but a political account, specifying certain capacities, liberties, and opportunities that have value in any plan of life that citizens may otherwise choose. Chapter 1 supported this approach with an argument based upon an intuitively powerful idea of truly human functioning, functioning that is worthy of the dignity of the human being. I claimed there that citizens with a wide range of comprehensive conceptions of the good can endorse this list – as a list of capabilities, remember, not a list of actual functions – as a basis for getting on with life, including prominently political life. These basic goods supply a set of political constraints – citizens should be provided with these, whatever else politics also pursues. In this sense, as I argued, there is a very close connection between the account of central capabilities and an account of basic human rights;

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indeed, the capabilities account is one way of further fleshing out an account of human rights.⁷⁸

It seems to me that the capabilities account deals well with the problems that plagued the preference-based approach. It does not waste time trying to smuggle a substantive account of central capabilities into a procedure for winnowing desire: it goes directly and forthrightly to the good (and the right),⁷⁹ taking an unambiguously clear stand on the need for these items, as an enabling core of whatever else human beings choose. It addresses the problem of adaptive preference, again, by substantive rather than formal devices, as seems necessary. A habituated preference not to have any one of the items on the list (political liberties, literacy, equal political rights, or whatever) will not count in the social choice function, and an equally habituated preference to have such things will count.⁸⁰ Finally, the list does justice to the intrinsic value of the items it contains, by not subordinating them to something else, such as preference-satisfaction.

It will be apparent by now that the list is not totalitarian in the usual sense, for the five reasons given at the end of Chapter 1, spelling out the ways in which a respect for pluralism is built into the project. Chapter 1 also rebutted the charge that the list is imperialistic in another way, that it imports a Western account of value that derives from discredited colonialist projects. But we should now return to this question, with our interest in preference deformation in mind. Does the recognition of adaptive preference in a subordinated group constitute a colonialist judgment on them and a depreciation of their own minds and choices? Far from it, history shows. For it was precisely the recognition of adaptive preferences that was one of Jawaharlal Nehru's strongest arguments for condemning the legacy of British rule in India. Very much in the spirit of Mill, he recognized that enslavement ends by making a willing collaborator of the slave:

78 See I.vi and CHR.

79 Basic liberties and opportunities, and the dignity and equality of persons, are all included in the account of the basic capabilities.

80 Recall, too, that the list is concerned with *combined capabilities*, not just *internal capabilities* (see Chapter 1): so the related principles will not simply adjust people's inner capacity to pursue certain aims and goals, they will also take thought for the actual options they have. On the importance of this issue, see Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 373–5.

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For many generations the British treated India as a kind of enormous country-house (after the old English fashion) that they owned. They were the gentry owning the house and occupying the desirable parts of it, while the Indians were consigned to the servants' hall and pantry and kitchen. . . . The fact that the British Government should have imposed this arrangement upon us was not surprising; but what does seem surprising is that we, or most of us, accepted it as the natural and inevitable ordering of our lives and destiny. We developed the mentality of a good country-house servant. Sometimes we were treated to a rare honour – we were given a cup of tea in the drawing-room. The height of our ambition was to become respectable and to be promoted individually to the upper regions. Greater than any victory of arms or diplomacy was this psychological triumph of the British in India. The slave began to think as a slave, as the wise men of old had said.⁸¹

In these words, written in a British prison, Nehru expressed the view that to recognize the adaptive nature of one's preferences is the beginning of a search for independence – which, of course, he famously expressed in the language of “inalienable rights,” liberty, and opportunity.⁸² So too for women: recognizing the adaptive character of many preferences is a beginning of the search for true self-definition, and the liberties that protect that search are the true opponents of feudal and colonial tyranny.

But what role is played by desire in the process of justifying the list of the central capabilities? On the general issue of political justification, it is plain that people's intuitions about how to proceed vary greatly: some think we only put things on a sound footing when we devise a procedure that generates the good as an output, and others (including I myself) tend to think that our intuitions about the central capabilities are at least as trustworthy as our intuitions about what constitutes a good procedure.⁸³ I have said so far that the capabilities view embodies

81 Nehru, *Autobiography*, 417.

82 *Ibid.*, 612: see 1.

