Is There A Conflict Between Liberty And Social Welfare?

An Historical Perspective On Sen’s ‘Impossibility

Of A Paretian Liberal’

being a Thesis submitted for the Degree of

Doctor of Philosophy in the University of Hull

by

Iona Elizabeth Tarrant, BA (Leicester), MSc (London)

January 2000
To My Parents, James and Susan
Acknowledgements

I should like to express my sincere appreciation to my supervisor, Simon Vicary, not only for his conscientious and enthusiastic attitude to reading, commenting upon and discussing my work, but also for his valuable, informed advice, and his support in general. I am also indebted to Maria Luisa Ratto and Elizabeth Chilvers: to both, for all their support and encouragement, and to Liz for her patience and diligence in the preparation of the final manuscript. A factor which has been very important to me, has been the encouragement I have received from friends and colleagues in the School of Economic Studies at the University of Hull. I appreciate their interest and support very much. Finally, to my parents, I thank them effusively for providing reassurance if ever they saw doubt, for their support, encouragement, and their constancy.
CONTENTS

Chapter One: Introduction 1
I What is a Social Welfare Function? 1
II Sen's Impossibility of a Paretian Liberal 8
III Pertinence of the Historical Literature to the Paretian Liberal Paradox 13

Appendix to Chapter One: Proof of the Paretian Liberal Paradox 17

Chapter Two: Liberty and the General Will: The Case of Rousseau 20
I Introduction: Rousseau's Approach to Social Welfare And The Link with the Paretian Liberal Paradox 20
II Multiple Utility Frameworks 22
III Rousseau's Different Types of Will Interpreted as Separate Sets of Preferences in a Multiple Utility Framework 24
IV The Process of Establishing the General Will and the Link with Condorcet's Jury Theorem 32
V The Link between the Arrovian Social Welfare Function and the General Will 35
VI Consideration of Amartya Sen's View of the General Will 40
VII The Existence or Otherwise of a Private Sphere of Choice for Individuals in 'The Social Contract' 45
VIII The Notion of Freedom within this Dual Utility Framework 52
IX An Interpretation of the Paretian Liberal Paradox in the Light of Rousseau's Notion of the General Will 54
X Conclusion 58

Chapter Three: Utilitarianism and Liberty: The Case of J.S. Mill 62
I Introduction 62
II Mill's Notion of Utility Analysed as a Hierarchical Utility Framework 65
III 'Better to be a Satisfied Fool: The Implication of Acceptance of Pareto's as Compared to Mill's Notion of Utility 73
IV Paretian and Paternalistic Elements of Mill's Notion of Utility 76
V Analysis of the Paretian Liberal Paradox in the Light of Mill's Notion of Utility 82
VI Influence that the Thought of J.S. Mill has on the Literature 85
VII Liberty and Social Welfare 88
VIII Conclusion 91
<table>
<thead>
<tr>
<th>Chapter Six</th>
<th>Debate on the Sen Paradox Within Social Choice Theory, Post 1980</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part I: Debate Between Game Form and Preference Based Formulations of Individual Liberty and the Link with the Notion of Social Welfare</td>
<td></td>
</tr>
<tr>
<td>I Introduction</td>
<td></td>
</tr>
<tr>
<td>II Game Form versus Preference Based Formulations of Individual Liberty</td>
<td></td>
</tr>
<tr>
<td>III Analysis of the Paradox within an Extended Social Choice Framework</td>
<td></td>
</tr>
</tbody>
</table>

| Part II: 'Libertarian' Resolutions to the Sen Problem (Avoiding the Paradox Via Rights Trading) |
| I Introduction |
| II 'Libertarian' Resolutions to Paretian Liberal Conflict |
| III Link Between These 'Libertarian' Resolutions and the Approach to Rights and Social Welfare taken by Contractarians |
| IV Failure of the 'Libertarian' Resolutions to Address the Underlying Normative Problem of the Original Paradox |

| Conclusion |

| Chapter Seven | Conclusion: Is There A Conflict between Liberty and Social Welfare? |
| Bibliography |
CHAPTER ONE: INTRODUCTION

I What is a Social Welfare Function?

Economists often employ a device referred to as a social welfare function to evaluate different policies in order to decide which of them is “best” for society, (where society is nothing more than a collection of individuals). But comparatively little attention is given to what we actually understand by the term ‘social welfare function’ itself. A useful way of thinking about the concept in general is provided by Samuelson:

“a function of all the economic magnitudes of a system which is supposed to characterise some ethical belief - that of a benevolent despot, or a complete egoist, or “all men of good will”, a misanthrope, the state....Any possible opinion is admissible.....We only require that the belief be such as to admit of an unequivocal answer as to whether one configuration of the economic system is “better” or “worse” than any other or “indifferent”.....”

In the above, Samuelson is referring to any function which can be used to rank different social states. We can think of a real valued function, where higher values reflect increased social welfare. Samuelson refers to the function as being characterised by ‘some ethical belief’. Any social welfare function must represent the beliefs of some individual or group. The acceptability of the social welfare function as a device to be used for evaluating alternative economic policies obviously rests on the acceptability of

1 Samuelson (1983), p.221.
such ethical belief(s). For example, one cannot imagine a function based on the beliefs of a single "complete egoist" being acceptable for such a purpose! To be operational as a device used to make actual decisions for society, one would want such a function to be based on value judgements (or ethical beliefs) generally accepted by the individuals who make up society.

The social welfare function upon which applied welfare economics is based can be traced back to Abram Bergson. Bergson identifies a set of conditions both necessary and sufficient to identify a situation of maximum economic welfare for particular sets of "value propositions". There is thus necessarily an implicit underlying social welfare function, but Bergson was concerned with identifying the conditions which would be satisfied when such a function is maximised. His maximum conditions, therefore, relate to a specific welfare function which reflects particular value judgements. According to Bergson, his maximum conditions reflect "values current in economic literature". He does not enter into discussion on their desirability, but presents technical conditions which reflect them. These conditions can then be used to evaluate a given allocation of resources to assess whether the welfare of society can be increased.

Arrow and Sen, however, focus specifically on the value judgements underlying a social welfare function. They are interested in the possibility of whether the value judgements upon which a social welfare function is based could conflict with one another. In other words, they were considering the possibility that a social welfare function might not

---

2 Bergson, A (1938), pp.7-25.
exist for a particular set of value judgements. The analytical framework of Arrow and Sen differs from that of Bergson and Samuelson in that it is more abstract. Letters are used to denote social states, where a social state is a complete description of society and everyone's position in it. The social welfare function, in this context, specifies a complete ordering of all possible social states, $R$, for any given set of individual orderings, $R_i$, where the latter represent the preferences of individuals. Each $R_i$ denotes a ranking of alternatives for a given individual. The social welfare function can be written as follows:

$$ R = R (R_1, R_2, \ldots, R_n) $$

Value judgements come into the analysis at two levels: in the individual rankings themselves, the $R_i$s, and in the way that they are aggregated to derive a social ranking, $R$. Further, implicit in the construction of a social welfare function, is the idea that social welfare depends only on the welfare of individuals (an individualistic approach to social welfare). Both Arrow and Sen were interested in the value judgements involved in the process of aggregating individual preferences, in that they were concerned with establishing the existence or otherwise of a social welfare function.$^3$

Economists typically take an individualistic view of society, that it is merely a collection of individuals. From this concept of society, it follows that (i) the welfare of society must depend solely on the welfare of individuals who make up that society. Further, economists also adhere to non-paternalism, that (ii) the individual is the best judge of his

---

$^3$ Strictly speaking Sen was concerned with establishing the existence of a social decision function. See note 7.
own welfare. These two ideas reflect Paretian value judgements. If a social state, x, were unanimously preferred to another, y, then someone who accepted the Paretian value judgements given here would judge x to be socially better than y. Thus this is the condition which is generally imposed on the social welfare function to reflect Paretian value judgements: if $x \Pi y$ for all $i$, then $x \Pi y$ (Condition P).

Bergson, Arrow and Sen all accept the idea of a Paretian social welfare function (one which satisfies condition P above). In other words, all regard Paretian value judgements as an acceptable ethical basis for the social welfare function, because of their acceptance of an individualistic approach to social welfare. Both Arrow and Sen also impose condition U on the social welfare function which represents the idea that no set of individual preferences should be excluded from the domain of the function. In other words, the social welfare function should be defined for any possible set of individual preferences. Condition U seems to follow from an acceptance of Paretian value judgements: the idea that certain sets of preferences should be excluded from the domain of the social welfare function would seem to be inconsistent with the idea that the individual is the best judge of his own welfare.

There are various ways in which one can interpret the social welfare function:

1. As a device which represents the welfare of society. On this interpretation, R is accepted as a social value scale, which is derived from individual values. One can think of it as a set of preferences for ‘society’ because ‘society’ (i.e. the individuals
of which society consists) accepts the value judgements which underlie the social welfare function.

2. As a single individual trying to form her own ranking of social states which is representative of her view of the welfare of society. It is helpful in this case to think of the value judgements which underlie the social welfare function as the value judgements of some specific individual. The individual wishes to adhere to the value judgements underlying the social welfare function in forming her own welfare judgements. Thus the social preference relation, R, represents the view of social welfare of this individual.

3. Individuals have different views of the common interest so, in order to make a collective decision, they need some device which can reconcile these views into a single ranking. They may be able to accept the use of a social welfare function for such a task without accepting interpretation one above, that the ranking is representative of the common interest.

4. As a voting mechanism which is used to aggregate individual preferences. The value judgements underlying the social welfare function reflect certain desirable properties that individuals feel that acceptable voting procedures should satisfy. Individuals accept the outcome of the vote because they accept the voting procedure itself.

The above interpretations can be grouped into what I shall term ‘pragmatic’ and ‘ethical’ interpretations. Interpretations one and two are clearly ethical in that the social welfare function is of normative significance, it represents a value scale. To attach normative
significance to the social welfare function, however, is not necessary in order for someone to accept interpretations three and four. This is why I refer to the latter as 'pragmatic' interpretations. (Interpretations three and four are almost the same, given that it is very likely that a device used to reconcile differing views would be some kind of voting system.) Little was vehemently opposed to interpretation one above, of the social welfare function as a social value scale. He prefers to think of Arrow's social welfare function as a 'machine' into which value judgements are 'fed':

"Imagine the system (social welfare function) as a machine which produces a card on which is written "x is better than y", or vice versa when all individual answers to the question "is x better than y?" have been fed into it. What significance are we to attach to the sentence on the card, i.e. to the resulting "master"-order?...although it is a sentence employing ethical terms, (it) is not a value judgement. Every value judgement must be someone's judgement of values. If there are n people filling in cards to be fed into the machine, then we have n value judgements, not n + 1. The sentence which the machine produces expresses a ruling, or decision, which is different in kind from what is expressed by the sentences fed into it. The latter express value judgements; the former expresses a ruling between these value judgements."4

The above seems to confuse pragmatic and ethical interpretations of a social welfare function. The idea of individuals "feeding" judgements into a machine which produces a "ruling" sounds very much like the process of voting where the voting system is the method by which the group arrive at a collective decision. The above can be interpreted

as, individuals vote according to whether they regard x or y as more desirable and the voting system 'selects' between them on the basis of these votes. The passage above suggests that Little can only accept the pragmatic interpretations, he can only accept the social welfare function as a decision making mechanism. He does not accept that the 'ruling' provided by the collective choice rule constitutes a value judgement. Little is uncomfortable with the idea of attaching normative significance to the ranking produced by the social welfare function because there exists no social entity to which the social ranking can be attributed. My point is that there need not be. This is where it is helpful to turn to interpretation two above and think of the process of aggregating individual judgements as a single individual trying to answer the question, "which is the best outcome for society?" Suppose Little's 'machine' is a social welfare function satisfying conditions which reflect what I regard as desirable value judgements. Individuals all feed their own views of social welfare into the machine. Little argues that, "the only order which I can fully accept is one that coincides with my own"5. No. I feed my own judgement into the machine, but still accept the ruling of the machine as the best outcome for society because I accept the value judgements upon which the social welfare function is based, as well as those values which were involved in the determination of my own personal ranking of alternatives (which went into the 'machine'). My acceptance of Paretian value judgements implies that I cannot come up with a ranking of alternatives which is representative of social welfare alone.

Robert Sugden provides an interpretation of an Arrovian social welfare function (‘Arrow constitution’) as, “a procedure used by a dictatorial decision-maker to form a value system”.

“Arrow’s social choice theory makes the crucial simplification of admitting value judgements about the relative merits of different social ends; judgements about the relative merits of different means of social decision-making are excluded. The latter kind of judgements is necessarily excluded because the theory presupposes one particular means of social decision-making - that of the dictatorial public official - and requires all value judgements to be made in the context of this.”6

Obviously, to accept the social welfare function as representative of the social welfare does not necessarily imply actually using it to determine every aspect of the social state. But if we are to take it seriously, then presumably it does. In that case, there are worrying implications for individual liberty, hence Sugden’s reference to the paradigm of the dictatorial decision maker.

II Sen’s Impossibility of a Paretian Liberal

Sen was asking the question as to how liberty might fit into the social welfare function, together with Paretianism. He was concerned that we would want our social judgements to reflect a commitment to individual liberty as well as Paretianism. More specifically, he was concerned that the social welfare function reflect the idea that it is better that individuals be allowed to decide certain private matters for themselves irrespective of

---

the views of others. He therefore imposed a further condition on it, condition L, which he argued reflected the idea that certain private matters should be the concern of that individual alone.

The following is a formal presentation of Sen’s original theorem. Sen imposed just three conditions on the social decision function:

“Condition U (Unrestricted Domain). Every logically possible set of individual orderings is included in the domain of the collective choice rule”

The value judgement involved here is that individuals should be free to rank alternatives in any way they want. They are free to be as selfish or as altruistic as they like, preferences are merely taken as brute facts.

“Condition P. If every individual prefers any alternative x to another alternative y, then society must prefer x to y.”

Specifically, condition P reflects the idea of a Pareto improvement, that society is better off in a social state in which at least one individual is made better off and no individual worse off. Thus condition P reflects both Paretian value assumptions that (i) the individual is the best judge of his own welfare (non-paternalism) and (ii) the idea that the welfare of society is solely a function of the welfare of individuals (individualism).

---

7 I have switched from the term ‘social welfare function’ to ‘social decision function’ here for the sake of being technically correct. A social decision function only requires that the social ranking of alternatives, R, be acyclical, it need not be transitive. A social welfare function should generate an R which is transitive. Sen was concerned with the existence of a social decision function. Obviously, in so far as they represent a way of making social judgements, the two concepts are virtually the same. For this thesis, I prefer to use the term ‘social welfare function’ because it emphasises the normative interpretation of R.
“Condition L* (Minimal Liberalism)\(^8\). There are at least two individuals such that for each of them there is at least one pair of alternatives over which he is decisive, that is, there is a pair of \(x,y\) such that if he prefers \(x\) (respectively \(y\)) to \(y\) (respectively \(x\)), then society should prefer \(x\) (respectively \(y\)) to \(y\) (respectively \(x\))”.

The rationale for condition L* (or L) can be found in this statement of Sen’s at the beginning of the paper:

“Given other things in society, if you prefer to have pink walls rather than white, then society should permit you to have this, even if a majority of the community would like to see your walls white. Similarly whether you should sleep on your back or on your belly is a matter in which the society should permit you absolute freedom, even if a majority of the community is nosy enough to feel that you must sleep on your back\(^9\)”

In other words, liberalism can be interpreted as the value judgement that there are certain private matters which individuals ought to be free to decide for themselves, irrespective of the views held by others. Sen has chosen to formulate this as a correspondence between individual and social preference, \(R\), over a pair of social states which differ solely with respect to the aspect of the social state which is private to the individual.

