

# Opportunity as a Space for Individuality: Its Value and the Impossibility of Measuring It\*

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In recent work in political philosophy and normative economics, there has been a growing interest in using concepts of opportunity to evaluate economic and social arrangements. This new emphasis is a reaction against the previous orthodoxy of welfarism, which evaluates states of affairs in terms of the extent to which individuals' preferences are satisfied. Opportunity-based approaches differ from welfarism, and indeed from all forms of consequentialism, in taking an *ex ante* rather than an *ex post* viewpoint: they consider what each individual has the opportunity to achieve, rather than what he or she actually achieves.

In most current theories of opportunity, opportunity is treated as a good that is distributed among individuals; ensuring that this distribution satisfies principles of equality or fairness is taken to be a proper concern of public policy. This idea is clearly expressed in John Rawls's claim that opportunity is one of the "social values" that should be distributed equally unless an unequal distribution is to everyone's advantage. Amartya Sen voices a similar idea when he suggests that opportunity (or "capability") might be the right answer to his question, "Equality of what?" So, too, does G. A. Cohen, when he advocates equality of "access to advantage," and John Roemer, in his work on equality of opportunity.<sup>1</sup>

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1. John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), esp. p. 62; Amartya Sen, "Equality of What?" in *The Tanner Lectures on Human Values*, ed.

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Reflecting this concern about the distribution of opportunity, there is now a substantial literature in social choice theory which considers how opportunity should be measured. The problem, as posed in this literature, is to find a way of delimiting the set of options available to any given individual in any given social environment, and then of assessing how much opportunity that set gives that person, on some scale that allows comparisons between individuals and between social environments. For some philosophers, this problem of measurement may seem esoteric, and the methods of analysis used by social choice theorists may seem excessively formal. Nevertheless, any political theory which calls for the equalization of opportunity either restricts itself to claiming that everyone should have exactly the same opportunities or presupposes that opportunity can be measured in some way. Whether such measurement is possible, and if it is, what forms it can coherently take, are philosophically important questions.

In this article, I address an unresolved problem in the measurement of opportunity. In the literature of social choice, two main ways of measuring opportunity have been proposed. One approach assesses the extent of opportunity offered by a set of options by considering how well it caters to the range of "potential" preferences that is in some sense normal, reasonable, or eligible for the relevant type of person. The other measures the "pure quantity of choice" offered by a set of options, independently of preferences. Proponents of the potential-preference approach are able to point to apparently counterintuitive implications of all existing attempts to measure opportunity as a pure quantity. But, at the other side of the debate, those who support the pure-quantity approach assert the fundamental principle that opportunity has value independently of the value of what is chosen. That principle, it is said, is upheld in the tradition of liberal thought associated with John Stuart Mill, in which opportunity is construed as a space for the development and expression of individuality. To use ideas of normality or reasonableness as filters when measuring opportunity seems to compromise the integrity of that principle.<sup>2</sup>

I shall argue that there are coherent and persuasive reasons for valuing opportunity, interpreted as a space for individuality—reasons

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Sterling McMurrin (Cambridge: Cambridge University Press, 1980), pp. 195–220, and *Inequality Reexamined* (Cambridge, Mass.: Harvard University Press, 1992); G. A. Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99 (1989): 906–44; John Roemer, *Equality of Opportunity* (Cambridge, Mass.: Harvard University Press, 1998).

2. These are arguments that social choice theorists have put to me as objections to the potential preference strategy proposed in my article: Robert Sugden, "The Metric of Opportunity," *Economics and Philosophy* 14 (1998): 307–37. The present article began as an attempt to respond to these objections.

that are advanced by Mill in *On Liberty*. I shall agree with the proponents of the pure-quantity approach that, if opportunity is to be interpreted in this Millian way, measures which depend on concepts of normality or reasonableness are unsatisfactory. But I shall argue also that opportunity cannot be measured as a pure quantity. If we are to measure the extent of opportunity offered by different sets of options, we cannot avoid imposing some conceptual structure on the space of options, and if that structure is not to be arbitrary, it must rest on assumptions about what people might normally or reasonably wish to choose. Thus, no measure of opportunity can fully capture the scope that a person has to develop and express his or her individuality.

However, to say that opportunity in the Millian sense cannot be measured is not to say that it cannot be the subject of meaningful political discussion. I shall use Mill's writings to show that general political principles governing opportunity can be defended without appealing to measurements and without making assumptions about normal or reasonable preferences. Such general principles can have significant implications for the distribution of opportunities in a society.

## I. THE VALUE OF INDIVIDUALITY

Why does opportunity matter? In this article I am concerned with one particular answer to that question: that being able to choose how to live one's life is an aspect of individual well-being in its own right.

I recognize that this is not the only way in which opportunity can be valued. In different ways, Rawls, Cohen, and Roemer treat opportunity as the currency for a theory of distributive justice without asserting that opportunity has value as an end in itself. On these accounts, the formation and satisfaction of preferences should be a matter for the individual; the proper role of public policy extends only to securing equality of opportunities to achieve well-being.

However, the idea that being able to make choices for oneself is an element of well-being has been asserted by a number of recent writers. For example, Robert Nozick argues that a person gives meaning to her life by shaping it in accordance with some overall plan of her own.<sup>3</sup> Sen discusses, and seems to endorse, the claim that "choosing may itself be a valuable part of living, and a life of genuine choice with serious options may be seen to be—for that reason—richer."<sup>4</sup> Kenneth Arrow proposes a method of measuring the range of choice (or "flexibility") offered by an opportunity set; he suggests that flexibility has value by virtue of its correspondence with "the familiar philosophical idea of autonomy," which he translates into the language of choice theory as "freedom to choose

3. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), pp. 48–51.

4. Sen, *Inequality Reexamined*, pp. 39–42, 49–53.

preferences.”<sup>5</sup> Joseph Raz offers a moral theory of freedom based on the principle that personal autonomy is an essential element of the good life. For Raz, a person has an autonomous life if that life is, to a large extent, “his own creation”; this is possible only if (among other things) that person has an adequate range of options from which to choose.<sup>6</sup>

The classic—and, I believe, still the most powerful and persuasive—statement of the value of being free to choose how to live one’s own life is Mill’s *On Liberty*, particularly the chapter entitled “Of Individuality, as One of the Elements of Well-Being.” The leitmotiv of *On Liberty* is the idea of self-development, as expressed in the quotation from Wilhelm von Humboldt that Mill puts on his title page: “The grand, leading principle, towards which every argument unfolded in these pages directly converges, is the absolute and essential importance of human development in its richest diversity.” Mill’s most fundamental claim is that “the free development of individuality is one of the leading essentials of well-being.” The idea is that each human being achieves well-being by developing his own character in his own way and by putting the “impress” of his judgment and character on his mode of life. Explaining this concept of “character,” Mill says that a person has a character to the extent that “[his] desires and impulses are his own—are the expression of his own nature, as it has been developed and modified by his own culture.”<sup>7</sup> Thus, for Mill, it matters that each individual lives a life that he has chosen for himself, acting on his own judgments and according to the impulses of his own nature.

On this account, options contribute to well-being even if they are not in fact chosen. A person cannot choose one option unless there are other options for him to reject. If value is to be attached to an individual’s having chosen his mode of life, then necessarily, value must be attached to the existence of options that he in fact rejects.