83 Jürgen Habermas's recent discussions of human rights make this difference especially plain: he thinks women's rights to be free from various abuses must be justified as necessary preconditions for political participation; my own view is that this is too indirect, unreliable, and puts things in the wrong order. See, for example, “On the Internal Relation between the Rule of Law and Democracy,” *European Journal of Philosophy* 3 (1995), 12–20. Habermas grants that this reply is most plausible for traditional civil rights, less so for others; and he recognizes that other rights, too, “have an intrinsic value, or at least they are not reducible to their instrumental value for democratic will-formation” (17). But it is not clear how this insight will ultimately be captured without diverging in a major way from Habermasian proceduralism.

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an intuitively powerful idea of truly human functioning that has deep roots in many different traditions. I have used this intuitive idea to justify the list and its political role. But now I must make plain what role or roles I do assign to desire in the procedure for arriving at and justifying the list.

In Chapter 1, section VIII, I defended an account of political justification based on the Rawlsian account of argument proceeding toward reflective equilibrium: we lay out the arguments for a given theoretical position, holding it up against the “fixed points” in our moral intuitions, and seeing how those intuitions both test and are tested by the conceptions we examine, hoping, over time, to achieve consistency and fit in our judgments taken as a whole. My argument in Chapter 1 was envisaged as a first step in the process of reaching toward such a reflective equilibrium. Before that process would be complete (if it ever would be), we would also have to lay out other competing conceptions, compare them in detail with this one, and see on what grounds ours emerged as more choiceworthy. This chapter has taken one step in that further project, by comparing the substantive-good conception with various preference-based conceptions. Now the question should be: what part in this procedure of reaching toward reflective equilibrium is played by desire? I believe that desire plays two roles here: both an epistemic role and an ancillary role in justification.

First, it seems to me very important that people from a wide variety of cultures, coming together in conditions conducive to reflective criticism of tradition, and free from intimidation and hierarchy, should agree that this list is a good one, one that they would choose. Finding such areas of informed agreement is epistemically valuable, in two ways: first, it points us to areas of human expression that we might have neglected or underestimated. Second, it tells us that our intuitions about what would make a political consensus possible are on the right track. The methodology that has been used to modify the list shows this: for I have drawn both on the results of cross-cultural academic discussion and on discussions in women's groups themselves designed to exemplify certain values of equal dignity, non-hierarchy, and non-intimidation. In other words, I have proceeded as if it is important that there should be a substantial convergence between the substantive account and a proceduralist account, where the procedure itself is structured in accordance with certain substantive values. (Notice that the substantive values that structure the procedure are closely related to the

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central capabilities on the list, in the sense that some of them, at least, seem to be important signs that the resulting judgments are likely to be reliable. When people are respected as equals, and free from intimidation, and able to learn about the world, and secure against desperate want, their judgments about the core of a political conception are likely to be more reliable than judgments formed under the pressure of ignorance and fear and desperate need.) Informed desire plays a large role in finding a good substantive list, for epistemic reasons. What we are trying to find is something that people can live by together, thereby generating political stability among other values. That a conception has a certain relation to informed desire is at least one part of what makes it likely to do the job we want it to do.

But the fact that informed desire plays this epistemic role in discovering that which is likely to promote political stability shows that it also plays a limited and ancillary role in justifying the political conception: for, however attractive the conception looks, if we cannot show that it is likely to remain stable – not just as a *modus vivendi* but as the object of a consensus – it will be difficult to justify it. It seems right to include stability “for the right reasons” (Rawls’s phrase) among the considerations that is important in justifying a political conception. And I argue that we cannot show that our conception is likely to remain stable “for the right reasons” without some reference to informed desire.