Another way of thinking about it is to use Mill’s idea of a private sphere of choice:

---

\(^8\) Sen first proposes a stronger version of L*, which he refers to as ‘Condition L (Liberalism)’, that each individual is decisive over at least one pair of alternatives. The impossibility result obviously also holds for this stronger version of L. Many writers refer to condition L rather than L*, presumably taking the view that L* is too minimal. I often refer to condition L rather than L* in this thesis for this reason.

\(^9\) Sen (1970b) p152.
"...the only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence (of choice) is, of right, absolute."\textsuperscript{10}

Matters such as my private reading, whether I sleep on my front or back, my choice of religion could be considered to be the concern of myself alone. Sen's way of incorporating this idea into a social welfare function is to stipulate a correspondence between individual and social preference over certain pairs of alternatives which differ solely with respect to an issue which is private to some individual.

The impossibility result is formally stated as

"Theorem II. \textit{There is no social decision function that can simultaneously satisfy Conditions U, P, and L*}."\textsuperscript{11}

A formal proof of the result is given in an appendix to this chapter.

Sen also illustrates the result with an example of two individuals deciding upon the issue of who should read the novel, 'Lady Chatterley's Lover'. It is this example which I tend to use in the thesis to illustrate points rather than the proof itself, so it is worth setting out the example here and using it to illustrate the proof. There are just two individuals, referred to as Prude and Lewd to reflect their different preferences. There are three possible social states: x (no one reads the book), y (only lewd reads it), and z (only prude reads the book). The figure below shows the preferences of individuals in the

example. I have also used ordered pairs to describe the social states for clarity: the first element refers to whether or not Prude reads the book (1 denotes that he reads it, 0 that he does not), the second to whether or not lewd reads it:

<table>
<thead>
<tr>
<th>Prude</th>
<th>Lewd</th>
</tr>
</thead>
<tbody>
<tr>
<td>x (0,0)</td>
<td>z (1,0)</td>
</tr>
<tr>
<td>z (1,0)</td>
<td>y (0,1)</td>
</tr>
<tr>
<td>y (0,1)</td>
<td>x (0,0)</td>
</tr>
</tbody>
</table>

We are trying to construct a social value scale based upon these individual values (preferences) and also reflecting the value judgements that:

(i) Unanimously preferred alternatives are socially better (Condition P).

(ii) Individuals ought to be free to do as they like in matters which are personal to them\textsuperscript{12}. (Condition L*)

To reflect the value judgement (ii) above, we rank social states which differ solely with respect to whether or not a given individual reads the book according to that individual’s preference. For example, social states x and z differ solely with respect to whether or not Prude reads the book, and Prude prefers that he does not (given that Lewd does not). By ranking x above z in the social preference relation, therefore, we are in some sense incorporating the value judgement that society is better off when Prude has the right to decide between x and z. Similarly, the pair (y,x) can be viewed as lying within Lewd’s

\textsuperscript{12} Or, society should respect individual preferences over social states which lie within individual personal spheres.
personal sphere and thus $y$ is ranked above $x$ socially because this is Lewd’s preference. However, $z$ is unanimously preferred to $y$ (by society), thus to reflect Paretian value judgements we would like the social preference relation to rank $z$ above $y$. So if we use both Paretian and liberal value judgements it is impossible come to a conclusion as to what is the best social state because the social preference relation (italicised) is cyclical.

The problem stems from the fact that the liberal value judgement is the idea that individuals ought to be free to decide personal matters for themselves, irrespective of the views of others. However, in this case, preferences are such that the utility of each of these individuals is more affected by whether or not the other individual reads the book than it is by whether or not he himself reads it, e.g. for Prude, $x$ and $z$ (within his own personal sphere) are ranked first and second whereas he ranks $x$ and $y$ (within Lewd’s personal sphere) first and last. This suggests Prude has a stronger desire for $x$ over $y$ than for $x$ over $z$. It is this externality which gives rise to the impossibility result. The Paretian liberal paradox makes most intuitive sense when the social decision function is interpreted as either the value scale of society or an individual making a social judgement. Referring to the latter, it implies that if I want to make a judgement as to which is the best social state for society, and I want that judgement to reflect both Paretian and liberal values, I may find that I cannot do, and still make judgements consistent with a social welfare function.
III Pertinence of the Historical Literature to the Paretian Liberal Paradox

The concept of social welfare is not a new one. Historically, political philosophers have been concerned with social welfare and the importance of individual liberty. If there is a genuine conflict between liberty and social welfare, it would be surprising if these writers were not aware of this conflict even if they did not formalise it. This thesis focuses on the thought of political philosophers in an attempt to identify how such conflict was resolved by these earlier writers, and whether there is any link between the resolutions implied by their thought and the way that modern social choice theorists have responded to the Sen paradox.

The following different approaches to social welfare can be identified within the historical literature:

1. *Dominance of the social welfare function*

   The first strand of thought can be characterised by the following points:

   (i) There is a concept of the common interest which is analytically distinct from the private wants of individuals.

   (ii) It is this concept of common interest which should form the basis for governing society.

   (iii) Liberty is valued.

   The historical writer who represents this approach is Rousseau. All issues are to be subordinate to the general will which is representative of the common interest. There is a clear commitment to individual liberty, and yet the view of social welfare is organic.

   The above three points also describe a situation where the social welfare function is
accepted as representative of social welfare and thus used to determine all aspects of the
social state. But there is also a desire to incorporate a commitment to individual liberty
within this approach to social welfare. It is in this sense that the problem which
Rousseau set himself has key points of similarity with the problem set by Sen.

2. *A Utilitarian Approach to Social Welfare (J.S. Mill)*

The idea of social welfare is individualistic in this case in that it depends solely on the
utilities of individuals. Mill’s acceptance of utilitarianism implies acceptance of a social
welfare function which reflects utilitarian value judgements, but he also advocated an
absolute right to liberty in matters which were private. The pertinent question here, if
we accept Sen’s result, is, “How could Mill advocate an absolute right to liberty in
private matters whilst admitting only one fundamental value, utility, without being
logically inconsistent?” His commitment to utility as the *sole* value committed him to a
utilitarian approach to social welfare, he, therefore, needed to somehow reconcile this
with his argument that liberty was desirable.

3. *A Contractarian Approach to Social Welfare*

In general, a contractarian approach to social welfare is characterised by an *initial
contractual agreement* in which the rights and rules by which individuals are to be
governed are agreed upon. This initial agreement can be thought of as the point at which
the concept of a social welfare function is either accepted or rejected and, if accepted,
the precise form it should take is agreed upon. Whereas other approaches to social
welfare can be characterised by a predetermined idea of social welfare which can be
thought of as implying a particular kind of social welfare function, for example, utilitarian or ‘the general will’, the contractarian approach can be distinguished by the fact that there is no such idea prior to the initial agreement. Thus individual liberty is prior to the idea of the social welfare function on the contractarian view. The thesis focuses on the thought of two modern contractarian writers, Buchanan and Rawls, one of whom rejects the idea of a social welfare function entirely. It reassesses Sen’s result in the light of their thought.

The thesis aims to explore the following:

1. To identify how Rousseau and Mill respectively reconciled their commitment to liberty with their views of social welfare, and to suggest possible ways out of the Sen paradox in the light of these.

2. To assess the implications for the Paretian liberal paradox of an alternative contractarian approach to social welfare.

3. To identify whether there is any evidence that modern social choice theorists are actually using similar analytical devices to resolve conflict as those used by earlier political philosophers.

The thesis is structured as follows: Chapter two focuses on how Rousseau resolved conflict between rule by the general will and liberty. The way that John Stuart Mill reconciled a utilitarian approach to social welfare with an absolute right to liberty is the subject of chapter three. Chapter four focuses on the concept of social welfare in a contractarian setting. It considers the ideas of two contractarians, one of whom rejects
the concept of social welfare altogether, and assesses Sen’s result in the light of these.

Chapter five sets out the possible ways that there are of resolving Sen’s paradox in the
light of the resolutions suggested by historical writers. It then considers whether these
possible ways out of the paradox are fully exploited by social choice theorists (1970-
1980). The extent to which modern formulations of the Paretian liberal paradox have
succeeded in dealing with the problem is the subject of chapter six. Finally, concluding
comments are presented in chapter seven.
From L*, we know that there must be two individuals who each have a right over a pair of alternatives. Let these two individuals be i and j. All other individuals in society are denoted by k. Individual i has a right over alternatives (x, y) and j has a right over (z, w). It would be impossible for two separate individuals to each have a liberal right over the same pair of alternatives, given that their preferences may conflict with one another, thus the pairs (x, y) and (z, w) cannot have more than one alternative in common.

(i) Suppose x = z.

A set of individual preferences for individuals i, j and each other individual k is set out below.

*Individual Preferences (R, s)*

x Piy Piy w

y Pj w Pj z(=x)

y Pk w (for all k)

A social decision which satisfies conditions L*, P and U generates a social preference relation, R in the following way. Given the assignment of rights above,

by condition L*, x P y and w P z(=x)

By condition P, y P w.

Condition U implies that these sets of individual preferences all lie within the domain of the social decision function, we cannot exclude any of them. Thus the social preference relation xPyPwPxy......etc. as shown above. Given the requirement that a social

---

13 This follows the proof presented in Sen (1970b) p.154.
decision function must generate a social preference relation which is acyclical\textsuperscript{14}, we have thus identified a configuration of individual preferences for which a social decision function satisfying these three conditions does not exist.

Now suppose,

(ii) that \( x, y, z, w \) are all distinct alternative social states. Again, the set of individual preferences and the aggregation of these via a social decision function is demonstrated below:

\textit{Individual Preferences}

\begin{align*}
&w \preceq x \preceq y \preceq z \\
&y \preceq z \preceq w \preceq x \\
&w \preceq x \text{ and } y \preceq w \\
\end{align*}

By condition L\textsuperscript{*}, \( x \preceq y \) and \( z \preceq w \).

By condition P, \( w \preceq x \) and \( y \preceq z \).

Thus the social decision function generates the social preference relation, \( x \preceq y \preceq z \preceq w \preceq x \). There is no best alternative for the set of alternatives \( (x, y, w, z) \), thus no social decision function satisfying conditions U, P, and L\textsuperscript{*} exists.

\textsuperscript{14} It must generate a 'choice function'.
"The general will is always right and always tends to the public good; but it does not follow that the deliberations of the people will always have the same rectitude. We always desire our own good, but we do not always recognise it."¹

I Introduction: Rousseau’s Approach To Social Welfare And The Link With The Paretian Liberal Paradox

Rousseau was committed to the idea that there exists some distinct concept of social good, the general will, which is analytically distinct from the private wants of individuals. Further, he was of the view that this general will should form the basis for governing society. In other words, all issues in society, including all rights, should be subject to this general will:

"the general will alone can direct the forces of the state in accordance with the purpose for which it was created, namely, the common good. It is exclusively on the basis of this common interest that society must be governed."²

This is why Rousseau can be thought of as reflecting a view of social welfare which could be described as “social welfare function dominant”: Rousseau’s view that all issues in society should be determined exclusively by the general will is analogous to

¹ Rousseau, J. (1953), Book 2, Chapter 3 (2.3), p28-9. Where parts of quotes are italicised this is not in the original, unless otherwise stated.
the idea that all aspects of the social state are to be determined by a social welfare function. Further, according to Rousseau, the general will is "discovered" by the process of voting, i.e. aggregating individual preferences. One can, therefore, think of the general will as a social welfare function: It is representative of the social good and is established by aggregating the preferences of individuals. The fundamental point is that Rousseau’s concept of the general will implies that he would be committed to the idea that a social welfare function exists which is representative of the social good. Further, he is committed to actually using that social welfare function to rule society.

But Rousseau also valued individual liberty. In The Social Contract, Rousseau claimed to answer the question as to how individuals could agree to be governed by the general will whilst remaining, “as free as before”. The analogy with the problem posed by Sen is as follows: Sen was attempting to incorporate some minimal commitment to liberty into the social welfare function. One could think of Sen’s problem as addressing the question, “Is it possible to accept the concept of a social welfare function as dominant, whilst retaining some minimal commitment to liberty?” By the term ‘dominant’, I mean that all aspects of the social state are to be determined by the social welfare function. Rousseau could be interpreted as going further than this. He wanted all rights to be subordinate to the general will whilst individuals remained “as free as before”.

Sen established the result that a social welfare function may not exist when we attempt to incorporate some minimal commitment to individual liberty into it. In other words, valuing individual liberty seems to conflict with such an approach to
social welfare. Rousseau’s *Social Contract* almost looks like an attempt to resolve this very problem:

“‘To find a form of association..... where each, while joining with all the rest, still obeys no one but himself, and remains as free as before.’ This is the fundamental problem to which the social contract provides the answer.”

This chapter seeks to identify what that answer, according to Rousseau, was. In the light of Sen’s result, Rousseau must have had some analytical device which resolved the conflict between dominance of the general will (a social welfare function) and individual liberty.

II Multiple Utility Frameworks

Amartya Sen’s Paretian liberal paradox is formulated within a mono-utility framework. The term mono-utility refers to the number of utility functions (or sets of preferences) attributed to each *individual*. This chapter argues that Rousseau’s notions of the private will, the general will and the will of all necessarily require a multiple, as opposed to a mono, utility framework. By this I mean that it requires us to attribute more than a single utility function to each individual. This chapter therefore interprets the two types of will which Rousseau attributes to individuals as two distinct *individual* utility functions. It further asserts that his notions of the will

---

3 Rousseau (1.6) p14-15.
4 Thus a mono-utility framework does not preclude the possibility of deriving a set of social preferences from these individual preferences.
of all and the general will require us to attribute two distinct sets of preferences to society.\textsuperscript{5}

Howard Margolis formulated a model of rational choice in which the individual was conceived of as having two different motivations: selfish and unselfish. Prior to this Harsanyi suggested the idea of an individual having preferences based on social considerations and those relating to what he actually prefers.\textsuperscript{6} According to Margolis, “The notion of a distinction between a person’s motivation as a private individual and as a citizen goes all the way back to Plato”\textsuperscript{7} Margolis views the individual as allocating his resources between selfish and unselfish interests rather like an individual allocates his income between alternative goods, i.e. the individual behaves as a utility maximiser but she has more than one utility function. The idea of the multiple utility framework has been discussed before: Etzioni\textsuperscript{8} and Lutz\textsuperscript{9} defend it whilst Brennan\textsuperscript{10} is opposed, taking the view that any motive can be captured by a single utility framework. Etzioni takes the view that ethical considerations require a different utility function because what gives one pleasure and what is right may well be mutually exclusive: “due to moral factors, choices do not reflect simple, one-dimensional, preferences but are multifaceted”\textsuperscript{11} Sen himself has criticised the notion of a single preference ordering as being representative of all possible interests of a person:

\textsuperscript{5} I discuss this in the next section. Brennan\textsuperscript{(1989)} p193-4 also suggests a similar interpretation.
\textsuperscript{6} Harsanyi, J. (1955), p63.
\textsuperscript{7} Margolis, H. (1981), note 3, page 266.
\textsuperscript{8} Etzioni, Amitai (1986), p159-183.
\textsuperscript{11} Etzioni, p177.
“A person thus described may be rational in the limited sense of revealing no inconsistency in his choice behaviour, but if he has no use for these distinctions between quite different concepts, he must be a bit of a fool. *The purely economic man is indeed close to being a social moron. Economic theory has been much preoccupied with this rational fool decked in the glory of his one all-purpose ordering.*"^{12}

In this paper Sen argues for the consideration of moral factors as well as self-interested ones. However, Sen adopts the mono-utility framework for the Paretian liberal paradox.