Mill deploys two additional, subsidiary arguments about the value of opportunity. First, he argues that in the activity of choosing a plan of life for himself and following it through, the individual develops faculties of reason, judgment, discrimination, and self-control. These faculties are generally useful, both to the individual and to others. More fundamentally, they are essential constituents of a “well-developed human being” and, as such, have intrinsic value.<sup>8</sup> According to this ar-

5. Kenneth Arrow, “A Note on Freedom and Flexibility,” in *Choice, Welfare and Development: A Festschrift in Honour of Amartya K. Sen*, ed. Kaushik Basu, Prasanta Pattanaik, and Kotaro Suzumura (Oxford: Oxford University Press, 1995), pp. 7–16.

6. Joseph Raz, *The Morality of Freedom* (Oxford University Press, 1986), esp. pp. 400–429.

7. John Stuart Mill, *On Liberty* (1859; reprint, London: Dent, 1972), pp. 115–18.

8. Mill, *On Liberty*, pp. 116–17, 121.

gument, too, nonchosen options have value. The reason is as before: there cannot be choice unless there are options to be rejected.

Second, Mill argues that variety among individuals' chosen plans of life provides a range of "experiments of living," with the result that information about the merits and demerits of alternative modes of life is discovered and disseminated.<sup>9</sup> It is in everyone's long-term interest that "the worth of different modes of life should be proved practically, when any one thinks fit to try them." The existence of diverse opportunities provides the space in which such experiments are possible.<sup>10</sup> The clause "when any one thinks fit to try them" is significant. The experiments in living that are carried out in a free society, although diverse, are not random: each experiment has been chosen by someone who, acting on his own judgments about its prospects of success, has committed some part of his own life to it. This is not the kind of diversity that can be planned by a single mind.

On Mill's account, very few people are in fact capable of discovering new modes of life that others can benefit from imitating. But human beings are generally capable of discovering the modes of life that are best suited to themselves as individuals. Because of the diversity of human nature, because of the specificity of each person's knowledge of his own affairs, and because of the special interest that each person takes in his own well-being, the most effective way to ensure that each person's mode of life is well-suited to him is to allow each to carry out his own experiments in living. Thus, although the vast majority of such experiments do not yield generally useful discoveries, they allow individuals to make specific discoveries that are valuable to themselves.<sup>11</sup>

However, Mill is particularly concerned with those experiments that do yield discoveries that are of general value. These experiments, he thinks, are works of genius. In Mill's account, genius is a very rare property, which exists prior to the achievements which signal it, but which cannot be publicly identified *ex ante*. People of genius are recognized as such only when their discoveries prove successful; until then, their originality appears to others merely as eccentricity or "wildness." Thus, the best way to ensure that people of genius carry out those experiments in living that they expect to succeed is to make sure that everyone has the widest possible range of modes of life—including modes that

9. Elizabeth Anderson argues convincingly that when Mill writes of "experiments in living," he is using the concept of "experiment" in the sense that it used in empirical science. For Mill, a conception of the good is subject to empirical refutation by the felt experiences of individuals who try to live up to it. See Elizabeth Anderson, "John Stuart Mill and Experiments in Living," *Ethics* 102 (1991): 4–26.

10. Mill, *On Liberty*, pp. 114–15.

11. *Ibid.*, pp. 122, 125–26, 132–33.

appear to most people as eccentric, irrational, or immoral—from which to choose.<sup>12</sup>

Since I am using Mill to speak for a tradition of liberal thought, let me interject that the role he assigns to genius is not essential for the main thrust of his argument. I suspect that the distinction between genius and eccentricity may involve more *ex post* rationalization than Mill allows. The argument for individuality would work just as well with a model in which successful discoveries result from a less extraordinary combination of creative intelligence, openness to new ideas, willingness to take risks, and intellectual good luck. It would also work with a model in which the discovery of new modes of life is an emergent property of a process in which many individuals make small experiments in living, gradually shifting the boundary of what is regarded as normal or acceptable. It is an open question how far important social changes stem from the ideas and actions of outstanding individuals, and how far those individuals merely discern and give expression to deep currents in cultural evolution. We do not need to take sides on this question in order to argue for the value of experiments in living.

Viewing Mill from the standpoint of current political philosophy, we may want to ask whether his argument for the value of opportunity derives from a comprehensive ethical theory or from a more limited theory which is endorsed only for political purposes.<sup>13</sup> The answer is: both. Mill certainly subscribes to a comprehensive liberal doctrine about the nature of human good, in which the free development of individuality is a key component. But he insists that one does not have to accept this doctrine in order to recognize that opportunity has value. Because the activity of choice develops useful human faculties, and because of the value created by successful experiments in living, each person's opportunity tends to work for the benefit of everyone in the long run. This is true even if "benefit" is interpreted in a narrowly utilitarian sense.<sup>14</sup>

For my purposes, what matters is that Mill has identified a particular concept of opportunity—opportunity as a space for the development and expression of individuality—and that he has presented reasons for valuing that form of opportunity, independently of the value (as publicly perceived) of what people actually choose. The question to be addressed in this article is whether opportunity, so defined, can be measured.

12. *Ibid.*, pp. 121–23.

13. This distinction is due to Rawls. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

14. Mill, *On Liberty*, pp. 121–22. I use 'utilitarian' here in its everyday sense and not as a philosophical term of art. A personal aside: as someone whose leanings in political philosophy are toward contractarianism, I am more persuaded by Mill's appeal to each individual's long-term interests than by his comprehensive liberalism.

## II. MEASUREMENT OF OPPORTUNITY: THE CONCEPTUAL FRAMEWORK

Following the conventions of the literature on the measurement of opportunity, I use the following conceptual framework, taken from the theory of rational choice. I consider a given individual. A *consequence*, typically  $x$ ,  $y$ , or  $z$ , is a specification of all features relevant to that individual of some state of affairs that conceivably could come about. Consequences are mutually exclusive. Let  $X$  be the set of all such consequences. An *opportunity set*, typically  $A$  or  $B$ , is a non-empty subset of  $X$ ; the consequences in an opportunity set are the *options* it offers. The interpretation is that the individual faces an opportunity set and chooses one and only one of its options. To avoid complications, I consider only cases in which there is no uncertainty about the consequences that are open to the individual.

Within this theoretical framework, opportunity is to be understood as a property of an individual's opportunity set. A *measure of opportunity* is to be understood as (at least) an ordinal ranking of opportunity sets in terms of their "largeness" or "richness." Just how "largeness" and "richness" should be understood is the core of the problem of measuring opportunity.

The individual has *preferences* over the elements of  $X$ . To avoid complications that are orthogonal to the analysis of the article, I follow the conventions of rational-choice theory and assume that the individual's preferences take the form of an ordering. Since different choice theorists use the concept of "preference" in slightly different ways, it is useful to keep a little slack in its interpretation, but a core feature of every standard interpretation is that preference is closely linked to choice. We might interpret a preference for one consequence  $x$  over another consequence  $y$  as a mental state of the individual which disposes him to choose  $x$  rather than  $y$ . Or we might interpret it as an all-things-considered reason, as subjectively perceived or assessed by the individual, for choosing  $x$  rather than  $y$ . Such interpretations do not make it a logical truth that the individual necessarily chooses what he most prefers. But they do imply that, in normal cases, an individual will in fact choose whichever option in his opportunity set he most prefers (or, if two or more options are equally most preferred, he will choose one of these).