Our interest in adaptive preferences gives us another way of approaching this issue of stability. Our examples give us many reasons to suppose that Mill is correct: the preference for the central human capabilities is not merely habitual or adaptive, but has much more the unidirectional structure of preferences formed by learning (as Elster has introduced this distinction). This gives us, again, confidence that we are on the right track in designing a political conception, where stability is concerned. We learn something about the likely stability of a consensus based on central capabilities when we note, as we do, that women who have become literate find literacy valuable and even delightful, that they report satisfaction with their new condition, and that the transition in their lives begun by literacy is not one that they would wish to reverse. The same is evidently true for health and sanitation, for learning to stand up against domestic violence, and for acquiring political liberties and capabilities: people who once learn and experience these capabili-

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ties don't want to go back, and one really can't make them go back. The stories of Vasanti, of the women from Andhra Pradesh, of the video watchers in Gujarat, and of Tagore's departing wife – none of these stories could plausibly be told in reverse. Even Jayamma, who hasn't moved very far along the capability measure, has learned to demand things from the health care system and from the government, in ways that, again, appear to be irreversible. The delight and satisfaction that makes people unwilling to go backward is a very important sign that the conception we are developing is likely to be a stable one, and that regimes that thwart central capabilities are likely to prove unstable. Thwarting permanent human interests, as Mill argued, is not a wise political strategy. And this epistemic role for desire is at the same time, once again, an ancillary justificatory role, in the sense that it is important in order to justify our conception to show that it can be expected to have a reasonable degree of stability.

Women do, of course, choose to return to traditional lives in the home from lives of employment outside the home. They also choose to return to veiling from non-veiling. But notice that this is a change in their mode of *functioning*, not in their level of political *capability* as citizens. To argue that the preference for the central capabilities is not unidirectional, we would need to argue that people wish to give up *choices* and *opportunities* in this area, as citizens choosing basic political principles. And this is far more difficult to show. What we would need to show is that women who have experienced the full range of the central capabilities choose, with full information and without intimidation (and so forth), to deny these capabilities, politically, to all women. But usually women who prefer traditional lives, after having led other lives, do not campaign for a political denial of choice to all citizens. In Chapter 3, I will discuss the case of Hamida Khala, a traditional Muslim woman who regretted leaving the practice of veiling, and wished in some respects to return to that life. It is very striking, however, that this same woman vehemently opposed mandatory veiling of all Pakistani women, when a political lobby approached her for help. She felt that the problem with non-veiling was primarily a problem of male conduct, and that men should restrain themselves, rather than depriving other women of choice. Even in the case where experienced women apparently do campaign on behalf of general restrictions, as seemed to be the case in Iran, it is extremely unlikely that these women

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foresaw and desired the highly repressive regime that ensued. That regime has not been stable, because it thwarts central capabilities. Nor would a regime of mandatory veiling in Pakistan have been at all stable. The Pakistani regime in which Hamida Khala lived, which permits veiling, creates and respects spaces for that choice, and yet grants women the opportunity to be equal citizens if they make the contrary choice; it is stable, and conservative women themselves do not wish to upset it, when they have experienced both ways of life.

But stability is not the only issue we should consider. I have argued that desire is an intelligent part of the human being that deserves respect in itself in any procedure of justification we would design. Thus it seems to me that it is not only on account of stability that we refer to desire, but also because we respect that aspect of the human personality. It is an important part of showing such respect that we do consult people from many cultures about what (under suitably informed conditions) they would wish; and their answers to such questions, again, play an ancillary role in justifying the list. It is important, again, that we take note of the delight women experience when they achieve a greater measure of capability in the central areas of human functioning: for this delight itself helps us to justify our list as one that is respectful of their personalities. Finally, of course, desire plays a role in the fact that the goal is expressed in terms of capabilities and not actual functionings, as we said in Chapter 1. We respect the importance of desire and preference by building into the most basic level of the account the option to pursue the goal or not to pursue it. Desire's role is certainly heuristic; but it would also appear to be partially constitutive of the goodness of the capabilities, for political purposes, in the following sense: if the vast majority of people characteristically and pervasively and over a long period of time did not desire these capabilities, we might still have some arguments for thinking them good for people; but one very important political reason would be lost. Without denying that desire is unreliable and easily distorted, we can give it in this way a partial role in justifying the political conception. This ancillary role for desire is related to a picture of democratic choice: we think it best if democratic choice is reflective and deliberative, but we also think it good that it record what people want, and we think that this good is to at least some extent independent of its other virtues.