### III Rousseau’s Different Types of Will Interpreted as Separate Sets of Preferences in a Multiple Utility Framework

Rousseau refers to two types of will of society: the general will and the will of all. These are derived from two types of will of individuals: the belief of the general will and the private will. I interpret the two types of individual will as two sets of individual preferences. This implies that Rousseau is essentially working within a dual, rather than a mono, utility framework in that there are two sets of preferences attributed to each person. Instead of individuals having a single utility function from which a single utility function for society (a social welfare function) is derived, individuals have two utility functions and, depending on which set of preferences are expressed, there are two corresponding sets of social preferences. The utility

\[\text{utility} = \text{utility of preferences attributed to each person.}\]

^{12} Sen (1977), p332.
framework within which I analyse the Social Contract is summarised in the table below:

<table>
<thead>
<tr>
<th>Individual Preferences</th>
<th>Corresponding Social Preferences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Will</td>
<td>Will of All</td>
</tr>
<tr>
<td>Belief of the General Will</td>
<td>General Will</td>
</tr>
</tbody>
</table>

The above somewhat oversimplifies the utility framework in that the general will is the true will of each individual as a member of society. But the general will is established by individuals expressing their beliefs of it. It is the general will, and not the will of all, that represents the common interest of society. In other words, the general will is the analogue of the social welfare function in so far as its role of determining the common good is concerned.¹³

(i) The Private Will

An individual’s private will corresponds to the individual utility function used by economists. The preferences reflect the individual’s consideration of his own private interest, it is the individual’s selfish utility function. Although Rousseau regards people as members of society, he also acknowledges the fact that individuals are, by nature, physically separate and, as such, have a notion of themselves as individuals. It is the individual’s consideration of himself as a private individual with personal interests that explains his having a private will:

¹³ This idea is discussed in section five.
“Each individual may, as a man, have a private will contrary to, or divergent from, the general will he has as a citizen. His particular interest may speak to him quite differently from the common interest; his existence, being naturally absolute and independent.”

The above also clearly indicates that each individual has a dual role in society: as a citizen and a private individual. As a citizen, the individual is motivated by the utility of the collective, whereas as a private individual he is motivated by personal utility. A single utility function is incapable of capturing the different motivations behind these two roles. Two utility functions are required to correspond to the two roles and these are the private will and the belief of the general will. The private will relates to the individual’s role as a private individual while his belief of his general will relates to his role as a citizen.

(ii) The General Will and the Individual’s a priori Belief of it

The general will is the common interest of society. It represents the idea that there is a common interest of society which is separate from the private wants of individuals.

“the general will is always right and always tends to the public good”

The general will is something that does not alter, irrespective of the behaviour of the individual, it is “always constant, unalterable and pure”. This, and the language

---

14 Rousseau, J., p18-19.
15 Strictly speaking, the individual’s role as a member of society is two-fold: as a citizen he contributes to determining the general will and as a subject he has a duty to obey it, once established.
16 Rousseau (2.3), p28-29.
17 Rousseau (4.2), p114.
that Rousseau uses to refer to the general will elsewhere in the *Social Contract*, is reminiscent of Plato’s form of the Good. There must, in theory, be some ordering of social states consistent with this notion of good. I think of this as the *true* social welfare function which is the interest of each individual as a member of society. It is the welfare function of each individual, but could be different from any single individual’s belief of the general will (social welfare function) prior to its establishment, given the fallibility of individuals.

The general will is established separately for specific issues by asking members of society to vote on the issue in question. In the act of voting, each individual is supposed to be acting as a *citizen* rather than a private individual in that he is expressing his opinion of the common good rather than his individual private good. Each individual should be motivated by his preferences that represent his belief of the general will as opposed to his private will. Given this motivation, the view of the majority will express the general will:

“Each, when casting his vote, gives his *opinion* on this question (whether a proposal is in conformity with the General Will); and the *declaration of the general will is found by counting the ballots*. Thus, when an opinion contrary to my own prevails, this proves nothing more than that I was mistaken, and that what I thought to be the general will was not. If my private opinion had prevailed against it, I should have done something I did not intend; and it is then that I would not have been free.”\(^{18}\)

---

\(^{18}\) Rousseau, (4.3) p.118.
Owing to the fact that there is only one general will, any single individual can only have an opinion, a belief about his general will prior to its establishment. This enables Rousseau to justify subjecting all members of society to the majority view, since this is the means by which the general will is discovered whereas any single individual could be wrong. However, the general will is not axiomatically the majority view, since individuals could be expressing private wills or could be wrong in their belief of the general will. The method of majority decision is merely the most likely means of discovering the true general will. Rousseau is making an empirical assumption that the view of the majority will result in expression of the general will. He cannot guarantee that this is the case as he himself acknowledges.

The passage above continues:

“This assumes, to be sure, that all the characteristics of the general will continue to be found in the majority. When this ceases to be true, whatever action is taken there is no more liberty.”

This is problematic for Rousseau since it rather undermines his justification for rule by the majority. If he cannot guarantee that the majority view is representative of the general will, then he cannot guarantee that individuals are free under majority rule.

There is ample evidence within the Social Contract to suggest that the general will is each individual’s will even when the individual does not recognise it.

---

19 This idea is considered in more depth in section four.
20 Rousseau (4.2) p118.
“Even when he sells his vote for money, he does not extinguish but eludes the general will within him. His fault lies in changing the terms of the question, and in answering one different from the one he has been asked; with the result that, instead of saying with his vote, ‘It is advantageous to the state’, he says, ‘It is advantageous to a certain individual’.”\(^{21}\)

In the passage above, Rousseau is referring to the case of an individual being motivated by his private will rather than his belief of the general will in deciding whether or not to vote. The individual has opted to sell his vote because he is making a choice consistent with the preference ordering which represents his private will (‘It is advantageous to a certain individual’) rather than his belief of the general will (‘It is advantageous to the state’). Rousseau is saying that the fact that this individual is acting according to his private will does not change the fact that he has a general will, he is simply choosing to ignore it.

In the language of welfare economics, individuals are expressing opinions of the social welfare function (rather than privately motivated preferences) in voting. Once the actual social welfare function is established by the majority view, each individual accepts this as his own social welfare function, irrespective of whether it agrees with the opinion he expressed in his vote. This is because each individual member of society has already accepted the majority view, rather than his individual view, as representative of the general will in entering society.

\(^{21}\) Rousseau, (4.1) p115.
“Except for the original compact, *the majority always binds the minority; this is a consequence of the contract itself*”

(iii) The Will of All

The will of all is of no use as a guide to the desirability or otherwise of social states. But it replaces the general will when individuals subordinate their general will to their own private will when voting. Referring to this situation, where individuals express their private rather than their general wills when voting, Rousseau comments:

“*the general will falls silent; guided by secret motives, no one thinks as a citizen any more than as if the state had never existed; and under the guise of laws are enacted iniquitous decrees whose only purpose is to further private interests.*”

Thus the will of all is not the true interest of society, it is merely some subjective will which is an amalgam of the particular interests of all individuals. The will of all manifests itself when individuals lose sight of society as a collective body in itself and attach too much importance to their own personal interests. As a result, the general will is replaced with the will of all. However, it is important to note that the general will does not change, it does not become the will of all. It “falls silent”, society does not have knowledge of it. The will derived for society is now the will of all, thus it is of little use in furthering the social (or collective) good.

---

22 Rousseau, (4.2) p117.
23 Rousseau (4.1) p114.
The process of deriving the will of all is identical to the process of deriving the general will. But the will of all is derived from individual expressions of private, rather than general, wills. The fact that the will of all is derived from individual private wills creates a marked difference between its nature and the nature of the general will.

"There is often a great difference between the will of all and the general will; the latter looks only to the common interest, while the former looks to private interest, and is simply a sum of particular wills."²⁴

The difference between the will of all and the general will stems solely from the difference in the motivation behind the individual preferences from which they are derived.

"what makes a will general is not so much the number of voices as the common interest that unites them"²⁵

Individuals who vote in accordance with their, probably, divergent private interests are not motivated by a common interest. Without such a common interest as the motivating factor behind the preferences, there can be no general will.

²⁴ Rousseau, (2.3) p29.
²⁵ Rousseau, (2.4) p33
IV The Process of Establishing the General Will and the Link with Condorcet’s Jury Theorem

“The general will always tends to the public good; but it does not follow that the deliberations of the people always have the same rectitude”²⁶

Rousseau is unambiguously clear that the general will is the true interest of society. But he also acknowledges that individual members of society are fallible in their judgements of it. The question then remains as to how these fallible individuals are to discern their common interest. According to Rousseau, they are to do so via the method of majority decision as I noted earlier. Grofman and Feld argue that a probability result of the mathematician Condorcet supports the idea that the method of majority decision is the best means of establishing the general will.

“Two hundred years ago Condorcet (1785) recognised that majorities of individuals are likely to be more often correct than individuals”²⁷

It is also worth noting that the above enables one to understand better the apparent inconsistency between the infallibility of the general will and the fallibility of individuals. It implies that “society” is a better judge of its welfare than any single individual.

²⁶ Rousseau, (2.3) p28-29.
Condorcet’s essay on probability\textsuperscript{28} contains eleven hypotheses, the first of which refers to “the probability that there will be a majority in favour of the correct decision of a question submitted to the voters.”\textsuperscript{29} Implicit in this is the notion that there is a right and a wrong social outcome prior to voting, as is the case with Rousseau.

Condorcet finds that, as the number of voters tends to infinity, this probability tends to unity which is interpreted by Grofman and Feld as, \textit{if there is a sufficiently large number of voters, the majority decision will be the correct decision}\textsuperscript{30}. The derivation of Condorcet’s result can be found in Todhunter pages 353-355. Condorcet treats individuals as homogeneous in that he assumes them to have the same probability of making a correct decision, \(v\), which he assumes to be greater than the probability of voting incorrectly, \(e\). Grofman and Feld more realistically allow the probability of voting correctly to differ between individuals and thus the probabilities \(v\) and \(e\) are in fact average probabilities. They use the result to support Rousseau’s idea that the method of majority decision is the best means of discovering the truth.

However, the result that the majority decision will be the correct decision is entirely dependent on the premise that the individual is more likely to vote correctly rather than incorrectly. One needs to remember that the individual must be more likely to decide correctly otherwise the majority decision will not be the general will, but this is consistent with Rousseau’s warning that the majority will is not always the general will.

\textsuperscript{28} Condorcet, Marquis de. (1785)
\textsuperscript{29} Todhunter (1949), p353
\textsuperscript{30} Grofman and Feld (1988) p569-570.
“This (that the truth is the majority view) assumes, to be sure, that all the characteristics of the general will continue to be found in the majority. When this ceases to be true, whatever action is taken there is no more liberty.”

Condorcet’s jury theorem shows that a majority of individuals is more likely to be correct than any single individual in the whole group, but it is dependent on the premise that any single individual selected is more likely to be correct than wrong. I shall explain this more fully. Given a group of individuals, if it is known that the average probability of individuals choosing correctly is greater than the average probability of them choosing wrongly with regard to an issue, then the majority decision will produce the correct decision. Thus, to assume that the majority view is the truth, Rousseau needs to assume that the individual member of society is more likely than not to know the general will. I shall now return to the opening quote of this chapter:

“the general will is always right, and always tends to the public good; but it does not always follow that the deliberations of the people will always have the same rectitude”

In the light of Condorcet’s result, one is required to interpret the above quote in the following way. The general will is always right because it is, by definition, the true interest of society. The deliberations of the people, however, are not always right, but this is unimportant provided that the average probability of an individual

---

31 Rousseau, book 4, chapter 2, (4.2) p118. Brackets not in original.
32 Rousseau, book 2, chapter 3, (2.3) p28-29.
reaching the correct decision is greater that the probability of a wrong decision. This is the assumption implicit in using the method of majority decision as the process of establishing the true interest of society. However, there is no way of verifying whether this assumption holds since Rousseau provides us with no other means of knowing the general will.

V The Link between the Arrovian Social Welfare Function and the General Will

I have already discussed how the difference between the individual’s general will and his private will lies in the different motivation behind the preferences. The private will is based on self-interest, by which I mean whatever gives the individual utility. The general will is guided by what the individual believes to be the interest of society. The true will of society is deemed by Rousseau to be the majority view when individuals express their general wills. If private wills are expressed, the will of all is arrived at.

The process of establishing society’s will is similar to the process of establishing a social welfare function in that society’s will, whether it be the general will or the will of all, is derived from the views of individual members of society. The type of will established for society is totally dependent on which set of preferences is expressed by individuals. This is one sense in which the social welfare function is like a type of will for society. The other sense is in the role of the social welfare function as a standard of goodness of social states. To decide whether the social welfare function actually derived is equivalent to the will of all or the general will, there is a need to establish exactly what kind of individual preferences go into the social welfare
function. The possibility of deriving the general will stems from Rousseau's dual utility framework, it stems from individuals being able to separate the interests of society from their own interests as separate private individuals.

In his book, *Social Choice and Individual Values*, Arrow comments on both the nature of the individual preferences in the social welfare function\(^33\) and the views of Kant and Rousseau\(^34\), whose position he refers to as "idealist". It seems safe to assume that Arrow is advocating a mono utility framework since he refers to only one set of preferences for individuals. In the following discussion, I consider Arrow's comments on the nature of individual preferences and his own view of how Rousseau's general will relates to the social welfare function to establish exactly what kind of will the social welfare function represents.

Arrow's interpretation of Rousseau differs from my own in that Arrow does not distinguish between the individual's private will and his belief of the general will. My interpretation of Arrow is that the individual's private will is the will of which he is conscious and is a belief (about the general will), whereas the general will itself is an objective truth. In Arrow's view, the difference between the private and general wills is not in the motivation behind the preferences, but in the truth status of the two. I accept his point about the difference in truth status, it is only the general will which represents the individual's true welfare. The general will is closer to the truth than the private will, which is merely belief:

\(^{33}\) Arrow, K.J (1963), p23.
\(^{34}\) Arrow (1963) p81-86.
"The idealist doctrine then may be summed up by saying that each individual has two orderings, one which governs him in his everyday actions and one which would be relevant under some ideal conditions and which is in some sense truer than the first ordering. It is the latter which is considered relevant to social choice, and it is assumed that there is complete unanimity with regard to the truer individual ordering."35

Although the above quote refers to Rousseau and Kant collectively, the fact that Arrow puts Rousseau and Kant in the same set is evidence that he views Rousseau’s framework as analogous to Kant’s. Implicit in this is the view that the general will is the analogue of Kant’s moral imperative. In the last sentence above, Arrow is noting that social choice is based on each individual’s general will and that, since there is only one true general will, society will be unanimous on the true social ordering. It is important to note, however, that Arrow cannot be implying that individuals express general wills in his social welfare function since, on his view, there is only one individual will of which individuals are aware which is “corrupted by the environment”36. Arrow is pointing to the fact that there is unanimity in theory, but does not explain how such a will could ever be established if individuals are only aware of it under “ideal conditions”. I accept that the general will is in some sense a truth whereas the private will is subjective, but there is a further fundamental difference which Arrow fails to highlight. The main difference between the two wills is in the motivation behind them as well as the truth status. Rousseau is explicit

35 Arrow, K.J. (1963), p82-3.
36 Ibid, top of page 82.
that these are two different wills corresponding to an individual’s two different roles in society:

"Each individual may, as a man, have a private will contrary to, or divergent from, the general will he has as a citizen."  