In rational choice theory, preferences are typically treated as "given," as data for whatever analysis is carried out. But it is important to recognize that an individual's preferences are not data for that individual himself, viewed as an agent with free will, and unless we are willing to attribute free will to individuals, it is hard to see what 'opportunity' can mean. Preferences represent the effects of the individual's physiological and psychological propensities, which are given for him,

combined with acts of will, which are not. For example, suppose that Bill has thought about alternative careers as an accountant and as a soldier, and that he has come down in favor of accountancy. Then, in the language of choice theory, he prefers accountancy. This preference may respond to facts about his psychological makeup that are beyond his control—for example, that he has a facility for numbers and a fear of violence. But at the same time, his coming down in favor of accountancy was an act of free will; it was not dictated by those psychological facts. A person's choices about what sort of person he wants to be, what sort of life he wants to lead, are encoded in his preferences.

### III. OPPORTUNITY AND ACTUAL PREFERENCES

Some writers have argued that, in measuring the extent of a person's opportunity, we should take account of her actual preferences. Other things being equal, it is said, a person has more opportunity, the higher the options in her opportunity set are ranked in her preference ordering. Although I shall argue that this approach is flawed, it provides a useful starting point for considering the significance of potential preferences.

Sen takes this approach in a discussion of "effective freedom," a concept which is synonymous with "opportunity" as I have interpreted it. He argues for an interpretation of effective freedom as "a person's ability to get systematically what he *would choose* no matter who controls the levers of operation."<sup>15</sup> In some passages, he seems to be saying no more than that, in order to have effective freedom with respect to particular consequences, the individual does not need to have direct control of the process which determines which of them comes about. That is clearly right. For some consequence  $x$  to be an option for a person  $i$ , I suggest, what is necessary is that  $x$  will come about if and only if  $i$  wills that it does, and that  $i$  knows this. The link between willing something and its coming about need not involve actual physical control or any explicit chain of command.<sup>16</sup>

15. Sen, *Inequality Reexamined*, pp. 65–69. Sen's critique of the idea that effective freedom requires "direct control" grows out of an earlier controversy about how individual freedom should be represented in social choice theory. In his famous theorem of "the impossibility of a Paretian liberal," Sen uses a condition of "minimal liberalism" which imposes a certain kind of correspondence between an individual's preferences and collective choices. If actual preferences were irrelevant to the question of what freedoms a person has, that condition would not be an appropriate representation of individual freedom.

16. Even for an absolute dictator, this link can be surprisingly indirect. According to Ian Kershaw's account of the process of "working towards the Führer," Hitler's characteristic mode of operation was to make rambling speeches to his subordinates, presenting a vision of the future in vague terms but with the clear implication that he expected ruthless action in pursuit of this vision. It was left to the subordinates to divine exactly



In other passages, however, Sen interprets effective freedom much more loosely, claiming that an individual has effective freedom to the extent that the consequence she in fact experiences is the consequence that she would have chosen, had she been able to choose. Notice that, apart from exceptional cases in which a person chooses contrary to her preferences, the consequence a person would have chosen from her opportunity set, had she been able to choose, is whichever option is ranked most highly in her preference ordering. Thus, leaving aside those exceptional cases, what is being claimed is that a person has effective freedom by virtue of having her preferences satisfied. For example, Sen claims that a public policy that eliminates epidemics increases the effective freedom of someone who, given the choice, would choose that epidemics were eliminated; for someone who would make the opposite choice (and whose preference was “reasonably defensible”), effective freedom would be reduced.<sup>17</sup> In this case, what comes about is entirely independent of the individual’s will. The person whose effective freedom is supposedly increased has been given what, had she been free to choose, she would have chosen, but even if she would not have chosen it, she would still have been given it.

This latter interpretation seems to remove the crucially counterfactual notions of “ability” and “systematically” from the tighter concept of “a person’s ability to get systematically what he would choose.” It conflates “having the capability to get whatever (within some opportunity set) one wills to have” with “having what, as it so happens, one would have willed to have.” If opportunity is a matter of being able to choose one’s own life, it is surely the former concept that is relevant for the measurement of opportunity.

In attaching normative value to opportunity, we are viewing human beings as agents with free will; to say that some individual has more opportunity when facing one set of options than when facing another is to say that the first set provides her with wider scope within which to exercise her free will. But, as I argued in Section II, a person exercises free will in forming her preferences. Thus, the appropriate standpoint for measuring opportunity is one which treats the individual’s actual preferences as unformed: we should envisage the individual as free to form whatever preferences she wills for herself. In considering how far a given opportunity set provides scope for the exercise of her free will, we should range over the whole space of alternative preferences that we take to be open to her.

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what the Führer had in mind and how to achieve it. Thus, the policy of the regime responded to Hitler’s will but without his being involved in what would normally be understood as decision making. See Ian Kershaw, *Hitler: 1936–1945: Nemesis* (London: Penguin, 2000).

17. Sen, *Inequality Reexamined*, p. 65.

## IV. POTENTIAL PREFERENCES

What does it mean to range over the space of alternative preferences open to a person? One apparently natural way to develop this approach is to define a set of potential preference orderings for each individual. A potential preference ordering is interpreted as a preference ordering that the relevant individual might adopt (or, viewing her choices *ex post*, one that she might have adopted). In interpreting 'might' in this context, we take the individual's objective circumstances (age, sex, psychological makeup, health status, ethnic group, social class, family status, etc.) to be given but conceive of her preferences as unformed. Thus, a preference ordering counts as a member of the set of potential preferences if and only if it can be regarded as eligible, given the person's objective circumstances. Then we consider how effectively each opportunity set caters to this range of potential preferences.

Variants of this approach have been proposed in a number of contributions to the literature on the measurement of opportunity.<sup>18</sup> Within this set of proposals, there are differences about how to formulate the notion of "catering to" potential preferences, and about whether the ranking of opportunity sets in terms of the range of opportunity they offer should be complete. However, most of these proposals share at least the following common feature, which I shall call the unanimity principle. Consider any two opportunity sets *A* and *B*. Suppose that, according to every potential preference ordering, the most-preferred option in *A* is at least as preferred as the most-preferred option in *B*. Then *A* is deemed to offer at least as much opportunity as *B*. If, in addition, there is at least one potential preference ordering according to which the most-preferred option in *A* is strictly preferred to the most-preferred option in *B*, then *A* is deemed to offer more opportunity than *B*.<sup>19</sup> Suppose we interpret a preference as an all-things-considered reason for choice, as subjectively perceived by the relevant

18. Peter Jones and Robert Sugden, "Evaluating Choice," *International Review of Law and Economics* 2 (1982): 47–65; James Foster, "Notes on Effective Freedom" (Vanderbilt University, Nashville, 1993, photocopied); Arrow, "Note on Freedom and Flexibility"; Prasanta Pattanaik and Yongsheng Xu, "On Preference and Freedom," *Theory and Decision* 44 (1998): 173–98; Clemens Puppe, "Individual Freedom and Social Choice," in *Liberty, Rights and Opportunities: Introducing Freedom into Normative Economics*, ed. Jean-François Laslier, Marc Fleurbaey, Nicolas Gravel, and Alain Trannoy (London: Routledge, 1998), pp. 49–68; Sugden, "Metric of Opportunity."

19. Jones and Sugden, and Pattanaik and Xu, express reservations about the unanimity principle. If, instead of asking how effectively each opportunity set caters to potential preferences, we ask how much scope it provides for significant acts of choice, the unanimity principle looks much less natural. Consider two singleton opportunity sets  $\{x\}$  and  $\{y\}$ , such that  $x$  is strictly preferred to  $y$  in every potential preference ordering. Then, according to the unanimity principle,  $\{x\}$  offers more opportunity than  $\{y\}$ . But, it seems, they both offer exactly the same scope for significant acts of choice: none at all.

individual. Then the unanimity principle expresses the idea that an option  $x$  contributes to the range of opportunity offered to an individual by an opportunity set  $A$ , just to the extent that, “potentially,” there is an all-things-considered reason for that individual to choose  $x$  from  $A$ .