Approaches that sharply distinguish choice from desire can say at

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this point that we give choice a role as a human faculty worthy of respect, but that this does not entail giving a role to desire, a part of our animal makeup that does not, in itself, deserve such respect. Once again, it is important to say that my approach (unlike Scanlon's) does not make this sharp separation. Aristotle defines choice as "desiderative deliberation or deliberative desire." Similarly, I would argue that the emotions, desires, and even appetites of a human being are all humanly significant parts of her personality, deserving of respect as such. The personality is a unity, and practical reason suffuses all of its parts, making them all human rather than animal.

And yet: why, given all the critical things I have said about desire and its propensity to adapt to unjust situations, should I give it any role at all in designing a view of basic justice? Showing that desire has an evaluative element does not remove this question, for people's evaluations themselves are easily manipulated by fashion, deprivation, or power. Given this malleability of desire, the argument from political stability seems suspect: for it seems that any political scheme could justify itself by pointing to desires that it has itself formed. And the argument from respect for persons seems no better, if people's desires simply express the background conditions, just or unjust, in which they live.

If people's desires were really adaptive through and through, this would be a powerful retort – although it would surely leave us wondering what we could appeal to, given that we have said that choice and desire are very intimately linked. I believe, however, that the human personality has a structure that is at least to some extent independent of culture, powerfully though culture shapes it at every stage. As the Greek philosopher Sextus Empiricus wrote, "In the person burdened by hunger and thirst, it is impossible to produce by argument the conviction that he is not so burdened." Desires for food, for mobility, for security, for health, and for the use of reason – these seem to be relatively permanent features of our makeup as humans, which culture can blunt, but cannot altogether remove. It is for this reason that regimes that fail to deliver health, or basic security, or liberty, are unstable. My stability argument relies on this view of the personality, as not thoroughly the creation of power. Of course we still have to recognize that there is a considerable space for social deformation of desire: it is for this reason that we rely, primarily, on an independently justified list of

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substantive goods. But we give desire the ancillary role I have given it, because we think that it does have a structure that is in at least some ways more robust than social whims and fads. This structure contains things that are problematic and bad, as well as things that are good: aggression as well as the need for food, for example. So we do not read off norms from the facts of human personality, even to the limited extent to which we do rely on desire. We still have to evaluate what we find, and ask whether it is worth including. This, again, is a strong reason to avoid trusting desire too much. But it is compatible with trusting it a little bit, as a guide to what politics should give people.

I can illustrate my views about justification by focusing on two capabilities that have been causes of some controversy and modification in the list. The first is the capability to hold property on a basis of equality with men. Property rights were little stressed in earlier versions of the list. I held that property was merely an instrument of human functioning, and I included it under a general capability to lead one's own life, without giving it a very prominent role. To some extent my judgment was influenced by the fact that when one teaches in a modern American law school one hears constant reference to the central importance of property rights in connection with a libertarian attack on the redistribution of wealth and income. So I came to associate the appeal to property rights with that position, one that is indifferent to the interest of poor people in having some property in their own names. (Land reforms have been a major source of social amelioration in India in the post-independence period.) But my experience in India showed me that women attach intense importance to the right to hold property – demanding, at the very least, equal inheritance and property rights with men, but also attaching considerable importance to the possibility that they will be able to acquire some land in their own names. Listening to these voices (in a context shaped by the marks of a norm-infused proceduralism), I came to the conclusion that my own thinking had simply been muddled in this area; the evidence of desire led me to see something that I had refused to see before. Property rights play an important role in self-definition, in bargaining, and in developing a sense of self, as I shall argue in Chapter 4. So they now play a much more prominent role than they did in earlier versions of the list. Seeing their importance in this way does not, of course, entail a return to the libertarian position that I had begun by rejecting; for if they are important sources of

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capability for all citizens, this may in some cases underwrite land reforms such as the one carried out in West Bengal, under which wealthy citizens lost their second homes, and a general attempt was made to restrict luxury in order to give poor citizens property in their own names. Similarly, the government of Kerala has given citizens private rights in what was once government land, recognizing the importance to the poor of this sphere of self-definition. My current list strongly underwrites these measures, and above all it insists that whatever the scheme of property rights is, women should have the same capabilities in this area as men. To achieve this situation, reforms focused affirmatively on women's land rights may frequently be necessary. Desire here plays a heuristic and evidentiary role; and it also plays an ancillary justificatory role, convincing us that we are likely to be on the right track.