In contrast, Arrow makes no distinction between the individual as a private person and the individual as a member of society, there is no recognition of the two different ends, social and individual.

It is clear from the passage below that Arrow regards the general will as the analogue of the social welfare function because he regards Kant’s moral imperative as the analogue of the general will.

"The moral imperative corresponds to our concept of the social ordering, in a sense, but it is also an individual ordering for every individual; it is the will which every individual would have if he were fully rational."  

But Arrow regards the general will as the social welfare function analogue because of the role of the social welfare function rather than the process by which it is established. This must be the case, given his view that the individual’s general will is the will that he ought to have as opposed to the will that he actually has.

Individuals must be expressing wills of which they are conscious when deriving a social welfare function, thus they must be expressing private wills. So with regard to

---

37 Rousseau (1.7) p18-19.
38 Arrow, p82.
the process of establishing the social welfare function, the Arrovian social welfare function actually established would have to be the will of all rather than the true general will.

Arrow discusses the nature of the individual orderings which go into the social welfare function earlier in his book.\textsuperscript{39} According to Arrow,

"The individual orderings which enter as arguments into the social welfare function refer to the values of individuals rather than to their tastes"\textsuperscript{40}

Arrow was discussing the difference between his social welfare function and Bergson's (where the individual orderings refer to tastes). The fact that he explicitly states that he is referring to values rather than tastes could be taken to imply that the individual orderings are broader than straightforward tastes, possibly ethical judgements could be included. But Arrow appears to view the distinction between tastes and values as unimportant by claiming that "no sharp line can be drawn between tastes and values"\textsuperscript{41} which is further evidenced by the fact that he refers to individuals' tastes on page 81 of the book. The important thing seems to be the fact that individual orderings are being used to derive a social ordering which is to represent a social value system. Arrow refers to only one ordering when referring to individuals so it seems safe to assume that he broadly accepts the standard mono-utility framework.

\textsuperscript{39} Ibid.
\textsuperscript{40} Arrow, K.J (1963), p23. Italics not in original.
\textsuperscript{41} Arrow, p24.
To conclude this section, Arrow considers the social welfare function itself to be analogous to Rousseau’s notion of the general will and Kant’s moral imperative. This is a result of focusing on the role of the social welfare function and his view that consensus amongst individuals in society is necessary to the establishment of such a function. “It must be demanded that there be some sort of consensus on the ends of society, or no social welfare function can be formed. If we deny the possibility or meaningfulness of two wills, the consensus must be found in the overtly expressed individual orderings”\(^{42}\)

However, given Arrow’s view that individuals only have one set of preferences of which they are conscious, the social welfare function actually established must necessarily be closer to the will of all.

**VI Consideration of Amartya Sen’s View of the General Will\(^{43}\)**

Runciman and Sen argue that the Prisoner’s Dilemma can be used to elucidate the difference between the general will and the will of all.

“This conflict between what seems individually better and what seems to produce the best over-all result contains, in our view, the essence of Rousseau’s distinction between the “will of all” and the “general will”. The “general will” of the prisoners is to avoid confession, but each person’s “particular will” is to confess.”\(^{44}\)

\(^{42}\) Arrow, p83.
\(^{44}\) Runciman and Sen, p555-556.
Runciman and Sen’s claim is that, in the case of the prisoner’s dilemma, the Pareto optimal outcome where neither prisoner confesses is the general will of society, but the Pareto inferior outcome where both confess is the will of all. My main objection to their interpretation is that it ignores the fundamental difference between the general will and the will of all, the difference in motivation behind the preferences. Runciman and Sen are arguing that individuals only have a private will which is reflected in their individual preferences.

“Our interpretation (of Rousseau) does not require us to impute to each person more than a single set of orderings...each person has (as in Rousseau) a single and consistent aim”\(^45\)

I do not share their view that *The Social Contract* can be interpreted as a mono-utility framework. Ironically, what Runciman and Sen refer to as the general will, with reference to the Prisoner’s Dilemma, is actually closer to the will of all. This must necessarily be the case given their view that each individual has “a single and consistent aim”, i.e. each individual has a private will but not a general will. Runciman and Sen’s view is that a general will is associated with a society rather than an individual. Individuals have private wills whilst societies have general wills which are derived from individual expressions of private wills. In my view, rather than elucidating the nature of what the general will is, the mono-utility framework which is implicit in their analysis confuses the issue.

\(^45\) Runciman and Sen, p557. First bracket not in original.
Runciman and Sen identify the general will with the Pareto optimal outcome, but the Pareto optimal outcome can only be defined with reference to some given preferences. They are essentially saying that the general will is the Pareto optimal outcome based on individual expressions of private, not general, wills. They appear to have missed the fundamental point that the general will can only be determined when each individual’s vote is motivated by the social good, rather than his own private good, a point which is supported by Grofman and Feld.

“Rousseau believed that the most certain route to finding the general will was one in which individuals were primarily oriented toward the general will rather than to their own narrow self-interest.”

The problem of the general will reflecting the will of all arises precisely when individuals lose sight of the good of society and express a preference which reflects their consideration of themselves as private individuals. In other words, it is when the individual has the sole aim of furthering his own interest that the will of all, rather than the general will, is arrived at.

“When a law is proposed in the assembly of the people, what the voters are being asked is not precisely whether they do or do not approve of the proposal, but whether or not it is in conformity with the general will, which is their own.”

---

47 Rousseau (4.2), p117-8.
The idea that the general will is the will of each individual is central to Rousseau's social contract as I noted before. Runciman and Sen's view is that each individual is unaware of the true interest of society because he is pursuing his own individual aim. In the case of the prisoner's dilemma, the Pareto optimal social state will only be realised if the individuals collude. It therefore follows from Runciman and Sen's view of the general will that, in order to realise society's general will, individuals must be forced to collude:

"the conflict between the will of all and the general will arises...because of the difference between the outcome of individual strategy and of enforced collusion which arises under the conditions of the non-co-operative, non-zero-sum game"\textsuperscript{48}

But this is to ignore the fact that the fundamental difference between the will of all and the general will lies in the motivation. Runciman and Sen believe that enforced collusion is what Rousseau means when he claims that individuals should be "forced to be free". In their view, realisation of the general will may require individuals to be forced to collude.

"This (the Prisoner's Dilemma) gives immediate and plausible sense to Rousseau's notion of the members of a society being "forced to be free"\textsuperscript{49}

But Rousseau's idea was that individuals are free in the sense that the general will is each individual's will, like another utility function. They are "forced" in the sense that they can be wrong about their general will. But the idea that they are free stems

\textsuperscript{48} Runciman and Sen page 557.
\textsuperscript{49} Runciman and Sen p556.
from each individual having a general as well as a private will. Without the general will as an individual utility function, there can be no sense in which individuals are free when the general will is imposed. If the general will were nothing more than the Pareto optimal social state as Sen and Runciman suggest, there would be no sense in which individuals would be free, they would merely be “forced”.

Further, the idea of collusion being required to realise the general will is in contrast to Rousseau’s idea that individuals should deliberate independently in order to discover their true general will. Rousseau took the view that the individual was more likely to be corrupted if he allowed his belief of the general will to be influenced by others. He took the view that each individual citizen should express his own opinion of the general will and not be influenced by anyone else. To ensure that each individual expresses his own true general will, there should be no communication between individual members of society.

“If the people were sufficiently well-informed, and if in their deliberations the citizens held no communication with one another, the general will would always result”

Thus, according to Rousseau, independent, individual deliberation is a necessary condition for finding the general will, in contrast to Runciman and Sen’s view that it may require “enforced collusion”. A lot of the confusion stems from Runciman and Sen’s use of a problem which involves independent individual choice (the Prisoner’s Dilemma) to discuss a notion which relates to the social good. The general will is

50 Ibid.
more closely analogous to the role of the social welfare function as I discussed in section five above.

**VII The Existence or Otherwise of a Private Sphere**\(^{51}\) of Choice

*for Individuals in The Social Contract*

Within Sen’s framework, *every* aspect of the social state is determined by the social welfare function, i.e. every aspect is determined by the collective, society, rather than by the individual. In this sense, every aspect of the social state is, in fact, public. I am putting to one side any normative judgements about what ought to be private and public and considering what *in fact* is the case. The fact that all aspects of the social state are, without exception, determined collectively essentially makes them all public. No aspects are privately determined in that no aspects are actually chosen by individuals. But Sen could still incorporate some kind of private sphere within this framework if he made the Paretian value judgement subordinate to the liberal one. He does not do this. In Sen’s framework, individuals are only allowed their private preferences to be reflected in social choices if these are unopposed by Paretianism. Paretianism and liberalism have equal status in Sen’s problem, where they are in conflict, no social choice can be made. The liberal idea of giving individuals a private sphere is contingent on this being unopposed by Paretianism. This is why I shall refer to Sen’s liberal right as *Pareto-contingent.*

---

\(^{51}\) By this I mean a private sphere of choice within which individuals are free to exercise their own private wills.
The dual preference framework has already been outlined. Individuals have two sets of preferences: one private and one public which correspond to the individual’s private and general wills. The ability of an individual to express his private will is clearly contingent on him being given a private sphere within which he is allowed to make private choices. This section considers whether there is a private sphere of choice for individuals in 'The Social Contract' and, if so, what type of sphere it is.

There are two possible scenarios.

(i) There is a distinction between private and public aspects of the social state. Private aspects are determined by individuals, public aspects by society’s general will. Individuals have a private sphere within which they can exercise their private wills independently of the views of others. This is an absolute right to liberty, it is similar to John Stuart Mill’s notion of a private sphere.

(ii) There is a general will contingent liberal right analogous to Sen’s Pareto-contingent liberal right. All aspects of the social state are determined by the general will, but the general will may decide that individuals ought to be allowed to determine some aspects for themselves. There is only a private sphere if the general will allows it, the private sphere is subordinate to the general will. In the case of a Sen-type conflict, the general will determines the social outcome and the notion of a private sphere goes.

---

52 Mill, J.S (1993b), I am here referring to a private sphere of individual choice which is absolute, i.e. one which exists irrespective of the preferences of other individuals.
Possible evidence for each of the above scenarios is considered below. The possibility of a Mill type private sphere is considered and ultimately rejected in favour of a private sphere which is general will contingent.

(i) Arguments for a Mill Type Private Sphere

One could argue that the fact that Rousseau distinguishes between two types of will is suggestive of an analogous distinction between private and public domains of choice. Although Rousseau is explicit that the distinction between the two types of will is in the motivation behind the preferences, it could be argued that the distinction would be futile if individuals were not able to exercise their private wills. Perhaps it could be viewed as strange for Rousseau to acknowledge the existence of a private will in individuals but not allow them any opportunity to exercise it.

Rousseau’s identification of the (i.e. society’s) general will with each individual’s general will makes it very difficult to ascertain whether there are any aspects of the social state which are private, in fact, i.e. which are determined by individuals. A passage such as the one below could, erroneously, be interpreted as implying that the individual retains control over some choices. But such an interpretation ignores the dual utility framework, the fact that the general will is the true will of each individual. Such passages do not provide evidence for a private sphere, given Rousseau’s concept of the general will. They merely emphasise the curious nature of the general will and its role in reconciling individual liberty with the social good.

"To renounce your liberty is to renounce your very quality of manhood; it is to renounce not only the rights, but even the duties of humanity. There can be no
possible compensation for anyone who renounces everything. Such a renunciation is incompatible with the nature of man.\textsuperscript{53}

To provide evidence of a private sphere of choice one needs to show that individuals still retain some natural liberty in the civil state, i.e. that the individual is able to exercise his private will. The passage below is a clear acknowledgement of this. It is possibly the only passage that suggests that individuals have an \textit{a priori} right to a private sphere of choice as separate persons ("men").

"In addition to the public person, we have also to consider the private persons who compose it, and whose life and liberty are \textit{naturally} independent of it. The problem is, therefore, to distinguish clearly between the respective rights of the citizens and of the sovereign; and between the duties the former must fulfil in their capacity as subjects, and \textit{the natural rights they must enjoy in their capacity as men}"\textsuperscript{54}

The following passage suggests that the general will only applies to a specific domain, the public domain.

"The general will changes its nature when directed toward a \textit{particular} object, and cannot, without ceasing to be general, pronounce on any individual or fact"\textsuperscript{55}

Issues which only affect specific individuals appear to be outside of this domain, i.e. within a \textit{private} sphere of choice. The clearest indication of a Mill type right is in a footnote in book four where Rousseau quotes the Marquis d’Argenson. The

\textsuperscript{53} Rousseau (1.4) p9.
\textsuperscript{54} Ibid.
\textsuperscript{55} Rousseau (2.4) p32.
comment could have come straight from the pages of Mill’s ‘On Liberty’:

"In the republic’, says the Marquis d’Argenson, ‘everyone is perfectly free to do anything that does not harm others.’ That is the invariable boundary-line; it cannot be more accurately defined."56

It is clearly indicative of a negative notion of liberty, i.e. the absence of interference. Rousseau’s use of the expression “boundary-line” is suggestive of distinct spheres of private individual action. Given that the language used in this passage is the closest to Mill’s own description of the private sphere, it is ironic that the accompanying passage in the text itself implies that the right of individuals to a private sphere is not independent of the general will:

“The right which the social compact gives the sovereign does not go beyond the bounds of public utility”57

If the “invariable boundary line” is “public utility”, as the above suggests, then this implies that any private sphere of choice is subject to the general will. If, for example, the public judge that it is in the common interest that an individual is denied the right to read a book, then this right would be denied.

(ii) Arguments for a General Will Contingent Private Sphere

There is much evidence in ‘The Social Contract’ to suggest that it is the community that determines the extent of the individual’s liberty.
“Under the social compact, what each individual alienates is that part only of his power, goods and liberty which the community needs for its own use; but it must also be agreed that the sovereign alone is judge of that need.”58

The individual retains some natural liberty provided the community allows it. It seems reasonable to assume that private aspects such as one’s colour of dress, one’s reading material would not be “needed” by the community and would, therefore, be left to be determined by the individual concerned. But it is theoretically possible that society’s general will would not allow a private sphere to individuals. Sen’s Lady Chatterley example would illustrate this provided the individual preferences were expressions of beliefs of the general will. There is no guarantee that individuals will retain a private sphere of choice, Rousseau provides us with no a priori justification for the private sphere. This passage unambiguously supports the individual right to a private sphere being general will contingent as does the one below:

“All the services a citizen can render the state are owed to it as soon as the sovereign requests them; but the sovereign cannot burden the subjects with any restraints which are useless to the community”59

It seems reasonable to infer that aspects of the social state such as reading, choice of clothes, etc. would be “useless to the community” and thus privately determined by individuals without interference from the state. However, there is still the theoretical possibility that the “community” views, for example, the reading of certain material as not in the common interest, in which case such material would be denied to individuals.

58 Rousseau (2.4) p31.
59 Ibid.
The second chapter of book two supports the view that all rights depend for their existence on the general will:

"The rights which are taken for parts of sovereignty are all subordinate to it, and always presuppose the existence of a supreme will which these rights merely put into execution." 60

Thus any private sphere of choice is subordinate to the general will. Rousseau is unambiguously clear that all individual rights depend for their existence on the general will. This is further supported in the passage below

"If the individuals retained certain rights, each would be his own judge in certain matters, and would soon claim to be so in all; the state of nature would continue, and the association would necessarily become tyrannical and meaningless." 61

Thus there can be no absolute rights to a private spheres of choice, i.e. rights which are independent of the general will, because if there were such a absolute rights, then these rights could conflict with the general will. In cases of such conflict, these absolute individual rights would make society worse off. This follows from the fact that the general will is the common interest of society, the true will of each individual. In other words, the private will is subordinate to the general will, thus any private sphere of choice is subordinate to the general will. The fact that the general will is the will of each individual also enables Rousseau to argue that to deny

60 Rousseau (2.2) p27.
61 Rousseau (1.6) p15.
individuals a private sphere of choice is not tantamount to denying them freedom. It merely implies that an absolute private sphere of choice may not be consistent with their general will, i.e. that it may deny them civil freedom, which is better than natural freedom. Thus it is better that they do not have such an absolute private sphere because it could interfere with civil liberty.  