The problem, of course, is to delimit the set of potential preference orderings for a person, given her objective circumstances. Within the literature on the measurement of opportunity, there has been surprisingly little discussion of how potential preferences are to be distinguished, but there seem to be two main alternative lines of approach to this problem.

The first approach is to interpret potential preferences as preferences that are reasonable for a person in the relevant objective circumstances. This approach starts from the idea that a preference is an all-things-considered reason for choice, as subjectively perceived by the individual, but it makes the further step of claiming that there are bounds, independent of individual subjectivity, on what can count as a reason. Although the demands of reasonableness do not fully determine what a person can take herself to have reason to choose, given her circumstances, they do impose some limits.

Sen sometimes seems to endorse such an interpretation of his concept of capability. For example, he sums up his idea of a “capability-based assessment of justice” by saying that individual claims are to be assessed “by the freedoms [persons] actually enjoy to choose lives that they have reason to value.”<sup>20</sup> Recall, too, his remark (quoted in Sec. III) about “reasonably defensible” preferences. The idea here, I take it, is that an opportunity set offers a wide range of opportunity to the extent that it contains diverse options that the individual might reasonably judge to have value.

Such a concept of reasonableness might be interpreted in terms of subjective judgments of value on which most people can agree. Alternatively, it might be supported by an appeal to a nonsubjective but pluralistic theory of the good.<sup>21</sup> Such a theory (sometimes called an objective-list theory) provides a list of what are claimed to be the components of human well-being but leaves open how these components

20. Sen, *Inequality Reexamined*, p. 81.

21. Sen prefers not to commit himself to either of these positions. He accepts the “deliberate incompleteness” of his general approach and allows a range of alternative interpretations. See Amartya Sen, “Capability and Well-Being,” in *The Quality of Life*, ed. Martha Nussbaum and Amartya Sen (Oxford: Oxford University Press, 1993), pp. 30–53, esp. pp. 46–48.

should be weighted relative to one another.<sup>22</sup> Working outside the measurement literature, Martha Nussbaum has developed the objective-list approach to capability, working from an Aristotelian and Marxian conception of a human need for a “rich plurality of life-activities.” The political implications of Nussbaum’s moral conception are encapsulated in a list of “central human capabilities” which any just society should guarantee to its citizens.<sup>23</sup> Similarly, Raz’s analysis of autonomy depends on a list of the kind of goals which, if achieved, mark a “successful life”; this account is defended as “deeply embedded in our conception of human life.” For Raz, autonomy requires that the individual has an adequate range of options from which to choose, but in assessing adequacy, only “morally acceptable” options count; morally worthless or bad options add nothing to a person’s autonomy, even if he might be inclined to choose them.<sup>24</sup>

The second approach to the specification of potential preferences tries to avoid making claims about what is good in human life. Instead, it uses an empirical criterion: a particular preference ordering counts as “potential” for all people with a given set of objective circumstances if and only if it is the actual preference ordering of at least some person with those circumstances. If arbitrary cutoffs are to be avoided, some system of (not necessarily linear) weighting may be needed, so that preference orderings are given greater weight in the measurement of opportunity the more frequently they occur in the relevant population.<sup>25</sup> The underlying idea is that potential preferences are distinguished by their being at least minimally normal—by their being preferences that, as a matter of fact, one can find among the relevant class of people. To put this another way, the fact that a particular preference ordering is found in the relevant population is taken as evidence that any member of that population might perceive herself as having an all-things-considered reason for choosing according to that ordering.

Unfortunately, neither approach seems at all compatible with a Millian view of the importance of individuality. First, consider the strat-

22. In some objective-list theories, “autonomy” or “freedom” is treated as just one item on the list (e.g., James Griffin, *Well-Being: Its Meaning, Measurement and Moral Importance* [Oxford: Oxford University Press, 1986]). Whether or not opportunity is treated in this way, the problem of how to measure it still arises. The idea I am exploring is that a list of elements of well-being (excluding opportunity itself) is used as a criterion for identifying options relevant for measurements of opportunity and as a conceptual space in which to describe those options.

23. Martha Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000), chap. 1.

24. Raz, pp. 305–7, 378–79, 411–12.

25. In “Metric of Opportunity,” I present a measure of opportunity based on this principle. However, this measure is not intended to be compatible with Mill’s concept of opportunity as a space for individuality.

egy of identifying potential preferences with reasonable ones. Mill is explicit and emphatic in arguing that the unreasonableness of a mode of life—its incompatibility with any credible account of human well-being—does not justify the public in restricting the opportunities of adult individuals to take it up. Thus, for example, Mill denies the legitimacy of public prohibitions of drunkenness, gambling, or uncleanness. Speaking as devil's advocate, but apparently making statements that he endorses on his own account, Mill says that these are vices "which experience has shown not to be useful or suitable to any person's individuality"; we are, he says, entitled to regard these conclusions as established "moral truths" or "prudential truths." Nevertheless, because of his commitment to individuality, Mill attaches value to individuals' opportunities to indulge in these vices.<sup>26</sup>

The reader may object that Mill is not claiming that such opportunities are positively valuable: he is merely opposing coercive interference in individuals' private choices.<sup>27</sup> But one has to consider why, according to Mill, such interference is objectionable. It is objectionable because it conflicts with the free development of individuality.

Recall that, for Mill, acts of choice are crucial for the development of the faculties of reason, judgment, discrimination, and self-control. Morally questionable options may not be choiceworthy, but their presence as options presents the individual with just the kind of choice problems in which moral faculties are most effectively developed. Mill famously argues that, in the domain of ideas, the vitality of our convictions about what is true is best maintained by constant, spontaneous challenges from advocates of falsehood.<sup>28</sup> The same argument surely applies in the domain of choice: the vitality of our sense of what is choiceworthy depends on the continuing possibility—perhaps even the continuing occasional experience—of choosing what is not choiceworthy.<sup>29</sup>

Further, it is crucial for Mill's approach that, however confident we are about what we think we know, we must allow for the possibility that we are mistaken. For this reason, it is in everyone's long-term interest that there are experiments in living which test current ideas—however apparently secure—about what constitutes a good human life. So, for

26. Mill, *On Liberty*, pp. 137–41.

27. This objection has been made to me by several readers of previous versions of this article.

28. Mill, *On Liberty*, pp. 95–105.

29. Raz (pp. 380–81, 411–12) discounts this argument on the ground that autonomy requires only that each individual has an "adequate" range of options, and that, whatever we do politically, there will always be more than enough opportunities for individual immorality. The implication is that there is no harm in eliminating immoral options whenever this is politically possible. The difference between Mill and Raz is, I think, symptomatic of a loss of courage in liberal thought since Mill's time.

Mill, what counts as a valuable opportunity is not constrained by any current list of the elements of well-being.