Now I turn to the capability that has in many ways been the most controversial of the items on the list, showing how the question of justification looks at this point. This is the ability to live in a fruitful relationship with animals and the world of nature. This was not on the initial list that I drafted, and was added at the insistence of Scandinavian participants in the project, who said that this was something without which, for them, no life could be truly human. As we reflected, it became clear that many of us also held such a view, though we hadn't theorized it as elaborately as had our Scandinavian participants. There were participants from South Asia who never thought this very important, who actively disliked animals, and who thought it a kind of romantic Green Party flourish to put this on the list when people were suffering. On the other side, as time went on, there were people who questioned the anthropocentricity of the entire list, judging that we had no reason to give the human capabilities priority over other capabilities, and objecting to the idea that other species would be brought in only on account of their relationship to the human.

It seems to me that this whole question is quite unresolved at this point, and we have not yet achieved a political consensus – precisely because there is not yet the kind of convergence between informed desire and the substantive account that we generally get elsewhere. Political stability may or may not be threatened within individual nations: for some nations obviously do have a political consensus on these issues. But we cannot confidently propose this item as part of a com-

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pletely international political consensus at the present time. These preferences appear to be things about which people in the best of circumstances differ, though we can at least get agreement about the instrumental importance of environmental factors. And they are much more Elster-like than the other preferences on our list: that is, it would appear that people who learn to get used to nature can also get used to a life without much access to nature, and vice versa. Learning doesn't play the unidirectional role it plays in other cases. I conclude that all this should quite properly lessen our confidence in the place of this item on the list, although I personally remain strongly of the belief that it does have a role. Insofar as it remains on the list, we can at least take comfort from the fact that we respect the preferences of those who don't care about animals and plants by making a capability the goal, not the actual function. (This doesn't mean that we don't also want a separate account of our duty to avoid causing pain and damage to animals; the capability account is not intended to provide a complete moral theory.)

In other words, as we should expect, there is and should be a good measure of convergence between an intelligently normative proceduralism and a substantive good theory of a non-Platonist kind, sensitive to people's actual beliefs and values.⁸⁴ To see this yet again, let me now turn to the strongest proceduralist account that explicitly addresses the particular problems faced by women, Jean Hampton's "Feminist Contractarianism." Hampton first considers the Hobbesian approach to the social contract. She finds this defective, considered as a view feminists might use, because it does not contain the idea that each person deserves respect simply because he or she is a person. It makes respect contingent on "emotional sentiment," and fails to regard persons as having intrinsic value. This failure, of course, is an especially grave failure for feminism, since women have all too frequently been valued in this contingent way, because someone happens to care for them rather than because they have dignity as persons.

Hampton therefore turns to the defense of a version of contract theory based in Kant. At this point it might be thought that she is no

⁸⁴ On this convergence, see James Griffin, *Well-Being: Its Meaning, Measurement and Moral Importance* (Oxford: Clarendon, 1986), 33.

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longer pursuing the informed-desire approach at all, given Kant's account of the way in which desire is related to choice, which does appear to split the personality into two parts. But Hampton herself would appear to hold a more Aristotelian account of desire and emotion; indeed, she has criticized economics for failing to give its notions of desire sufficient complexity and cognitive content.⁸⁵ Hampton does not comment on this issue in "Feminist Contractarianism," but there is no reason to think that her proceduralism altogether repudiates desire.

Hampton now proposes a procedural approach with Kantian features, designed in particular for the assessment of intimate personal relationships – precisely an area where feminists often feel a contract approach has no place. In developing an appropriate test, designed to weed out cases in which persons are used and exploited through their propensity to give love and care, Hampton introduces a series of substantive conceptions: first, a Kantian *conception of human worth* that prominently includes the ideas of *equal worth* and *nonaggregation* (that is, we aren't to aggregate the good across persons, but to consider the separate good of each, thinking of each as an end); and second, a conception of *a person's legitimate interests*, which Hampton doesn't spell out further in her article.