VIII The Notion of Freedom Within this Dual Utility Framework

The dual utility framework has implications for the notion of freedom. Since the individual has a general as well as a private will, there is no reason why he should be less free when ruled by his general rather than his private will. My point is that a private domain of choice in which individuals exercise their private wills is not necessary for individual freedom, given a dual utility framework. Within Sen’s mono-utility framework, it is necessary because each individual has only one utility function. There are two types of freedom implicit in Rousseau’s Social Contract corresponding to whether one is ruled by one’s private or one’s general will. Rousseau refers to the two types as natural liberty and civil liberty respectively. The fact that the general will is “always right” and “always tends to the public good” whereas the private will is not necessarily in the interest of the individual, implies that the utility framework is hierarchical. The private will is subordinate to the general will and therefore civil liberty, where individuals are ruled by the general will, is better for them than natural liberty. This explains why individuals agree to the social contract in the first place, civil freedom is better than natural freedom. In entering the social contract, individuals are trading natural liberty for civil liberty which makes them better off.

62 The two types of liberty in The Social Contract are discussed in the following section.
“Although in this (civil) state he (man) loses many of his natural advantages, he gains so many in return, his faculties are exercised and developed, his ideas are broadened, his sentiments ennobled and his whole soul elevated to such an extent that if the abuses of his new condition did not often degrade him beneath his former state, he ought unceasingly to bless the happy moment which wrested him forever from it, and turned him from a stupid and limited animal into an intelligent being and a man.”

It is important to note that entering society does not preclude the possibility of individuals being able to exercise their private wills, but such a sphere of choice is dependent on the general will allowing it.

There is also a moral element to the general will. The notion of reason is important; it is a considered judgement:

“along with the civil state, man acquires moral liberty, which alone makes him truly master of himself; for impulse of mere appetite is slavery, and obedience to self-imposed law is liberty.”

Implicit in the view that civil freedom is better than natural freedom is also the idea that individuals are more free when acting according to reason rather than want. The above quote indicates that Rousseau is of the view that an individual is controlled by his desires when given a private domain of choice in which to pursue them. In this sense, to give an individual the liberty to respond to his private will is paradoxically to enslave him to his personal desires. His private will is not necessarily in his

---

63 Rousseau, (1.8) p20.
64 Ibid.
interest, it is merely his subjective wants. But his general will is necessarily in his
interest as a member of society. This supports the argument presented in section
seven, that natural liberty is only permitted to an extent that does not conflict with
the general will.

IX An Interpretation of the Paretian Liberal Paradox in the
Light of Rousseau’s Notion of the General Will

The notion of the general will and its place in this hierarchical utility framework
could be thought of as implying the value judgement that ‘society’ is a better judge
of its welfare than the individual. I shall explain in more detail what I mean by this.
The set of preferences reflecting the general will is representative of the true interest
of society. Any given private will, however, is not necessarily so. Two key things
are necessary to discover the general will: individuals must be motivated by the
common interest in voting and the view must be held by a majority of them with
unanimity being the ideal.

"the more agreement there is in assemblies, the more nearly unanimous their
opinions are, the more also does the general will prevail"65

Thus ‘society’ can know the general will but a single individual can only have a
belief of it, it requires all members of society to establish it, to discover it.

65 Rousseau, (4.2) p116
“When an opinion contrary to my own prevails (in the majority view), this proves nothing more than that I was mistaken and that what I thought to be the general will was not.”

Only the general will is representative of the public good. Therefore, ‘society’ (the collection of individuals) is a better judge of its welfare than the individual. The link with a Paretian social welfare function should now be clear. The Paretian social welfare function represents the view of ‘society’ because it reflects the unanimously held view. Provided the individual preferences are motivated by the common interest, provided they represent individual beliefs of the general will, the Paretian social welfare function is representative of the general will. This follows from the passage which I have quoted above.

Given my argument that any individual private sphere is contingent on the general will, presented in section seven, liberalism is subordinate to Paretianism. Thus one ‘Rousseauian’ resolution to the Paretian liberal conflict is the following. Condition P has priority, provided that the motivation underlying the individual preferences is the common interest rather than the individual’s private interest.

I shall now explain this in relation to Sen’s ‘Lady Chatterley’s Lover’ example. There are two possible resolutions depending on whether the preferences expressed represent individual private wills or beliefs of the general will. It is more likely that

---

66 Rousseau (4.3) p118
67 The analogy between the general will and a social welfare function satisfying condition P is one of two possibilities. There is also a possible analogy with a social welfare function which is based upon both P and L. I explore this in the concluding section. The fundamental point is that the general will acts as a social welfare function.
68 Sen, A.K. (1970b) I discuss this example in section two of chapter one.
they represent private wills, given the mono-utility framework and the actual preferences expressed. However, I shall first assume that the underlying motivation is the common interest. The resolution in this case is obvious. The unanimous view of society is that it is better that Prude reads the book, i.e. better that he is denied a private sphere of choice over his reading. Allowing Prude the freedom to determine for himself whether or not he reads the book would not, therefore, be allowed by the general will. Society is deemed to be the better judge of its welfare, therefore, the Paretian view would prevail.

However, it is far more likely in this particular example, given the mono-utility framework, that the preferences expressed reflect private wills, i.e. each individual is motivated by his own private interest. In this case, the Sen paradox represents a conflict of private wills. Individuals are not expressing preferences as citizens, each is solely considering his own private interest. Given this motivation, the Paretian judgement must necessarily represent the will of all as opposed to the general will. In this case, the denial of a private sphere of choice for Prude (the Paretian judgement) is not an expression of the general will but an “iniquitous decree”:

"the general will falls silent; guided by secret motives, no one thinks as a citizen any more than as if the state had never existed; and under the guise of laws are enacted iniquitous decrees whose only purpose is to further private interests."69

In my view, it is the above that depicts what is going on in the Sen paradox.

69 Rousseau (4.1) p114.
Individual preferences merely reflect selfish wants, thus the Paretian judgement, that individuals should be denied a private sphere of choice, represents the will of all. The Paretian judgement thus denies individuals both civil and natural liberty. They have no civil liberty because they are not being ruled by the general will and no natural liberty because they are denied a private sphere of choice. One can also, therefore, interpret the Paretian liberal conflict as an example of the problems that can be caused when the will of society, the collective decision, is not representative of the general will. Rousseau himself acknowledges that, when the majority view is not representative of the general will, individuals would be more free in the state of nature.

“This (that the truth is the majority view) assumes, to be sure, that all the characteristics of the general will continue to be found in the majority. When this ceases to be true, whatever action is taken there is no more liberty.”

The problem all hinges on the motivation behind the individual preferences expressed in the act of voting. “Society”, i.e. a Paretian social welfare function, is only a better judge of its welfare if each individual member has a notion of the common interest. If individuals are purely selfishly motivated, Sen’s condition P does not represent the interest of society, the general will is “silent”, and individuals would actually be better off making independent decisions.

---

70 Rousseau (4.2) p118.
X Conclusion

Sen has established the result that, if we attempt to construct a social welfare function which satisfies both conditions P and L, then such a function may not exist.

If one is to interpret the exercise as an attempt to discover the general will of society, then one is committed to responding by dropping either of the conditions P or L. This is because the general will always exists by definition, so there must exist some social welfare function which is representative of it. (In other words, one is committed to the concept of a social welfare function.) The discussion of section seven of this chapter suggests that Rousseau was of the view that a private sphere of choice for individuals may well be an aspect of the general will. There can be no absolute rights to such a sphere, given Rousseau’s view that all rights depend for their existence on the general will, but Rousseau clearly viewed such a sphere as important. This would provide a rationale for imposing Sen’s condition L upon the social welfare function in addition to condition P. However, given Rousseau’s view that unanimity is the best means of discovering the general will, if P and L were to come into conflict, then it would be L that would be abandoned. Condition L would go, but with no loss of individual liberty, on the basis that the social welfare function established is a welfare function of each individual. Thus it is this idea of dual utility, that each individual has two sets of preferences corresponding to her private and common interest, which resolves conflict between liberty and social welfare.

---

71 See section seven (part ii) of this chapter.
However, the success of this dual utility device in resolving conflict between liberty and social welfare rests upon whether or not individuals will express their general, as opposed to their private, will. If the preferences that go into the social welfare function are private wills (i.e. rankings motivated by private good), then the social welfare function is not representative of the common interest, but is the will of all. The will of all, however, is not a welfare function of each individual (because it is not the general will.) Thus when the social welfare function represents the will of all, “whatever action is taken, there is no more liberty”\(^{72}\). Rousseau’s problem is that he can provide us with no way of knowing that the social welfare function is representative of the general will rather than the will of all.

In the light of Sen’s result, one possibility suggests itself: Where conditions P and L come into conflict, it might be interpreted as indicating that individuals are actually expressing preferences which reflect private wills, not views of the general will. The denial of some minimal private sphere of choice could be interpreted as an “iniquitous decree”. If Rousseau had been unambiguously clear that some minimal natural rights were an aspect of the general will, then this would be a possible interpretation: failure of the social welfare function to satisfy L could indicate that individuals are failing to “see” the general will. On this view, the dual utility device implies that there will always exist a social welfare function satisfying conditions P and L, provided individuals are motivated by the common interest as opposed to their own private interests.

\(^{72}\) Rousseau (4.2) p118.
However, given the ambiguity in Rousseau’s discussion of a private sphere of choice and Rousseau’s insistence that unanimity is the best way of discovering the general will, I feel the preceding paragraph is not an accurate reflection of his view. Rousseau’s position is actually more straightforward. He acknowledges the problem (that individuals might express private as opposed to general wills when voting), but provides no solution. He instead assumes that the will of the majority *does* reflect the general will. Thus one can think of a social welfare function which is based upon condition P as representative of the general will. Such a welfare function may or may not allow a private sphere of choice for individuals, but where it does not, this is not important because the social welfare function is the true welfare function of each individual. Rousseau is often associated with the idea of being ‘forced to be free’, and the way that he uses the dual utility device can help us to understand what he means by it:

“....anyone who refuses to obey the general will shall be forced to do so by the whole body; which means nothing more or less than that he will be forced to be free.”73

It is this idea of being forced to be free which is fundamental to the way that Rousseau resolves conflict between liberty and social welfare. The only way that Rousseau can reconcile liberty with dominance of the social welfare function is to

---

73 Rousseau (1.7) p19.
argue that it is the welfare function of each individual. It is the general will that represents the individual’s true welfare, not his private will, and it is this sense that Rousseau’s resolution rests upon the idea that ‘society’ is a better judge of welfare than any single individual.
CHAPTER THREE: UTILITARIANISM AND LIBERTY:

THE CASE OF J.S. MILL

"It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, are of a different opinion, it is because they only know their own side of the question."

I Introduction

The pertinence of the thought of John Stuart Mill to the debate on the Paretian liberal paradox lies in the fact that Mill is committed to utilitarianism as an ethical theory, yet also advocates an absolute right to liberty:

"....the only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence (of choice) is, of right, absolute...... I forgo any advantage which could be derived to my argument from the idea of abstract right, as a thing independent of utility. 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 man as a progressive being...."

The above passage summarises the essentials of Mill’s position: Individuals have an absolute right to liberty in matters which do not harm others, but it is not liberty which is the fundamental value judgement, but utility. Mill’s problem, therefore, is

to argue for such an absolute right to liberty whilst adhering to the view “that happiness is desirable, and the only thing desirable, as an end; all other things being only desirable as means to that end.” There is an obvious link here with the Paretian liberal paradox in that condition L is motivated by this concern for individual liberty and condition P is consistent with the objective of aggregate utility maximisation (where utility is synonymous with preference satisfaction). Sen has presented us with the result that it is impossible to construct a social welfare function which incorporates these two conditions (value judgements). Therefore, as a utilitarian advocating an absolute right to liberty, Mill would have also had to deal with this logical problem. Writers within the social choice literature referring to Mill have tended to focus on the issue of whether Sen’s formulation L adequately captures what Mill meant by a right to liberty and whether a way out of the paradox can be found by considering Mill’s notion of liberty. This chapter shows how Mill reconciles an absolute right to liberty in private matters with the idea that there is only one fundamental value judgement, utility, by analysing Mill’s notion of utility as a hierarchical utility framework. It argues that it is his hierarchical notion of utility, distinct from the idea of utility as the satisfaction of existing preferences, which is crucial in reconciling utility with liberty.

5 The only writer to suggest the possibility of such a preference hierarchy in relation to Mill to my knowledge, is Brennan (1989). The hierarchical framework which I develop here, however, differs from Brennan’s in that liberty is the necessary condition for preference development. In the framework presented here, individuals choose to develop their preferences and thus make themselves better off. Brennan’s analysis suggests that the preference hierarchy follows from the idea that there is a difference in quality between certain types of pleasure which is somewhat unutilitarian. I discuss his comments later.
There is a sense in which Mill’s utility framework is akin to the revealed preference theory of microeconomics: the judge of utility is said to be the individual, the test of utility is the revealed preference of individuals. However, there is a fundamental difference between modern revealed preference theory and a ‘Millian’ notion of utility. The revealed preference theorist passively accepts individual preferences as brute facts, whereas Mill does not. Mill places importance on the individual’s development of his tastes or preferences; the mere satisfaction of existing preferences is not sufficient for individual utility maximisation. It is the importance that Mill places on the development of individual preferences (‘higher faculties’) that makes the notion of individual liberty so fundamentally important to his notion of utility. Individuals develop their preferences through critical thought, reflection and making choices, which makes them better off. Liberty, therefore, is the necessary condition for preference development and thus utility maximisation. Thus it is better to be dissatisfied ‘Socrates’ as opposed to a satisfied fool.

In making individual liberty a necessary condition for the development of individual preferences (and thus maximisation of utility), Mill has essentially pre-empted any possibility of conflict between utilitarian and liberal value judgements. However, whether or not Paretian liberal conflict is resolved is dependent on the extent to which Mill’s particular view of utilitarianism is consistent with Paretian value judgements.

The rest of this chapter is structured as follows: Section two argues why Mill’s notion of utility should be interpreted as a hierarchical utility framework and develops this framework. Section three contrasts this notion of utility with Pareto’s
notion of utility ('ophelimity') as the satisfaction of existing preferences. The extent to which maximisation of utility (in Mill’s sense) is consistent with a Paretian approach to social welfare is discussed in section four. Section five discusses the Paretian liberal paradox in the light of the analysis of Mill’s notion of utility, whilst section six considers the influence that Mill’s thought has had on the social choice literature. Section seven provides more detailed discussion of the idea of social welfare. Finally, concluding comments are presented in section seven.

II Mill’s Notion of Utility Analysed as a Hierarchical Utility Framework

This section argues that Mill’s ‘model’ of utility can be construed as a preference model of utility, but as one that differs in important respects from the conventional preference model of economic theory, described by Haslett below:

"According to the preference model, utility is preference-satisfaction........
what increases or decreases one’s utility is a matter solely of what one oneself prefers." Haslett continues, that the preference model places "no limitations at all on what preferences the satisfaction of which supposedly increase a person’s utility, and are thus in the person’s interests".