Drunkenness and gambling are significant test cases. These are activities which have freely been taken up by large numbers of people in many different periods and cultures but which do not score highly when judged against most objective-list theories of well-being. Such theories tend to be high-minded, grounded in the Aristotelian idea that happiness is achieved by exercising the "higher" human faculties to the full. In this perspective, drunkenness seems to rank with the lowest of pleasures, as an abdication of rationality and as a degradation of human dignity. A life dominated by gambling appears as another kind of abdication of rationality and dignity—that of allowing one's life to be determined by chance rather than by one's own efforts and plans. Thus, Raz specifically denies that a habitual gambler leads a truly successful or worthwhile life, even if the gambling is successful and even if the gambler believes his life to be worthwhile. To live a life of "mindless idleness," or even to "drift through life," is in Raz's book a sin against autonomy.<sup>30</sup>

In characterizing drunkenness and gambling as vices, Mill is broadly in agreement with Raz. He is declaring that, as far as the most competent current judges can determine, drunkenness and gambling do not contribute to any component of human well-being. But, he insists, that is not a sufficient warrant for preventing experiments which might show those received judgments to be mistaken. Because of natural human prejudice, bias, and ignorance, a majority opinion which condemns as immoral the self-regarding conduct of a minority is "quite as likely to be wrong as right."<sup>31</sup> Moral theorists should not assume themselves to be above making such errors.

Could so many moral philosophers be mistaken about the disvalue of drunkenness and gambling? The fact that these activities, along with other ways of drifting through life, have proved so popular over so many years suggests that it is at least a legitimate question, for which the answer is not self-evident. Further grounds for skepticism arise from the historical fact that received ideas about what is worthwhile in human life have changed greatly over time. For example, think of recent changes in perceptions of the moral status of homosexuality. Homosexuality has been a constant of human life throughout recorded history, but for many years it was widely regarded as a pathology or perversion of "natural" human sexuality; to act on homosexual inclinations was construed as a degrading weakness of will. Now homosexuality is seen as a minority identity which can be affirmed with pride.

30. Raz, pp. 298–99, 380, 391.

31. Mill, *On Liberty*, p. 140.

It is a great virtue of Mill's account of opportunity that it is not constrained by current theories of the specific nature of well-being and so provides space for individuals to make life choices which, according to received ideas, lack moral value. That virtue would be lost if potential preferences were defined in terms of reasonableness.

How about the empirical approach to the definition of potential preferences? From a Millian viewpoint, that is just as unsatisfactory. If we take that approach, we have to say that options that no one currently chooses do not contribute to opportunity. In other words, the opportunity to be truly original counts for nothing. That implication runs counter to the whole thrust of Mill's argument. One of the recurring themes of *On Liberty* is a fear that people are coming to be excessively influenced by the opinions of others and are losing the capacity to act on their own judgments and impulses. Human progress, Mill believes, depends on the originality and individuality of people of genius, and the cultivation of genius requires a social atmosphere which encourages the expression of all forms of individuality. Thus, eccentricity is worthy of encouragement, not merely because it could turn out to be genius, but for its own sake: "Precisely because the tyranny of opinion is such as to make eccentricity a reproach, it is desirable, in order to break through that tyranny, that people should be eccentric."<sup>32</sup> No one who values opportunity as a means of promoting eccentricity and originality will be satisfied with a theoretical approach which treats opportunities to be truly original as if they were not opportunities at all.

## V. OPPORTUNITY AS A PURE QUANTITY

So what is the alternative? If we persist in the ambition to find a measure of opportunity which respects the value of individuality, it seems that we have to find a measure that does not refer to preferences, actual or potential. We need to treat opportunity as an entity with its own unit of quantity, not derivative from preferences.

Various attempts have been made to construct "pure-quantity" measures of opportunity. Before considering the general problems involved in constructing such measures, it will be useful to look at some proposed lines of approach. To keep the discussion concrete, I focus on the following simple case. Consider a tourist, staying at a hotel at one end of a 10 kilometer stretch of beach. Some stretches of this beach are open to the public, and some are not. The hotel's courtesy bus will take guests to any part of the beach to which there is public access. How can we assess the extent of the tourist's opportunity to choose where on the beach she will go?

One pure-quantity approach, the *cardinality approach*, is due to Pra-

32. Ibid., pp. 124–25.

santa Pattanaik and Yongsheng Xu.<sup>33</sup> This approach treats  $X$  (the set of all possible consequences) as a finite set of discrete entities. Thus, each opportunity set is itself a finite set of discrete options. The number of options in each opportunity set is taken as the measure of the extent of opportunity offered by that set. In the case of the tourist, we might conceive of her opportunity set as consisting of a set of discrete beach locations; the amount of opportunity she has is measured by the number of such locations between which she can choose.

An alternative approach, the *spatial approach*, is exemplified by the work of Marlies Klemish-Ahlert.<sup>34</sup> This approach treats  $X$  as an  $n$ -dimensional space of vectors of real numbers (on the model of “commodity space” in conventional consumer theory, in which the dimensions are quantities of different goods). Then the problem of measuring the extent of opportunity offered by each opportunity set reduces to the problem of measuring the “size” of an  $n$ -dimensional space. In one dimension, the obvious measure of size is length; in two dimensions, area; in three dimensions, volume; and so on. In the case of the tourist, we might say that there is just one relevant dimension, her position on the beach, and we might define her opportunity set as comprising one or more intervals on the line of beach. For example, if there is public access only to that section of the beach between the points 1 kilometer and 7 kilometers from the hotel, we can represent the opportunity set as the interval  $[1, 7]$ . The opportunity offered by this set is 6 kilometers of beach.

A third approach, the *diversity approach*, assumes the existence of a numerical measure of “dissimilarity” between each pair of consequences in  $X$ . The extent of diversity within a finite opportunity set is then measured by some function of the dissimilarities between the options it contains. A particular function of this kind is proposed by Martin Weitzman in the context of biological diversity; it is developed further

33. Prasanta Pattanaik and Yongsheng Xu (“On Ranking Opportunity Sets in Terms of Freedom of Choice,” *Recherches Economiques de Louvain* 56 [1990]: 383–90) define a ranking of opportunity sets based on the cardinality approach and show that it is equivalent to the conjunction of three apparently attractive axioms. However, they do not endorse it as a good measure of opportunity; in later work they interpret their result as demonstrating the nonexistence of a satisfactory measure of pure quantity: see Pattanaik and Xu, “On Preference and Freedom.”

34. Marlies Klemish-Ahlert (“A Comparison of Different Rankings of Opportunity Sets,” *Social Choice and Welfare* 10 [1993]: 189–207) proposes a general method of ranking spatially defined opportunity sets. If consequences are one dimensional, this method generates a complete ranking of opportunity sets: the extent of opportunity offered by a set is measured by the distance between its extreme points. This is not quite the same as the measure I suggest in the text (e.g., it implies that an opportunity set made up of the intervals  $[1, 2]$  and  $[6, 7]$  gives just as much opportunity as  $\{1, 7\}$ ).



by Walter Bossert, Pattanaik, and Xu.<sup>35</sup> The underlying idea can be explained in relation to the beach. Suppose we take geographical distance as the measure of dissimilarity, and suppose the opportunity set is the set of locations  $\{x, y, z\}$ , where  $x$  is 1 kilometer along the beach from the hotel,  $y$  is 3 kilometers along, and  $z$  is 6 kilometers along. The contribution of  $x$  to the diversity of the set as a whole is described by the vector  $(2, 5)$ , where 2 is the distance from  $x$  to the closest other option, and 5 is the distance to the next closest option. (If the opportunity set were larger, the vector would be longer.) Similarly, the contribution of  $y$  is  $(2, 3)$ , while that of  $z$  is  $(2, 5)$ . On the basis of a lexicographic ranking of these vectors,  $y$  is deemed to contribute least to the diversity of the set; its contribution is counted as 2 (the distance to the closest other option). We remove  $y$  from the set and repeat the process. Now  $x$  and  $z$  each contributes 5 to the diversity of  $\{x, z\}$ . If we remove one of these options, say  $z$ , we are left with the singleton set  $\{x\}$ , which has zero diversity. The diversity of  $\{x, y, z\}$  is then measured by  $2 + 5 + 0 = 7$  kilometers.