In my view, this is a promising procedural approach, and one that, as she argues, makes progress beyond other related contractarian approaches. But notice, first, how much like a substantive-good approach it really is. The ideas of equal worth, dignity, and nonaggregation are all elements on the capabilities list itself, through its emphasis on non-discrimination, on practical reason, on dignity and non-humiliation. And the concept of *legitimate interests*, if it is to have any bite at all, would ultimately have to be fleshed out much more, in a way that would, I suppose, bring in a lot more of the items on the list.

To the extent that the approach is *not* like a substantive-good approach, I think it is often too vague to offer good guidance. We have a hard time talking about justice in the family until we know whether the right to seek employment is a basic good, whether political liberties and the opportunity to participate in politics are basic goods, whether the capability for sexual expression is a basic good, and so on. The list

85 Hampton, "The Failure of Expected-Utility Theory."

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gives us somewhere to go in saying whether the treatment of women is or is not exploitative. I don't think the thin procedural approach gives us enough without this.

On the other hand, we would not conclude that the right to seek employment, property rights, and other items on the list were central human goods unless we heard women saying so, when questioned in a procedure that has Hamptonian features. In that sense, once again, proceduralism of a suitably norm-laden sort proves an essential complement to the substantive-good approach. Through a dialogue between the two, we gain confidence that we are on the right track.

One final issue remains to be considered. In Chapter 1, I argued that the appropriate political goal is capability and not functioning. This means that we leave a great deal of room for citizens to pursue their own desires, whatever they are, and however they are formed. I said that the reason for this way of conceiving of the goal is a reason of respect: if we dragoon people into a total mode of functioning, we are not fully respectful of them. In this chapter, by contrast, I have argued that in justifying the political conception we consult not all actual desires, but only some of them, desires formed under appropriate conditions; and even then we do not let desire have the last word. Am I not in danger of just the kind of paternalism I set out to avoid in Chapter 1?

It appears to me that the answer to this question is no. As I argued in Chapter 1, paternalism is all about respect for choice; opposition to it therefore entails that we protect certain opportunities for choice (religious liberty, the liberty of speech, and the rest), plus their material conditions, in a way that puts these opportunities beyond the whim of majoritarian politics. To say this is perfectly consistent with saying that these spheres are there to be used by people as they please, even if their actual desires are corrupt and mistaken. But to consult all actual desires, including the corrupt and mistaken, when we justify the list of basic entitlements and opportunities itself would put the political conception, and the liberties of citizens, on much too fragile a foundation. Just as it is consistent to say both that we will not impose a single religion on citizens even if we believe it to be correct, and also that we will impose on all citizens a duty to respect citizens' liberty of conscience, thus protecting spheres of choice within which various different conceptions can be pursued, so too it is consistent to use a substantive

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approach (combined with a substantively infused informed-desire approach) when justifying the list of central capabilities that forms the basis of the political conception, and also to say that within the conception we are protecting and promoting spheres of choice in a way that shows respect for people's desires, even their mistaken desires, so long as these involve no harm to others.

Of course it is also true that securing to people the capabilities on the list will promote conditions in which people will be likely to develop more adequately informed desires: it is in this sense that there is a strong convergence between the substantive list of capabilities and the norms that shape a sensible informed-desire approach. By promoting education, equal respect, the integrity of the person, and so forth, we are also indirectly shaping desires, and desires formed under these conditions are likely to be more adequately informed than those formed under conditions of isolation, illiteracy, hierarchy, and fear. But people living under a just regime will still on occasion be ignorant or hasty; they may also be intimidated or envious. The political conception makes room for these inadequate desires and respects them, and choices motivated by them, by protecting spheres of choice and aiming at capability rather than functioning. In these ways, it aims to avoid the charge of paternalism, and to respect persons even when they are not wise.

VI. POLITICAL STABILITY AND THE DEPTH OF HABIT

By focusing on the stories of women in self-help groups of various types, we have given an optimistic slant to the issue of preference-deformation. In case after case, we see women quickly dropping habituated preferences and adjusting their aspirations in accordance with a new sense of their dignity and equality. When we see that in just a few weeks women learn to want employment rights, property rights, clean water, and many of the other items on the list; when we hear Vasanti talk about the change in her life made possible by the SEWA loan; when we see how Jayamma's sense of what the world owes her has been energized by government programs; when we see how the women in Andhra Pradesh start fighting for their rights even before they get into a decent state of health – it is easy to think that achieving a political consensus about the central capabilities is an easy matter. All we

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have to do is to give people a taste of them, and they refuse to return to any other way.