Implicit in both the above quotes are Paretian value judgements. The individual is the best judge of his own welfare or interest and individual preferences are not questioned, but passively accepted. Preference satisfaction is good. The fundamental difference between the above framework and Mill’s notion of utility is in the first

---

6 Haslett (1990), pp. 69, 70.
italicised quote above, ‘utility is preference satisfaction’. Mill’s notion of utility is 
not merely preference satisfaction, but Mill does make reference to what can be regarded as a set of individual preferences or utility function (‘faculties’ in the passage below). Further, the individual’s notion of ‘happiness’ is clearly dependent on these ‘faculties’ which is analogous to the modern notion of utility and the individual utility function:

"human beings have faculties more elevated than the animal appetites, and when once made conscious of them, do not regard anything as happiness which does not include their gratification"\(^7\)

To put the above quote in context, Mill was responding to the charge that utilitarianism was a "doctrine worthy only of swine"\(^8\). His defence, interpreted in terms of the preference model, was that human beings and swine have different utility functions and therefore that from which they derive utility differs. At this point in ‘Utilitarianism’, Mill goes no further than that. This is the essential similarity between the single preference model paradigm of economic theory and Mill’s notion of utility. The difference lies in Mill’s refusal to accept preferences as brute facts making the notion of utility broader than satisfaction of existing preferences. The passage above is discussed further at the end of this section after developing a preference model to represent Mill’s notion of utility.

\(^8\) Mill, p7.
Mill’s model of utility is dynamic in that preferences are not static. Individual liberty provides the individual with the opportunity to change his preferences so that they become “better”. Mill is able to incorporate such an idea within a utilitarian framework by arguing that the individual who has developed his preferences prefers his situation post-preference development to his situation prior to it. In other words, although utility is no longer synonymous with preference satisfaction, the ‘revealed preference’ idea still underlies the notion of utility. Before exploring the role of revealed preference, I discuss Mill’s distinction between happiness and ‘content’. The distinction between happiness and ‘content’ is of fundamental importance to Mill’s model of utility. The most illuminating comment on the difference between these two ideas to date is provided by T. Miles:

“In Mill’s sense, a person is ‘content’ if all their appetites for pleasure are satisfied”

Provided one interprets “appetites for pleasure” in the above as an individual’s utility function, it is illuminating in understanding what Mill means by “content”. In terms of a preference model of utility, ‘content’ is the extent to which one’s individual utility function, or set of preferences, is satisfied. The notion of utility (happiness), however, is broader than this.

---


'It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, are of a different opinion, it is because they only know their own side of the question.'\[11\]

Miles' interpretation of the above is as follows:

"A pig has the capacity to enjoy very few pleasures, and thus is easily content, whereas Socrates has the capacity for many pleasures and thus may well be more often discontent, but is nonetheless capable of greater happiness."\[12\]

Again, provided 'capacity for pleasure' is interpreted as set of preferences or utility function, Miles' view of 'content' is entirely consistent with my preference model interpretation outlined below:

The fool, or the pig, has a very simple utility function (set of preferences). He is not a critical thinker (for he is a fool), he merely requires sufficient income to enable him to afford the material means to satisfy his simple wants such as food, drink and sensual pleasure. Socrates' utility function is far more complex than the fool's because he is more intelligent, he thinks critically. He is thus less likely to be satisfied, but he still considers himself better off (more utility). Socrates has increased his utility by actually changing his utility function into one which he ultimately prefers to the one he had initially, prior to learning, despite the fact that he is now less content. Since he prefers the transformed utility function, he must derive more utility from it. In terms of modern rational choice theory, Mill is essentially providing us with a revealed preference argument as to why the transformed utility

\[12\] Ibid.
function provides the individual with more utility than the initial utility function. Socrates has experience of both utility functions and prefers his utility function post-education. If the fool should claim to prefer being a fool to being Socrates, this can be ignored essentially because 'being Socrates' is outside the fool’s feasible set. The fool has no experience of what it is to have the preferences of 'Socrates' (he 'only knows his own side of the question').

Essentially, the individual is still sovereign, but his preferences are not. The individual is revealing a preference for having a set of preferences. The revealed preference basis for Mill's notion of utility, and the fact that it is distinct from 'content' is again brought out in the passage below:

"no intelligent being would consent to be a fool, no instructed person an ignorantus, no person of feeling and conscience would be selfish and base, even though they should be persuaded that the fool is better satisfied with their lot than they are with theirs. They would not resign what they possess for the most complete satisfaction of all the desires which they have in common with theirs."\(^\text{13}\)

The fool is more satisfied because he is an unquestioning fool and it is thus easier to satisfy him. But, once the individual has been able to change his utility function (via, say, education) such that he thinks critically and questions, he is less likely to be satisfied since his wants are more complex, but he prefers this situation to the one previously where he was uneducated. The educated individual is essentially

expressing a preference for a utility function (set of preferences). There is nothing
pervasive in this idea of the educated individual being better off, i.e. having more
utility, than he had prior to education provided one lets go of a narrow idea of utility
as contentment or some Benthamite pleasure index. The individual is still sovereign,
but his preferences are not.

Timothy Brennan cites Mill’s notion of utility as an example of a hierarchical
preference structure\textsuperscript{14}, but Brennan’s interpretation of the above passage is somewhat
confusing. My point is that, in the above passage, \textit{Mill is providing a hypothetical
revealed preference argument for the hierarchical utility framework itself}, a revealed
preference argument as to why the \textit{utility function} (set of preferences) of Socrates is
better than that of the fool. Essentially, it is better because the educated individual
would not consent to be a fool, he prefers being educated. Brennan, however,
misleadingly suggests that the hierarchy applies to the ‘pleasures’ themselves rather
than the preferences:

“An educated person may be no more capable of deriving pleasure from mud
wrestling than an uneducated person is from opera. If education precludes deriving
pleasure from the activities of the fool, there is no ‘revealed preference’ for the
‘higher preferences’\textsuperscript{15}

The confusion is exacerbated by the fact that Brennan uses the term ‘higher
preferences’ where what he is talking about are actually (higher) \textit{pleasures}. Brennan

\textsuperscript{15} Ibid, Note 2, p191.
is taking the utility function of the educated individual as given and considering his choice of 'pleasure'. This is quite different to the question addressed by Mill which is whether an educated individual ‘would consent to be a fool’. Being a fool means having a fool’s utility function, not experiencing a fool’s pleasures as an educated individual. The educated individual can reveal a preference for being educated since he has experience of both, but the fool cannot since he only has experience of being a fool (he ‘only knows his own side of the question’).

Thus the utility (preference) framework is hierarchical. This is the feature which distinguishes Mill’s notion of utility from the mono-utility paradigm of economic theory. Although each individual only has a single set of preferences at a given point in time, this set of preferences can in some cases be transformed into a set which is better. This is the distinguishing non-Paretian aspect. Individual preferences are not passively accepted as brute facts, they are not viewed as equally good. The link between Mill’s model of utility and Paretian value judgements is explored in the next section.

I shall now return to the passage relating to the different ideas of happiness of human beings and animals, noted at the start of this section[^16]. I used this passage at the beginning of the section to highlight the fact that Mill does make reference to some kind of individual preferences or utility function. But the passage can also be used to further illustrate the role of the revealed preference idea in his model of utility. Mill notes that human beings ‘when once made conscious’ of their ‘more elevated’

faculties 'do not regard anything as happiness which does not include their gratification'. This italicised phrase is the key as to why human beings or intelligent individuals are the judge of which set of preferences is 'better' and not the fools. The fool is not conscious of what it is to have a more complex utility function, this experience is, therefore outside his feasible set. It is thus impossible for him to reveal a preference for being a satisfied fool since he is incapable of experiencing being a dissatisfied educated person ('dissatisfied Socrates'). The educated human, however, is 'conscious' of both experiences, both are within his feasible set, and thus one can infer from his preference which of the two sets of preferences gives him more utility (which is better.) There are a few qualifications which need to be made in using the revealed preference idea to understand Mill’s notion of utility. Firstly, we are not talking about revealing a set of preferences in actual choice, but the inference of a set of meta-preferences, i.e. preferences over preferences\textsuperscript{17}. It is the meta-preferences which are analogous to the preferences of the revealed preference theory of microeconomics. In terms of Mill’s fool and Socrates example, Socrates has a meta-ranking but the fool does not because he only has knowledge of his own utility function. Mill’s notion of utility can be understood as going beyond preferences to a higher order preference. Utility is meta-preference maximisation. The idea of meta-preferences has been explored by Amartya Sen who comments, “Morality would seem to require a judgement among preferences whereas rationality would not”\textsuperscript{18}

\textsuperscript{17} As well as exploring the philosophy behind the revealed preference approach, Sen has also explored the possibility of higher order preferences (preferences over preferences) which he refers to as "meta-rankings". See ‘Rational Fools: A Critique of the Behavioural Foundations of Economic Theory’ in ‘Choice, Welfare and Measurement’, p84-106 and note 18 below. Further references to literature on preferences over preferences are contained in Brennan (1989).

\textsuperscript{18} Sen, Amartya (1982) p75.
One could use Sen’s comment above to argue that Mill’s preference framework is entirely consistent with a utilitarian morality. In asking the question, ‘which utility function does the individual who has experience of both utility functions prefer?’ Mill is evaluating sets of preferences in terms of utility.

III ‘Better to be a Satisfied Fool’: The Implication of Acceptance of Pareto’s, as Opposed to Mill’s, Notion of Utility

This section argues that Pareto’s notion of utility (‘ophelimity’) is essentially the same as Mill’s notion of ‘content’. It identifies evidence of a conflict between maximising ‘content’ and maximising utility (in Mill’s sense of the word) within Mill’s essay on Utilitarianism. It is maximisation of content that individual liberty could conflict with, not maximisation of utility (if one accepts Mill’s view of human beings). Thus it is in distinguishing the notion of utility from mere preference satisfaction (content) that enables Mill to provide a utilitarian justification for individual liberty.

Pareto defined utility (‘ophelimity’) in the following way:

“In political economy, the word utility has come to mean something quite different from what it can mean in everyday language. Thus morphine is not useful, in the ordinary sense of the word, since it is harmful to the morphine addict; on the other hand it is economically useful to him, even though it is unhealthful, because it satisfies one of his wants....It is essential not to use the same word to mean different

---

19 James Tarrant (1991) argues that the existence of ‘higher and lower pleasures’ is inconsistent with utilitarianism.
In our *Cours* we propose to designate economic utility by the word *ophelimity*\(^{20}\).

I have used this passage to illustrate the similarity between Pareto’s notion of *ophelimity* (utility) and Mill’s notion of content. Pareto’s acceptance of preferences as brute facts is made unambiguously clear by his use of a preference for a substance which is injurious to the individual’s health (morphine). The fact that the morphine is harming the individual is irrelevant, it is the fact that he derives benefit from it, for whatever reason, that is important. Pareto also notes in the above that he is choosing to use a different word for utility, ‘ophelimity’, for precisely that reason. Pareto wants to reinforce the idea that whether or not an object is “useful” in any objective sense is independent of whether an individual derives utility from it. The latter depends solely on the individual’s tastes or preferences. In other words, *Economic utility is want (or preference) satisfaction where the want stems from the individual.* The *want itself is not questioned*, thus morphine can be economically useful even though it may be harmful. It is interesting to compare Pareto’s words above with Mill’s “better to be Socrates” passage which I quoted in section one:

“It is better to be Socrates dissatisfied than a fool satisfied; better to be a human being dissatisfied than a pig satisfied”

The implication of Pareto’s view that “utility is preference satisfaction” is that it is better to be a satisfied fool as opposed to dissatisfied Socrates. This is because he would make no distinction between the preferences of Socrates and the preferences

\(^{20}\) Pareto, Vilfredo (1971), p111.
of the fool. There is no hierarchy of preferences, the analytical framework is that of mono-utility, and thus no distinction between utility and content. The implications of the view that utility is content are as follows:

1. The development of an individual’s utility function is not valued; the set of preferences of the individual after, say, education is regarded as no better than his preferences prior to education. Liberty, as the necessary condition for preference development, is thus not valued.

2. The change in the individual’s utility function, where it reflects the individual becoming more critical as above, is actually viewed as reducing an individual’s utility (ophelimity) because his preferences are less fully satisfied, he is less ‘content’. Thus, on this view, it is better to be a satisfied fool. The passage quoted above is an example of a case where there is clear conflict between maximisation of ‘content’ and maximisation of utility. In distinguishing between ‘content’ and ‘happiness’, Mill was effectively differentiating his notion of utility from previous more simplistic notions such as Bentham’s. Such differentiation was necessary in order to justify individual development.

“It is indisputable that the being whose capacities of enjoyment are low, has the greatest chance of having them fully satisfied; and a highly endowed being will always feel that any happiness that he can look for, as the world is constituted, is imperfect.”

---

21 Mill, p10.
In this passage, Mill brings out more explicitly the conflict between developing one’s preferences (one’s ‘capacities of enjoyment’) and maximising content. Development of an individual’s preferences will mean that it is less likely that he will be able to satisfy them. In order for such preference development to be consistent with utility maximisation, therefore, the notion of utility must be distinguished from the satisfaction of existing preferences.

IV Paretian and Paternalistic Elements of Mill’s Notion of Utility

This section first defines what is meant by Paretian value judgements (using Peacock and Rowley’s definition)\(^\text{22}\) and moves on to discuss the extent to which Mill’s notion of utility is consistent with these value judgements.

Both Mill’s notion of content and Pareto’s notion of ophelimity relate to the individual. Paretianism, although it embodies a value judgement which relates to individuals, essentially relates to the welfare of society. I am using the term ‘a Paretian’ to refer to an individual who accepts the following three value judgements, as defined by Rowley and Peacock\(^\text{23}\):

(i) Social welfare is solely a function of the welfare of the individuals who make up society:

\[
W = W( U_1, U_2, U_3,\ldots, U_S)
\]

W represents the welfare of society, \(U_i\) the utility of each individual member of society.


(ii) "An individual is to be considered the best judge of his own welfare (which is viewed entirely subjectively). No individual may impose his/her preferences on any other individual, no matter how well founded those preferences may appear in terms of prevailing ethical standards."

(iii) The third ‘value assumption’ is the notion of a Pareto improvement, that social welfare is increased if the utility of any individual increases and that of no other individual decreases.

Value assumption (ii) above can support both content maximisation and utility maximisation (using the terms content and utility in Mill’s sense). Referring to the former first, consider a society consisting of fools and intellectuals. Let $U_F$ denote the utility function (individual preferences) of a fool and $U_I$ the utility function of an intellectual. The fool (I am assuming all have identical utility functions) derives utility from any kind of sensual pleasure; the intellectual’s utility function contains additional arguments, he also derives utility from exercising his mind, from reading and reflection. The social welfare function would take the following form:

$$W = W(U_F, U_I)$$  (I have listed only one fool and one intellectual for simplicity)

Adopting the social welfare function above, a Paretian would view a social state which increased the amount of sensual indulgence for some/all fools as increasing social welfare. This is because the fools’ preferences would be more fully satisfied, thus each would view himself as better off (the utility of fools would have increased according to value assumption (ii) above). Thus social welfare would have increased (according to (i)). Given some social state $x$, another social state $y$ in which some fools are more content and no individual is less content would, therefore, be regarded as better than $x$ by a Paretian.
However, it is precisely this value assumption (ii) which is used by Mill to justify the preference hierarchy itself:

"no intelligent human being would consent to be a fool, no instructed person would be an ignoramus....even though they should be persuaded that the fool is better satisfied with his lot than they are with theirs.....Whoever supposes that this preference takes place at a sacrifice of happiness (utility) confounds the two very different ideas, of happiness (utility) and content."\(^{24}\)

Value assumption (ii) is implicit in the italicised phrase above. Once he has developed his preferences (higher faculties), the individual prefers to have developed preferences (higher faculties), but less content. In other words, the individual considers herself to be better off after such preference development. Thus value assumption (ii) above can also be used to support utility maximisation in Mill's sense. Referring to the example above. Consider an initial social state x and another, y, where a fool has developed his preferences via, say, education. Although his preferences are now less fully satisfied, he prefers his situation post-preference development and, therefore, according to (ii), his utility must have increased. Value assumption (i) (or (iii)) then implies that social welfare must have increased relative to the initial state x. In this case, utility maximisation in Mill's sense is consistent with Paretian value judgements.