Yet another approach is proposed by Ian Carter, who builds on the ideas of Hillel Steiner.<sup>36</sup> Carter is looking for a measure of what he calls “overall freedom.” He treats the extent of a person’s overall freedom as a fraction; the numerator is a measure of what the person is free to do, and the denominator is the sum of that measure and a measure of what the person is unfree to do. “What a person is free to do” corresponds with what I have called opportunity; I shall be concerned with this part of Carter’s formula.

Carter’s fundamental idea is that, for the purposes of measuring opportunity, human action should be construed as “redistribution of matter.” The amount of opportunity that a person has is the “extent of action available to [him], in ‘sheer quantitative terms.’” So the problem is to measure to what extent the person can affect the distribution of matter in the world. By ‘matter’, Carter means anything that can occupy space, space being represented as the interstices of a grid of Cartesian coordinates. The more units of space an object occupies, the more matter it represents. A unit of matter is redistributed if it is moved from one space in the grid to another. The more units of matter are redistributed, the greater is the quantity of action performed.<sup>37</sup>

The implications of these ideas can be seen most clearly if we as-

35. Martin Weitzman, “On Diversity,” *Quarterly Journal of Economics* 107 (1992): 363–405; Walter Bossert, Prasanta Pattanaik, and Yongshen Xu, “The Measurement of Diversity” (Université de Montréal, Montréal, 2001, photocopied).

36. Hillel Steiner, “How Free? Computing Personal Liberty,” *Philosophy* 15, suppl. (1983): 73–89; Ian Carter, *A Measure of Freedom* (Oxford: Oxford University Press, 1999).

37. Carter, pp. 169–70.

sume that there is a fixed stock of units of matter and that, in each possible world, each unit of matter fills a distinct unit of space. Then a consequence can be defined as a function which assigns each unit of matter to a specific location in the Cartesian grid. Now consider any opportunity set  $A$ ; its elements are consequences, defined in this way. Let  $n(A)$  be the number of distinct options in that set. Let us say that, in  $A$ , a unit of matter is under the control of the agent if there are at least two distinct locations that it can occupy, consistently with the agent's choosing an option from  $A$ . Let  $m(A)$  be the number of units of matter under the agent's control in  $A$ . Then, according to Carter's measure, the amount of opportunity offered by  $A$  is the product of  $m(A)$  and  $n(A)$ . In the case of the tourist, the measure of her opportunity is the amount of matter in her body multiplied by the number of distinct locations between which she can choose.

For the purposes of this article, it is not necessary to consider whether these measures adequately capture pretheoretic intuitions about the nature of opportunity.<sup>38</sup> I consider a more fundamental question: do they genuinely avoid reference to reasonable or normal preferences?

In thinking about this question, we need to distinguish between propositions about the real world and propositions about models of that world. Theoretical measures of opportunity do not apply directly to the real world; they apply to models. If we want to assess how much opportunity a real person has in a real situation, we first have to construct a model of that person and that situation, and then measure opportunity in that model. Pure-quantity measures of opportunity, of the kinds I have described, avoid all references to reasonable or normal preferences within the model being used. But we may still ask whether the model itself can be constructed without such references.

When, as theorists, we construct a model, we impose our own simplifications on the complexity of the world. We justify those simplifications by claiming that we have isolated those aspects of the world that are most significant for the purpose at hand. In the present context, the purpose is to measure opportunity. But then what does 'significance' mean? Is there any defensible notion of significance which does not appeal to reasonable or normal preferences, or to some related concept? I think not.

Consider first the cardinality approach. This can be used only within a model in which the individual's choice problem is represented as a finite set of discrete options. In order to represent a real situation in

38. In "Metric of Opportunity," I argue that these measures offend against intuition to an unacceptable degree. In *A Measure of Freedom*, Carter presents the opposing position with respect to his own proposal.

this way, we have to cut up the world of actual experience into discrete slices, each of which we call an option. An option does not correspond with any single thing in the real world: it corresponds with a class of things which are treated as one and the same for the purposes of the model.

For example, suppose Joe is at a reception. He is ushered to a table on which there are various cans of drink and is invited to take one. Suppose there are ten (apparently identical) cans of Carlsberg lager, twelve of Heineken lager, six of Guinness stout, eight of Evian water, and five of Perrier water. How many options does Joe have? If we individuate by brands, there is a choice between five different drinks. But we might equally well say that there is a choice between three generic drinks: lager, stout, and water; or between two generic drinks: beer and water. Going the other way, we could say that there is a choice between forty-one cans of drink. And we need not stop there: Joe could pick up each can either in his left hand or in his right hand, and so on. If we are going to use a model in which options are discrete, we have no choice but to decide which real-world differences are significant and which are not. The question immediately arises: significant for what? Given that the object is to measure opportunity by counting options, it seems that the answer must be in terms of *choice-relevant* differences—differences that are relevant from the viewpoint of someone who is choosing what to do. But saying that certain differences are not relevant for choice seems to amount to saying either that such differences do not count as reasons for choice or that people normally ignore such differences when choosing what to do. Or in other words, that reasonable or normal preferences take no account of such differences.

The spatial approach avoids this particular problem by allowing consequences to vary continuously in an  $n$ -dimensional space. But it cuts up the world in another way—by imposing on it the structure of the  $n$  dimensions of “goods,” “characteristics,” or “functionings.” Which dimensions we use as theorists in representing a real-world situation is not given to us by the facts of the world; it is a modeling decision. As the example of the drinks suggests, there is no limit to the number of dimensions along which a given set of actual options can be described. Clearly, the ranking of opportunity sets can depend on which dimensions we choose to use in our model. The dimensions we choose to use express our judgments about what is and is not significant. Again, the question arises: significant for what? And again, the only credible answer seems to be in terms of what is relevant for choice, and that requires some appeal to reasonable or normal preferences.

The diversity approach runs into a similar problem in specifying the degree of dissimilarity between options. A given set of actual options

can be dissimilar in a limitless number of ways. We can have a numerical measure of dissimilarity only if we can express all those dimensions of difference in a common currency. And that requires some judgments about the relative significance of those dimensions. Measures of biological diversity use biological criteria of significance based on degrees of genetic relatedness between species. We need an analogous criterion of significance, relevant for the measurement of diversity within opportunity sets. Yet again, how do we assess significance, if not in terms of factors that are relevant for choice?

Carter differs from other advocates of pure-quantity measures in acknowledging the problem of how to cut up the world so that it can be represented by a theoretical model. He tells us exactly how we should do this: by defining options in terms of the distribution of matter. But we can still ask, why use this particular measure of the quantity of action, rather than any other? Carter's root idea, I take it, is to measure the degree to which an individual has the capability to change the world. His measure is a coherent measure of changes to the world, but of changes viewed in one particular perspective—a perspective in which the world changes to the extent that physical objects change their locations. We might characterize this as the perspective of a particular form of folk physics. Even if we stay within the bounds of physics, there are other ways of thinking about changes to the world. If we think in terms of Newtonian (rather than folk) physics, the most obvious measure of changes to the world is perhaps work done, that is, the product of distance and force.