But our political optimism about the stability of an overlapping consensus should be tempered by the fact that, so far, we have been looking at only half the story. We have looked at what women want, or come to want, for themselves. But we haven't asked about the adaptive preferences of men, and how easy or difficult it may be to achieve the same happy convergence between an informed proceduralism and a theory of substantive goods when we consider what they are willing to grant to women. What Mill wrote in 1869 still appears to be all too true of many people: "the generality of the male sex cannot yet tolerate the idea of living with an equal."⁸⁶ Obviously Harsanyi is right: if we decide that people are indeed motivated by malice or sadism, then we should not allow those preferences to count in the social choice function. It is also clear that any proceduralism we would accept – Hampton's, for example – builds in, on the ground floor, the value of each person as an end, and that this should be understood to be incompatible with systematic subordination of one person's ends to those of another. And yet, we have hardly begun to take the measure of the full weight of habit, family and community pressures, and the sheer fear of change, when we think about how men who are not basically evil or sadistic frequently resist such changes, while believing that they do treat women as ends.

I therefore want to conclude this chapter with one such story of failed proceduralism, Rabindranath Tagore's short story "Haimanti," written in 1913.⁸⁷ The story is told in the first person by the young bridegroom – and what is striking throughout is the thoroughly informed lucidity with which he chronicles his own moral cowardice. His parents contract for him a marriage with a girl somewhat older than the usual age, who therefore has had more time than usual to form her character in her own natal home – in this case, under the supportive tutelage of a progressive father who respects her intelligence, fosters her education, and treats her as an independent being of worth in her own right. After the wedding, he asks his new son-in-law to see her

⁸⁶ Mill, SW, 53. He prefaces this statement by saying, "I believe that their disabilities elsewhere are only clung to in order to maintain their subordination in domestic life."

⁸⁷ Translated in Bardhan, *Of Women, Outcastes*, 84–96.

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that way too – and indeed he does. He discovers, in fact, that the way to win her love is to respect her mind:

I was worried that I did not know how to win the mind of an educated, grown-up girl. But soon I found out that there was no conflict between the road to the bookstore and the road to her heart. I do not know exactly when the pure white of her mind gradually started changing to colors, when her body and her mind turned toward me with eagerness.

But now comes the less beautiful part of the story – as the narrator says himself. (The story is tragic in large part for the way in which the hero sees so clearly what is bad in his behavior, and yet is unable to stop it.) After a while, his family learns that Haimanti's father is not nearly as wealthy as they had previously believed – and, no longer regarding the bride as a potential source of further income (over and above the dowry already given), they begin to mistreat her emotionally, belittling her, requiring her to tell useless lies in ways that deform her integrity, and attacking her beloved father to her face and forbidding her to defend him. The groom, seeing that her unhappiness is leading to a decline in her health, summons Haimanti's father, who gets a good doctor; the doctor says she will become very ill if she does not take a break from the family. But the groom's father refuses to let her go, once again insulting her father.

At this point, the groom could easily have taken her away himself. He loves her. He sees her worth. He sees that it is the only way of saving her mental and physical health. But because his father yells at him, he doesn't do it.

Some of my friends asked me later why I did not do what I had said I would do. All I had to do was just leave with my wife. Why did I not take such an obvious simple step? Why indeed! If I am not to sacrifice my true feelings for what people regard as proper, if I am not to sacrifice my dearest one for the extended family, then what about the ages of social indoctrination running in my blood? What is it there for?

Don't you know that on the day the people of Ayodhya demanded the banishment of Sita, I was among them? Those who sang the glory of that sacrifice, generation after countless generations, I was one of them too. All those authors of articles published in monthly magazines, acclaiming the virtue of abandoning a beloved wife to please the people, I had read them. Had I ever thought that one day I would be writing my own story of the banishment of Sita, writing it with the blood of my heart's arteries?

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He does nothing. Soon Haimanti dies. Now his mother is looking for a more suitable girl for him. He has resisted, but he knows that soon he will give in.