\(^{24}\) Mill, p9.
But whether or not Mill’s notion of utility is consistent with Paretian value judgements depends entirely on whether each individual prefers to have developed ‘higher faculties’ but less satisfaction to lower faculties and more satisfaction. In other words, his argument is dependent on this fact. The problem with Mill’s argument is that there is no a priori justification for the preference hierarchy, other than his assumption that fools would consider their utility to have increased if they transformed their preferences via, say, education. This might not be the case in fact. Mill is essentially assuming that all human beings will hold the same meta-preferences (preferences over preferences), this is my interpretation of the italicised phrase above. An obvious criticism would be the fact that some individuals would be able to develop their higher faculties with more ease than others. One would not expect all humans to have the same individual preferences, why should one expect each to have the same meta-preferences? For Mill, these meta-preferences define “what it is to be human” which enables him to distinguish between different sets of preferences whilst remaining a utilitarian (or a Paretian). Although he is ranking preferences, the way that he ranks the individual preferences themselves is consistent with the Paretian value assumption (ii) above in that it reflects each individual’s view of his welfare. In terms of Sen’s meta-preferences idea, the morality behind the preference hierarchy is utilitarian.  

Mill’s utilitarian justification for individual liberty is based on the existence of a preference hierarchy, where individual liberty is the means to increasing utility by enabling individuals to develop their ‘higher faculties’. But the utilitarian argument for individual liberty is dependent on individuals choosing to develop their higher

25 See note 17 above.
faculties as opposed to what could be thought of as their lower faculties. It is freedom to develop one’s higher faculties which is good, not freedom to develop one’s lower faculties. If individuals chose some pursuit which instead transformed their preferences in a negative way, then one could use the hierarchical utility argument to justify denying individuals liberty. The argument which was used in the (1961) attempt to ban the book “Lady Chatterley’s Lover” can be interpreted in precisely this way. Quoting from the trial itself:

“the charge is that the tendency of the book is to corrupt and deprave. The charge is not that the tendency of the book is either to shock or disgust.”

The defence defined, ‘to deprave and corrupt’ in the following way:

“to deprave and corrupt obviously involves a change of character leading the reader to do something wrong that he would not otherwise have done.”

In terms of preference theory, to corrupt and deprave is to transform an individual’s preferences, whereas the terms ‘shock’ and ‘disgust’ are reactions which are dependant on existing preferences, but leave the preferences themselves unchanged. There is clearly a hierarchical utility framework implicit in this argument, but in this case individual liberty (freedom to read the book) enables the individual to transform his preferences such that he becomes worse off. Thus in this case, transformation of individual preferences is being used as an argument against individual liberty. Mill does not entertain the possibility of liberty facilitating such a negative transformation of preferences, but he does deal with the objection that those who have supposedly

---

27 Ibid., p29.
developed their higher faculties are sometimes “tempted” to choose the lower pleasures. His response is as follows:

“Men lose their high aspirations as they lose their intellectual tastes, because they have not time or opportunity for indulging them; and they addict themselves to inferior pleasures, not because they deliberately prefer them, but because they are either the only ones to which they have access, or the only ones which they are any longer capable of enjoying.”

Having developed one’s higher faculties, one needs to exercise them, otherwise one’s preferences will degenerate to the lower ones one had before:

“capacity for the nobler feelings (higher faculties) is in most natures a very tender plant, easily killed, not only by hostile influences, but by mere want of sustenance”

These passages bring out the hidden element of paternalism in Mill’s notion of utility. Each individual is free to choose for himself, but if he chooses an ‘inferior pleasure’, then it is not said to reflect an underlying preference, it merely reflects the fact that he has not nurtured (to adopt the plant metaphor used by Mill) his higher preferences, but allowed them to degenerate. The individual who has previously developed his higher preferences, but then chooses to allow his preferences to transform back to those of a fool as he chooses sensual over intellectual gratification is deemed to be ‘addicted’ to lower pleasures rather than expressing a deliberate

---

29 Ibid.
preference. By dismissing the individual’s own preference as ‘addiction’, Mill is imposing his own view of the welfare of individuals, thus violating value assumption (ii) above. Mill is not prepared to allow for the possibility of some individuals preferring being satisfied fools to dissatisfied Socrates.

V Analysis of the Paretian Liberal Paradox in the Light of Mill’s Notion of Utility

The Paretian liberal paradox arises when trying to derive a ranking of social states which reflects the welfare of society (social preferences) from individual rankings of social states (individual preferences). It is not Sen’s particular formulations of Paretianism and liberalism that Mill might object to, but the whole social choice framework per se. The mechanistic idea of a social welfare function that ‘moves’ from a set of individual preferences of all members of society to a ranking of alternatives that can be considered to represent the welfare of society is at variance with Mill’s idea that certain sets of preferences are ‘better’ than others and thus with Mill’s distinction between preference satisfaction (‘content’) and utility. It is a mono-utility framework, i.e. there is no preference hierarchy, and the notion of utility is synonymous with preference satisfaction. Sen translates Paretian value judgements into the condition that a social state which is unanimously preferred to another by individual members of society is regarded as better for society. Thus social welfare is evaluated solely according to existing preferences. Sen’s formulation of liberalism rests on the assumption that individuals will exercise choice in accordance with their preferences. Mill would accept this, but it ignores the more subtle role of liberty in encouraging individuals to question and develop the preferences themselves and thus increase their utility. Within a mono-utility framework, the Paretian liberal paradox
is merely indicative of a conflict between content maximisation and individual liberty.

Within a hierarchical preference framework, however, the transformation of individual preferences is viewed as increasing individual utility, because utility is no longer synonymous with the satisfaction of existing preferences. Liberty is the means by which individuals transform their preferences into ones which they ultimately regard as better (increase their utility). The process of exercising choice will encourage individuals to become more critical, they will ultimately develop their ‘higher faculties’ (their minds, their intellect) and regard themselves as better off, even if these new preferences are less fully satisfied. This is essentially how Mill characterises human beings: they will prefer enlightenment to ignorance even if such enlightenment means that they are less content. According to this argument, individual liberty is consistent with maximisation of utility (and Paretian value judgements).

However, there are fundamental problems with this argument:

The notion of utility itself has hidden elements of paternalism. It is Mill’s view that individuals will prefer to be critical thinkers, educated individuals, as opposed to fools who pursue sensual pleasure. But individuals are not at liberty to take a different view. An individual who decides to abandon the exercise of his mind and instead become indolent and choose pushpin over poetry has his preference dismissed as ‘addiction’, i.e. there is a sense in which Mill is imposing his own view.

---

30 This point was discussed at length in section three.
of individual welfare on individuals. Thus Mill has only been able to make his argument for individual liberty consistent with utilitarianism (maximisation of utility) by introducing a ‘hidden’ element of paternalism into the notion of utility itself. The element of paternalism is ‘hidden’ in the sense that it comes in the guise of Paretianism:

"no intelligent being would consent to be a fool, no instructed person an ignoramus, no person of feeling and conscience would be selfish and base, even though they should be persuaded that the fool is better satisfied with their lot than they are with theirs"31

In claiming that it is the individual who views having developed ‘higher faculties’ as better, Mill can argue that his utilitarian theory is entirely consistent with the idea that each individual is the best judge of his own welfare (Paretian value assumption (ii) in section three). Thus the argument is dependent on Mill’s view of human nature which may or may not be true.

Further, Mill’s utilitarian justification for individual liberty is contingent on individuals using that liberty in a particular way. If individuals were to use their liberty to develop their ‘lower faculties’, then this could be used as an argument to deny individuals liberty because in this case liberty would be making them worse off. The argument which was used to in the 1961 attempt to ban the book ‘Lady Chatterley’s Lover’ can be interpreted in this way. This highlights a conflict between maximisation of Mill’s notion of utility and individual liberty as opposed to conflict between Paretianism and liberalism, because in this case conflict stems from the fact

that individuals’ view of their own welfare clearly differs from the view taken by Mill. But the argument against ‘Lady Chatterley’s Lover’ also illustrates how Paretianism does not necessarily imply the preference hierarchy identified by Mill: Individuals could choose to become corrupted (for example by reading Lady Chatterley’s Lover) and then regard themselves as better off after this transformation of their preferences.

VI Influence that the Thought of J.S. Mill has had on the Literature

This section briefly considers the way that the ideas of Mill have influenced debate on the paradox within the social choice literature. It is the importance that Mill placed on individual autonomy that contributed to the view that the social choice framework was inadequate to represent rights. This was because the social welfare function merely ranks outcomes and thus does not consider the process by which they came about. Dissatisfaction with the social choice framework was expressed in the early 1970s by Peacock and Rowley and then Sugden:

“Sen’s theorem, and the work of most commentators on this theorem, are constructed within the framework of a theory of social choice that rests on presuppositions that make impossible any discussion of liberty. All attempts to formalise liberalism within this framework are thus doomed to failure.”

Focus on Mill’s idea of liberty lends support to this idea that social choice theory was inadequate to address the Paretian liberal question because of Mill’s idea of the importance of individual autonomy to Mill. Consideration of the liberty issue made

game theory much more attractive, given that it analyses the process of individual choice.\footnote{The debate between use of game theory and social choice theory to analyse the paradox largely occurred during the 1980s and is discussed fully in chapter six.}

Thus Mill's ideas on liberty could be viewed as being important in bringing about this rejection of social choice theory as capable of incorporating ideas about individual rights. The problem, however, is that in doing so most writers overlook the fact that Mill is prepared to admit only one fundamental value judgement, utility. Most writers do not discuss the underlying view of social welfare in advocating game forms to represent liberty as opposed to preference formulations. Those who do (e.g. Sugden, Barry) argue for absolute rights with reference to indirect (or rule) utilitarianism. Indirect utilitarianism involves evaluation of the rights or rules with reference to utility considerations. Individual rights are assessed according to whether or not they are in the interest of utility as a rule, in other words it does not involve consideration of a particular case. There are similarities with a contractarian approach to social welfare here in that we are not ranking outcomes, but evaluating rights or rules. However, it is important to note that the rights or rules are being evaluated with reference to social (and not individual) welfare. Sugden comes to this conclusion because he recognises the importance of autonomy in Mill's notion of individual good and thus argues that, in the case of Mill, "Rights matter because they are a means of securing the autonomy of individuals."\footnote{Sugden (1993) p.140.} On this argument, the Sen paradox does not present a problem. To try to rank outcomes in this particular case is not meaningful because we wish to consider such rights in general. The Sen paradox would only present a problem to an act utilitarian where each act is judged
Barry also argues for the right to liberty with reference to indirect utilitarianism:

"Mill’s ‘simple principle’ is compatible with a very indirect sort of utilitarianism. The point that matters here is that a conflict between a liberal system of rights and the Pareto principle can arise only if (a) every single act is to be assessed according to the Pareto principle, and if (b) enforcement is considered to be an appropriate response to infractions of it. And it is made quite clear by Mill that this is exactly what he wants to deny..."\(^{36}\)

The above passage provides a good summary of the way that indirect utilitarianism resolves liberty/utility conflict: the only way for a utilitarian to be able to support meaningful individual rights is if the rights need not maximise utility in each specific case. However, Barry separates the issue of social welfare from how rights should be assigned which is not consistent with a utilitarian ethic:

"...there are three things to be distinguished: what constitutes a good state of the world (this is what a social welfare function should tell us); what rights individuals should be granted....and what morally speaking individuals have a duty to do"\(^{37}\)

The above distinction is not consistent with Mill’s acceptance of utility as the fundamental value. It represents an approach to rights which is more characteristic of Nozick than Mill, i.e. the idea that individual rights identify some private sphere which is not subject to social evaluation. It contradicts Mill’s assertion:

\(^{36}\) Barry (1986) p.29.
\(^{37}\) Ibid., p.30.
"To have a right, then, is, I conceive, to have something which society ought to defend me in the possession of. If the objector goes on to ask why it ought, I can give him no other reason than general utility."38

I am not arguing against the validity of this indirect utilitarian argument, I am arguing that it overlooks many interesting features of Mill's distinctive notion of utility. Further, the conclusion to be drawn from it is that the Sen paradox is uninteresting - that it does not matter, and it is in this sense that the conclusion of the indirect utilitarianism argument is misleading. Far from being an isolated uninteresting case, the Sen paradox serves to highlight interesting and important features of Mill's utilitarianism.

VII Liberty and Social Welfare

The idea of social welfare implicit in Rousseau, it has been argued, is very similar to the idea of a social welfare function. The social welfare function involves the construction of a ranking of alternatives which is representative of the social good. The view of social welfare taken by Mill is utilitarian, however, this section argues that, given the importance that he places on individual development as a means of increasing utility, to think of it as being represented as a static ranking of alternatives is misleading.

This chapter has presented Mill’s idea of utility as a dynamic concept: The process of individual choice has a fundamentally important role to play in enabling individuals to develop their preferences and thus make themselves better off:

38 Mill, p57.
"He who lets the world, or his own portion of it, choose his plan of life for him, has no need of any other faculty than the ape-like one of imitation....It is possible that he might be guided in some good path, and kept out of harm's way. But what will be his comparative worth as a human being?"  
39  
This emphasises the point that exercise of choice is imperative if we are to realise our full potential as human beings. Underlying Mill's whole argument for liberty and why it is consistent with utility is his idea of what it is to be human - that humans are capable of criticising and reasoning and thus have the potential to increase utility via the act of choice. The idea of merely taking a set of existing preferences and maximising satisfaction (content) is far too limiting because it ignores the potential that the exercise of choice has for making us better off. Thus individual utility is not a static concept. Rowley and Peacock support this view of Mill's characterisation of what it is to be human, but suggest that liberty is of value in itself:

"This fundamental notion that the essence of humanity lies in the capacity to choose... implies that individuals must be granted the widest possible freedom of choice... if they are to develop their capacities.... The essence of liberalism is freedom, therefore, not as an instrument, or even as a human preference, but as an ethical value in itself...."  
40  
The italicised phrase above is illuminating in highlighting the fact that Mill's whole reconciliation of the liberty/utility issue is dependant on his view of humans: to realise utility in the fullest sense, it is necessary that individuals develop their preferences hence the need for liberty. Thus liberty is instrumental in securing maximum utility for individuals. There is still only one fundamental value and this

40 Rowley and Peacock (1975) p79.
is the point that is invariably lost in discussions of Mill, as it is in the above, despite
the illuminating opening phrase.