But why privilege physics? What about a biologist's perspective? A genetic modification which creates a new form of microscopic life changes the biological properties of the world in a way that a bulldozer in a demolition site cannot do, no matter how much matter there is in the buildings to be knocked down. Or an artist's perspective? Painting the walls of a house orange rather than gray changes the visual properties of the world in a way that cannot adequately be represented by the minimal differences this makes to the distribution of physical matter. As far as I can see, there is no neutral perspective in terms of which we can measure pure quantities of action: any measure of change to the world is a measure of change viewed in a particular perspective. If the perspective we use is not to be arbitrary, it must surely be one that is salient in relation to opportunity, rather than salient in relation to physics or biology or art. And that seems to mean viewing "changes to the world" in the perspective of choice—that is, treating a change to the world as significant to the extent that it makes a choice-relevant difference. And again, this takes us back to reasonable or normal preferences.

I have now considered four specific approaches to the problem of measuring opportunity as a pure quantity. All of them have proved to

be vulnerable to what is essentially the same problem. I suggest that this problem is endemic to the whole project of finding a pure-quantity measure of opportunity. The problem is this: in order to measure opportunity in a real-world situation, we have to be able to say whether two putative options should be treated as distinct or to be able to specify how significant the difference is between one option and another. That requires us to locate options in some conceptual space in which relations of similarity and difference can be defined. But there are many such spaces, none of which is uniquely privileged. If we try to resolve this problem by appealing to intuitive understandings of opportunity, we are drawn toward concepts of similarity and difference that refer to reasonable or normal preferences. I conclude that the search for a nonarbitrary, pure-quantity measure of opportunity cannot succeed.

## VI. THE PROBLEM OF ORIGINALITY

We have reached an impasse. The difficulty stems from the role played by 'originality' in Mill's argument. The rationale of original actions cannot be recognized in advance, except by the actors themselves. Mill describes the problem clearly, in relation to genius: "But [genius] in its true sense, that of originality in thought and mind, though no one says it is not a thing to be admired, nearly all, at heart, think they can do very well without it. . . . Originality is the one thing which unoriginal minds cannot feel the use of. They cannot see what it is to do for them: how should they? If they could see what it would do for them, it would not be originality."<sup>39</sup>

The same problem occurs for less spectacular forms of originality. On Mill's account, a person expresses her individuality by choosing a mode of life which, in her perception, is particularly suited to her character. Her choice has originality to the extent that it is prompted by her perceiving something in that mode of life which others do not perceive. What she perceives in it need have no great significance for the world at large. Indeed, its significance might be entirely private to her: perhaps she is choosing something because of its special associations with personal events in her past. The problem identified by Mill remains, just as in the case of genius: the opportunities for a particular individual to act with originality cannot be public knowledge *ex ante*.

Of course, we can always generate a list of apparently pointless ways in which a person can do what has never been done before. But originality in Mill's sense implies finding a new form of meaningful action. Such actions cannot be publicly identified in advance, because their originality resides in meanings that have yet to be publicly perceived.

That is not to say that originality requires a person to find meaning

39. Mill, *On Liberty*, p. 123.

in some action that others see as meaningless. New meanings can be found in actions for which old meanings already exist. Take, for example, the change in perceptions of homosexuality that I discussed in Section IV. Before that change took place, the common view of homosexuality was not of an incomprehensible preference: people thought they understood it. It was on the basis of that understanding—an understanding that would now be widely seen as deficient—that they judged homosexual acts not to be choiceworthy. What has changed is that new ways of understanding homosexuality have become recognized.

To recognize a new form of meaningful action, we might say, is to change the conceptual space in which options are perceived to be located. The problem is that opportunity cannot be measured without first choosing a conceptual space and locating options within it. In choosing this space, we are constrained by current understandings and meanings, but original actions are original because they transcend those understandings and meanings.

## VII. THE REASON OF RULES

I see no escape from the conclusion that opportunity, of the kind that is valued by Mill, cannot be measured. One implication is that we cannot compare the degrees of opportunity offered by two distinct sets of options unless one is a subset of the other. This imposes severe constraints on how the Millian concept of opportunity can be used in political discourse. Even so, as Mill's writings show, this concept can be deployed to some effect.

In *On Liberty*, Mill does not use any measure of opportunity. He does not advocate the maximization or equalization of opportunity. Instead, he asserts "one very simple principle," the principle of liberty (or harm principle): "that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection."<sup>40</sup> Despite appearances, this principle is not a moral axiom. Mill is not proposing a deontological theory. His arguments about the value of opportunity are intended to provide a consequentialist justification of the principle of liberty.

Mill is a rule utilitarian. In the first chapter of *On Liberty*, he explicitly forgoes any appeal to abstract rights: "I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of a man as a progressive being."<sup>41</sup> I take him to mean that his aim is to argue for liberty

40. Ibid., pp. 72–73.

41. Ibid., p. 74. Mill substituted "a man" for "man" in the 1867 edition. I read this substitution as emphasizing that his concern is with the long-term interests of each individual human being rather than with those of the human race.

in terms of its contribution to individual well-being. The proviso about “utility in the largest sense” leaves room for the argument, later in the essay, that individuality is an element of well-being and acknowledges that, at any given time, we do not know how a person’s preferences and interests will subsequently develop. *On Liberty* is intended to show us that, over the long run, we maximize well-being by adopting the principle of liberty as a general rule—as a constraint on case-by-case decision making in our society. We do not ask for a utilitarian justification of each application of that principle. The justification for following the rule in any specific instance is constituted by the justification for the general practice of following the rule.<sup>42</sup>

In justifying a rule, we may appeal to theoretical arguments about the likely overall effects of following it, and we may make inductive inferences from experience of the effects of following it in the past. Neither of these strategies of argument requires that we can fully describe the specific situations to which the rule is to be applied in the future. By using these strategies, Mill is able to finesse the problem that opportunities for originality cannot be identified in advance of their being taken up.

Mill’s theoretical arguments for the principle of liberty are those I outlined in Section I. He backs up these arguments with inductive inferences from historical evidence about a range of cases to which that principle has been, or could have been, applied. His aim is to show that, over the long run, the originality fostered by the principle of liberty is productive of human well-being. Such inferences are possible because the value of particular instances of originality—both as expressions of individuality and as successful experiments in living—can often be recognized publicly *ex post*. For example, he argues for the toleration of atheism (a radical proposition in 1859) by drawing an analogy between atheism in the developed societies of his time and Christianity in the Roman Empire. The Roman persecutors of Christianity included men of the highest intellect and moral character, who perceived themselves to be acting on the best reasons of public policy and religious truth. Those reasons were similar in character to the reasons that are presented by Mill’s contemporaries for not tolerating atheism. Mill expects his readers to be in no doubt that human well-being would not have been

42. This kind of two-tier reasoning has been largely neglected in the formal theory of rational choice, which is the starting point for the current literature on the measurement of opportunity. For ideas about how rule-based reasoning might be used in rational-choice theory, see Donald Regan, *Utilitarianism and Cooperation* (Oxford: Oxford University Press, 1980); David Gauthier, *Morals by Agreement* (Oxford: Oxford University Press, 1986); Edward McClennen, *Rationality and Dynamic Choice* (Cambridge: Cambridge University Press, 1990); and Geoffrey Brennan and James Buchanan, *The Reason of Rules* (Cambridge: Cambridge University Press, 1985), from which I took the title of this section.

well served by the suppression of Christianity.<sup>43</sup> From such examples, we are invited to draw the inference that, over the long haul of experience, the benefits of following the principle of liberty have been found to exceed the costs. This is taken to justify following that principle in current decision making, even when it requires us to permit actions which appear to us as valueless, irrational, or immoral.