Here we have what looks like a clear contrast between a person's true preferences, elicited through a procedure that bears many of the marks of Hamptonian proceduralism, and the preferences that actually guide his actions, and that are in some sense also quite truly his and him. He says that the true preferences are those that express respect and love, whereas the false are those dictated by habit. But then, immediately after that, he says, more plausibly, that he *is* those habits, as well as his love, and that his character is expressed even more truly by his cowardly act than by his weaker impulses of love. The preferences that ratify his nonaction seem to be adaptive preferences in Elster's sense: they tell him that something that is not psychologically available to him is not really a good, and that the cowardly course is in some sense best. But the romantic Elster view, according to which the adaptive preferences are false and beneath them lie true authentic preferences, is not a true account of the way many people are. Their personalities have a definite structure, to the extent that they want food, and shelter, and stability, and perhaps even liberty, for themselves. But with respect to their relations with at least some others, it would appear that they just *are* their adaptive habits, and that there is no autonomous person beneath the weight of those habits.

And this means that it is no longer clear that the procedure that considers Haimanti as an end in her own right, and considers her interests to be on a par with his own, really does deliver to him the conclusion that we, with Tagore, support: that he should fight tradition and help her depart. The narrator's initial formulation is not his final insight, which is that when we consider each person with equal respect, we get, simply, the conclusion that all are equally under the weight of the past, and all equally in thrall to duties of non-autonomy. The problem isn't that the husband reaches the right conclusion but somehow fails to act. He actually veers round to the wrong conclusion, though in a way that seems to conform to procedural norms of equal treatment. He treats her, ultimately, and indeed respects her, exactly as he treats and respects himself, namely as a pawn of forces too big to be resisted. (Those forces, conveniently enough, protect his capabilities even while they demote hers: so the structure of desire in his personality

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provides no keen incentive to discontent.) It seems difficult to show that this is not what proceduralism would deliver in this case, without designing the procedure in such a way as to build into it all the relevant substantive goods: autonomous practical reason, non-humiliation, the right to travel, the right to seek employment, equal property rights, and all the rest. Autonomy has to be constructed by laws and institutions, and some people, even privileged people, don't have it. They let tradition become the self – especially when tradition conveniently serves their own interests and demotes the interests of others.

The problem of adaptive selves does not threaten the justification of the capability list in general, since for that purpose the most relevant preferences are those of Haimanti herself, and those clearly support the capabilities list. But it does bear on the issue of stability, and I have argued that stability is at least one part of the question of justification. In relation to stability, the problem of adaptive selves suggests that in the first generation we cannot expect the same convergence between an informed-desire account and a substantive-good account that we might expect over several generations. Powerful people simply will not yield power happily, and in the first generation moral education cannot possibly alter deeply enough people's perceptions of the equality of citizens. If they accept the capabilities list as a goal for all, they will not all do so with real endorsement, but merely as a *modus vivendi*. I believe that this does not threaten the justification of the overlapping consensus, since stability must be considered as a long-term issue, and stability would only be threatened if we found that over several generations men could not be brought up to endorse a political conception that treats women as equal citizens. I believe experience in this century (for example in the Nordic countries) shows that this is false. But the problem does show us that in the short term we need to choose between relying on an informed-desire approach and relying on a substantive-good approach to guide us. Although we expect a long-term consensus between informed desire and the substantive good, the Haimanti problem shows us, I would argue, that in the short term we should prefer, as our political guide, an account that takes its stand squarely, endorsing a list of human capabilities that are indispensable for any citizen.

Elster's proceduralism clearly doesn't get to the root of the husband's problem: for he consciously evaluates the forces that bear upon him, and prefers to take his stand with habit and tradition. Maybe a

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proceduralism as norm-laden as Hampton's could show that his behavior is exploitative – if she fleshed out the concept of the person's interests in a sufficiently robust way. But what the story shows is the depth at which cowardice, habit, and not wanting to be the author of one's own actions infect human desire and choice. If love can't change that, as the story tragically shows, it's not clear that any formal deliberative procedure devised by economists can deliver the goods. So we are better off if we don't trust to these unreliable forces very much. While not dismissing desire, as I have said, while keeping it around as a witness and respecting it as an intelligent part of the human personality – we had better take our stand squarely in the camp of the substantive good.