It is natural to ask whether a rule-based approach can be used to address questions about the distribution of opportunity. Mill is certainly concerned with this issue: the distribution of opportunity between the sexes is the principal theme of his book *The Subjection of Women*.

Comparing men's and women's opportunities is a significant test case, because it is one in which assumptions about reasonable or normal preferences seem particularly question begging. In the nineteenth-century societies with which Mill is concerned, many opportunities are available to men but not to women. Women are constrained both by legal restrictions on their freedom of action and by the special demands made on them by the "tyranny of opinion." However, the vast majority of the women who are subject to these constraints do not perceive them as constraints: they do not in fact desire to use the opportunities they are denied. Further, it is widely believed, by women as well as by men, that these differences in preferences between the sexes are part of the natural order of the world. Thus, if we measure opportunity in terms of potential preferences, and if we use an empirical criterion to define those preferences, we may not be able to say that women have less opportunity than men. That seems not to acknowledge the degree to which people's preferences adapt to the opportunities they enjoy. But if instead we invoke a concept of reasonableness in which what it is reasonable for women to choose is different from what women do in fact choose, we have to explain why our concept of reasonableness is more valid than other concepts—and in particular, why it is more valid than the concept that most actual women endorse. If we should be skeptical of majority opinions which criticize the private preferences of minorities, we should surely also be skeptical of minority opinions—even those supported by appeals to Aristotelian theories of the good—which criticize the private preferences of majorities.

Using essentially the same analysis of opportunity as in *On Liberty*, Mill argues that all women, whatever their actual preferences, are being deprived of a leading essential of well-being: opportunity to develop and express their individuality. Women's lack of freedom is also an unnecessary restriction on human progress, since it deprives everyone of the experiments in living that women might otherwise carry out.

Mill is able to reach these conclusions without making any specific

43. Mill, *On Liberty*, pp. 86–89.



claims about the ways in which women might choose to express their individuality in a society in which they had more freedom. He constantly reminds us that this cannot be known in advance. As long as most women are unfree, we cannot know whether there are distinctively female modes of originality waiting to be expressed or whether originality among women is similar in character to originality among men. For example, discussing literature—the art form in which women had made most progress at the time he was writing—Mill argues that if there is a specifically female form of expression, it will emerge only after many years of equal liberty. Perhaps underrating the originality of writers such as Jane Austen and Charlotte Brontë (or perhaps looking for something more highbrow), he says that female literature has yet to emancipate itself from male models. He reports his own belief that “there will not prove to be any natural tendencies common to women, and distinguishing their genius from that of men,” but he insists that we must wait and see.<sup>44</sup>

Mill is scrupulous, too, in avoiding assertions about what preferences are reasonable or natural for women. Although he speculates that what are currently interpreted as female tastes and character traits may be artificial products of male cultivation (he draws a famous analogy with the hothouse cultivation of plants), he does not pretend to know what modes of life free women would choose: “It cannot now be known how much of the existing mental differences between men and women is natural, and how much artificial[, or] whether there are any natural differences at all.”<sup>45</sup> Mill predicts that in a free society, most women will choose to marry and to bring up children, but this prediction is based on reasoning about economic equilibrium and not on any hypothesis about specifically female preferences. He argues that child rearing is a vocation in which men cannot compete effectively with women. Thus, in equilibrium, we should expect to find many women following this vocation; if (as Mill advocates) the legal status of marriage becomes similar to that of a business partnership between equals, men will have to make whatever concessions are necessary to make marriage worthwhile for women. Until women are free, we will not know how great those concessions will have to be.<sup>46</sup>

Mill’s judgments about the distribution of opportunity are not made in terms of any measure of opportunity (as I have defined such measures, and as they are understood in the literature of social choice). However, there is perhaps a sense in which Mill is appealing to measurements.

44. John Stuart Mill, *The Subjection of Women* (London: Longmans, Green, Reader & Dyer, 1869), pp. 132–33.

45. *Ibid.*, pp. 39, 123–26.

46. *Ibid.*, pp. 51–52, 71–73, 93.

In claiming, as he does, that women are less free to develop their individuality than men are, he is implicitly appealing to some measure of this form of freedom. But, if my reading of Mill is correct, he does not want to make any assumptions about reasonable or normal preferences. Is this coherent?

I suggest that the logic of Mill's argument is best represented in rule-utilitarian terms. Rule utilitarianism provides a method of assessing general rules in terms of their long-run tendency to promote well-being. According to Mill, such assessments can sometimes be made without appealing to controversial conceptions of well-being and without making specific assumptions about individuals' actual or potential preferences. Thus, on the basis of theoretical arguments and historical evidence, one might make comparative judgments about the extent to which different sets of rules tend to promote the well-being of individuals who are subject to them; one might then claim that the set that applied to nineteenth-century men is more effective in promoting well-being than the set that applied to nineteenth-century women.<sup>47</sup>

### VIII. CONCLUSION

Necessarily, measures of opportunity are biased against individuality and originality. If a measure of opportunity is not to be arbitrary, it must rest on some concept of reasonable or normal preferences: it must reflect some current understanding about what counts as an eligible option for a person. In contrast, individuality in its most characteristic form is expressed through a person's finding new forms of eligibility.

That is not to say that measures of opportunity are impossible or have no value. In particular, if we use an empirical concept of potential preference, based on historical information about how people in general have chosen to use their opportunities, we may be able to create a measure which corresponds reasonably well with current understandings of what makes for more or less opportunity. For many practical purposes, that may be good enough. But for anyone who, like Mill, values opportunity as a space for the development and expression of individuality, measurements of opportunity will always be inadequate.

One of the most distinctive—and, for me, most attractive—features of Mill's liberalism is its open endedness: its recognition that much of

47. Opportunity in the Millian sense involves more than the principle of liberty. In particular, an adult's ability to perceive opportunities to act with originality may be influenced by the upbringing and education that he or she received as a child. For Mill, the fact that women are less free to develop their individuality is partly due to differences between the ways that girls and boys are brought up; he advocates the elimination of these differences (*ibid.*, pp. 148–56). The logic of Mill's argument depends on our being able to assess the extent to which different ways of bringing up children foster a general awareness of possible choices.

the value of opportunity, and of liberal institutions more generally, derives from effects that cannot be predicted with any specificity.<sup>48</sup> By recognizing this, we can come to see the value of individuals' having opportunities to act contrary to their current preferences, contrary to the preferences that are typical of people like themselves, contrary to accepted principles of rationality and morality, and contrary to moral philosophers' favored accounts of human good. It is just this feature of Mill's liberalism that stands in the way of the measurement of opportunity.

48. Mill's general strategy of argument in relation to opportunity has some similarities with Friedrich Hayek's account of the market as a process of discovery. Hayek claims that the market, and liberal institutions more generally, are effective in assisting each individual in the pursuit of his or her ends, whatever those ends may be, and even though we cannot know in advance what outcomes will result from the workings of these institutions. See Friedrich Hayek, *Individualism and Economic Order* (Chicago: University of Chicago Press, 1948). I defend this reading of Hayek in Robert Sugden, "Normative Judgements and Spontaneous Order: The Contractarian Element in Hayek's Thought," *Constitutional Political Economy* 4 (1993): 393–424.