Mill’s ideas on liberty are almost invariably used to argue for a procedural
formulation of rights, e.g. game forms, where the social welfare function is absent.
This leaves unanswered the question, “where does the social welfare function go?”.
Despite Mill’s insistence on the importance of liberty, it is a question that needs to be
addressed, given his adherence to utilitarianism. Peacock and Rowley, however,
discuss this social welfare issue:

“.... liberals in the tradition of Mill are not convinced of the existence of objective
immutable truth, but believe that a good society is one that is uncertain of its truths
and dedicates itself, not to an ideal, but to an eternal search. For liberals, fallibility
and the right to err are viewed as necessary corollaries to the capacity for self-
 improvement...”

41

This passage brings out the difference between the approaches to social welfare of
Rousseau and Mill. The social welfare function fits well with Rousseau’s idea of
social welfare because it tells us which is the best social outcome. Given the
emphasis placed on the process of individual development by Mill, however, the idea
of an “eternal search” for the social good is helpful because it serves to emphasise
the fact that the social good for Mill is constantly changing with the changing values
of individuals. The idea of a single best outcome, which we have with a social
welfare function, is more appropriate when utility is synonymous with preference

41 Ibid.
satisfaction. However, it is important to keep in mind that a necessary implication of Mill’s adherence to utilitarianism is that there is in theory a socially best outcome, it is that outcome which produces the “greatest utility of the greatest number”. Mill links the process of individual development to social welfare in his essay *On Liberty*: “In proportion to the development of his individuality, each person becomes more valuable to himself, and is therefore capable of being more valuable to others. There is a greater fullness of life about his own existence, and when there is more life in the units there is more in the mass which is composed of them”\(^{42}\)

The italicised phrase above obviously relates to his utilitarian approach to social welfare, that the welfare of society is the sum of the welfares of individuals. Thus maximum social utility requires individual liberty.

**VIII Conclusion**

In 1970, Amartya Sen set out an impossibility theorem which indicated that there is an underlying conflict between Paretian and liberal value judgements. Whether or not the importance of individual liberty in John Stuart Mill’s (1861) notion of utility implicitly resolves this Paretian liberal conflict is dependant on the extent to which his notion of utility is consistent with Paretian value judgements. Mill makes an important distinction between the satisfaction of existing preferences (content) and utility. Individual liberty is the necessary condition for individual preference development. Such preference development increases individual utility, but may reduce content. Thus, within this analytical framework, individual liberty could conflict with content maximisation, but is consistent with utility maximisation.

\(^{42}\) Mill, p.131.
"It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, are of a different opinion, it is because they only know their own side of the question."\textsuperscript{43}

Mill’s notion of utility only retains the Paretian idea that the individual is the best judge of his own welfare if his view of human nature is correct, that the individual will prefer being educated but possibly less satisfied (‘Socrates dissatisfied’) to the time previously when she was a satisfied fool. This view enables Mill to argue that the individual has more utility once she is educated (i.e. after developing her preferences) because she prefers this situation. The fool has no experience of being educated, thus if he claims to prefer being a satisfied fool to being educated, one cannot infer that he has more utility as a fool than he would have if he were educated (because he only knows his ‘own side of the question’). If Mill is correct in his assertion that human beings will prefer preference development to existing preference satisfaction, then the Paretian idea of the individual as the best judge of his own welfare is retained. If, however, Mill is wrong and, in fact, individuals do not prefer such preference development, then there is an element of paternalism in his notion of utility. Thus ultimately, whether one can accept the role of individual liberty in Mill’s notion of utility as a resolution of Paretian liberal conflict is dependant on whether one can accept his view of humans as individuals who prefer preference development to existing preference satisfaction.

Mill’s utilitarian theory could be viewed as an indictment of the utility theory of Bentham, or the idea of utility as simple, unquestioning, preference satisfaction. Mill

wanted to emphasise the role of enlightenment, of opening individuals to new ideas, in improving their welfare. The following discussion of the value of originality taken from his essay 'On Liberty' is invaluable in understanding why he distinguishes his notion of utility from the satisfaction of a given set of preferences:

"...in its true sense, that of originality in thought and action, though no one says that it is not a thing to be admired, nearly all, at heart, think that they can do very well without it. Unhappily this is too natural to be wondered at. Originality is the one thing that 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. The first service that originality has to render them, is that of opening their eyes: which being once fully done, they would have a chance of being themselves original. Meanwhile,...let them be modest enough to believe that there is something still left for it to accomplish, and assure themselves that they are more in need of originality, the less they are conscious of the want."

Mill’s argument can be summarised as, individuals prefer having their eyes opened (once opened) but when their eyes are closed, they have no desire to open them. This implies that they are not best judges of their own welfare when their eyes are closed thus violating Paretian value assumption (ii). In the light of the passage above, one could view the Paretian liberal paradox as highlighting the danger of

---

44 Mill, J.S., p.133-134.
accepting Paretian value assumption (ii) in its entirety, that individuals are always the best judges of their own welfare. If this value assumption is accepted and combined with the utilitarian social objective of maximising the sum of these individual welfares, it could lead to denying individuals the opportunity to develop and transform their preferences (in denying them individual liberty). Without this liberty, they would be content, but would remain with their eyes closed, in blissful ignorance of how much better off they could have been had they been given the liberty to open them.
"...rules that constrain sociopolitical interactions must be evaluated ultimately in terms of their capacity to promote the separate purposes of all persons in the polity. Do these rules permit individuals to pursue their own private ends, in a context where securing these ends involves interdependence, in such a way that each person secures maximal attainment of his goals consistent with the equal liberty of others to do the same?"\(^1\)

"On the contract view, the grounds of liberty are completely separate from existing preferences. Indeed we may think of the principles of justice as an agreement not to take into account certain feelings when assessing the conduct of others"\(^2\)

This chapter focuses on the concept of social welfare in a contractarian setting. Both Mill and Rousseau start from a pre-determined idea of social welfare, which can be characterised by some form of social welfare function. Contractarian thought, in contrast, can be characterised by the idea of a social contract. It is this idea of a social contract which is the starting point for determining rights rather than some specific form of social welfare function. Initially, liberty is there, but the concept of social welfare has yet to be determined. This chapter focuses on where the idea of a social welfare function fits into a contractarian setting. It also assesses Sen’s

\(^2\) Rawls, John (1972), p450.
Pareto liberal paradox in the light of this discussion, and links recent game theoretic formulations of the paradox to the contractarian thought of Buchanan3.

**Introduction: The Contractarian Approach**

Social contract theory is generally a theory of the establishment of the State, i.e. government - the rights that individuals are to have (if any) and the rules by which they are to be governed. The feature common to all social contract theories is the idea that the rights of individuals and the rules by which they are governed are to be established by a contractual agreement (or ‘social pact’) 4:

"The social pact is...a pact to establish rule. It marks the transition from the ‘state of nature’ to the ‘civil state’".5

However, one can distinguish between individual contractarian writers with respect to the following points:

1. The object of the agreement

2. Whether the agreement is actual, tacit or hypothetical.

3. Whether the agreement is individually or socially motivated.

In more general terms, contractarians place value on the process of agreement. There is no predetermined idea of social welfare, as with utilitarianism. The contractual agreement could be interpreted as agreement on the form of the social welfare

---

3 Game theoretic formulations of the paradox are discussed in chapter six. In this chapter, I do not discuss specific papers, but instead link the approach to social welfare which is implicit in these resolutions to contractarianism.

4 By ‘social contract theories’ I am referring to the theory of the State of Hobbes, Locke and Buchanan. John Rawls also belongs to this tradition, although the purpose of his contract is to agree on principles of justice rather than a constitution. The particular features of Rawls’ theory are discussed later.

function (including agreement on the domain of such a function), or rejection of the social welfare function altogether. This opening section discusses several different strands of contractarian thought and explores the implications of differences in opinion on the points identified above for the notion of social welfare. Given the quite marked differences in contractarian ideas, this chapter focuses on two contractarian writers in particular. It considers their particular “brands” of contractarianism in more depth and explores the implications of their thought for the interpretation of Sen’s Paretian liberal paradox.

One of the earliest writers within the contractarian tradition was Thomas Hobbes. Hobbes’s contract can be viewed as a pragmatic solution to the brute fact that human beings by nature have a “permanent tendency” towards “violent conflict”6. This tendency towards conflict was a direct result of the fact that individuals have conflicting individual desires and objectives. Such conflict could be viewed as precipitating the common desire for peace, and thus the unanimous agreement that individuals should be ruled by a single authority, Leviathan. Thus individuals surrendered their natural freedom and were subject to rule by Leviathan, the only right which they retain is their right to self-preservation:

“For Hobbes, the political order was granted full autonomy. It was not the pale offspring of a higher, spiritual kingdom.....The political order, for Hobbes, had its own original roots in the perpetual tendency of human freedom to produce war.”7

Another way of interpreting the passage above is that the social contract was individually motivated, it was not motivated by the idea that there exists some

---

6 Forsyth, p42.
7 Ibid. p41.
common good, but the mere fact that, without some form of government to regulate individual conduct, individuals would be unable to pursue their own separate ends. What is interesting about the social contract of Hobbes is that, post-contract, individuals have surrendered their autonomy to some sovereign body which could suggest the use of some kind of social welfare function to determine outcomes, i.e. a more organic view of social welfare. However, the subjection of individuals to some sovereign is necessary on the grounds of individual utility. There is an important similarity with the modern contractarian ideas of Buchanan in this individual motivation for Hobbes’s contract. This is interesting because the initial contract produces such different results in terms of the constitution: Hobbes was in favour of a single authority, Buchanan for as much individual freedom as possible and yet the motivation for the original contractual agreement is the same. (I return to this similarity later.)

There is also similarity between the social contract of Hobbes and that of Rousseau, although the similarity here is on a practical rather than a theoretical level. It lies in the fact that, in the post-contractual situation, individuals are ruled by a sovereign. However, whereas Hobbes resolves conflict between individual liberty and welfare by arguing that individuals would unanimously consent to surrender liberty for the sake of welfare, Rousseau’s social contract is more abstract:

“Rousseau’s contract is in one sense anything but contractual. Postulated is a pact between a collectivity considered as a single moral person and each of its members taken individually. From this it follows that of the two contracting parties it is only one - the individuals concerned - who could be in breach of the agreement entered
into. By an altogether different route we arrive therefore at a conclusion that at one level is similar to that of Hobbes: the social contract gives ‘absolute power’ to the sovereign over his subjects."\(^8\)

The contract element to Rousseau’s approach to social welfare is that each individual consents to be ruled by the general will (the “single moral person” in the above). However, his contractual agreement is only similar to Hobbes on a practical level, i.e. individuals are ruled by some sovereign. There are fundamentally important differences between the two writers with respect to issues of individual and social welfare. In the case of Rousseau, there is the idea of some identifiable public good at the outset that, to contractarians like Buchanan, seems anti-contractarian\(^9\). This idea of public good is in every \textit{individual} and thus, theoretically, there is no subjection of individuals to some external power when they consent to be ruled by the general will. Referring to the possibility of conflict between individual liberty and social welfare, the general will serves as an analytical device which reconciles individual liberty with rule by the general will (a kind of social welfare function). It reconciles it at the individual level. Given the absence of the general will in Hobbes’s theory, one could view Hobbes’s state of nature as a state in which there is clear conflict between individual liberty and individual welfare. It is resolved by individuals surrendering their liberty and consenting to be ruled by some sovereign which is external to them. Thus, according to Hobbes’s contract, the liberty/welfare conflict is resolved at the social level (by abandoning individual liberty). Buchanan, however, objects both to the idea of a common good and to individuals surrendering their liberty to anyone.

\(^9\) Buchanan’s position on this is discussed below.
else. Thus his particular ‘brand’ of contractarianism can be distinguished from both Hobbes and Rousseau, although there is an interesting similarity between Buchanan and Hobbes in that the motivation for the initial contractual agreement is individualistic, it is not based upon the idea of some identifiable common good (or social welfare function).

It is the clear idea of some identifiable common good, that is in some sense objective that distinguishes Rousseau from other social contract theorists. His idea of a general will is in some sense analogous to the idea of a social welfare function. All issues are subordinate to the general will which is at variance with the value that contractarians place on individual liberty. This is why Rousseau’s approach to social welfare is dealt with elsewhere, in chapter two.

The rest of this chapter is divided into two parts: part one focuses on the thought of James Buchanan, and part two on John Rawls. In each case their ideas of individual and social welfare are discussed and related to debate on the Paretian liberal paradox.

**PART I: JAMES BUCHANAN**

The key features that distinguish Buchanan’s thought from that of some earlier contractarians are the following:

1. The idea of social good is eschewed, there is only individual good.
2. The initial contractual agreement does not consist of individuals surrendering their natural liberty entirely, but agreeing to the rules and rights by which they are to be governed. Thus the State to Buchanan is more minimalist than that
envisaged by Rousseau or Hobbes. Such a notion of the state (in a sense) follows from point one above.

3. Buchanan views hypothetical contractual agreements as a nonsense, the only meaningful agreements are actual agreements.

I Two Mutually Exclusive Approaches to Social Welfare:

Individualism Versus Collectivism

The Paretian liberal paradox is concerned with establishing an acyclical ranking of social states which represents the welfare of society for any given set of individual rankings of these social states. The notion of social welfare is individualistic in the sense that it is derived solely from the preferences of individuals. Yet it is a ranking which reflects the welfare of society as a collective. Thus the whole notion of social welfare embodies both collective and individual notions of rationality. This is at variance with Buchanan's view of welfare:

"We may adopt the philosophical bases of individualism in which the individual is the only entity possessing ends or values. In this case no question of social or collective rationality may be raised. A social value scale as such simply does not exist. Alternatively, we may adopt some variant of the organic philosophical assumptions in which the collectivity is an independent entity possessing its own value ordering. It is legitimate to test the rationality or irrationality of this entity only against this value ordering."

---

The above passage is taken from a paper in which Buchanan was criticising the Arrow theorem. It is a requirement of Arrow’s theorem that the collective choice rule generate an ordering of social states, whereas Sen only requires that the collective choice rule generate an acyclical ranking of social states. The above criticism, however, applies to Sen’s as well as Arrow’s theorem since a set of social preferences is being derived from individual preferences. Each individual has values, each individual has a set of preferences over end social states. According to Buchanan’s view, quoted above, such an approach would be classified as individualism. But in social choice theory, there is also a ‘social value scale’ which is itself derived from these individual value scales. Interpreting Sen’s result in these terms, Sen is showing that, where this social value scale reflects both Paretian and liberal value judgements, there will be some configurations of individual preferences for which such a social value scale does not exist. This is entirely consistent with Buchanan’s view that the existence of a social value scale is inconsistent with an individualistic approach to social welfare. The Sen result, therefore, presents no problem. It is based on a view of society as a collection of individuals, not as an entity in itself, thus the idea of social rationality is meaningless.

But in the case of the Sen paradox, one could argue that the approach taken is organic on some level since the task that Sen sets himself is to derive a value scale to be representative of the welfare of society, as a distinct concept:

“any social value scale may be discussed only within an organic framework. Once this approach is taken, the question as to whether or not the social value scale may be based on individual values may properly be raised, and the individual orderings of all
possible social states may be the appropriate starting point in the construction of a
social ordering that is to be based on individual values.\footnote{Ibid. p116-117, italics not in original. This passage relates to the Arrow problem and, therefore, refers to a social ordering rather than an acyclical ranking as is required in the Sen problem. But it can equally well be applied to the Sen problem.}

In 1954, when the paper from which this passage is taken was published, Buchanan
did not object to the theoretical construction of a social value scale from individual
values, provided one accepted that the approach taken was organic as opposed to
individualistic. Buchanan did, however, object to the evaluation of a choice process
which was individualistic on the basis of such a social value ordering since this
constituted a confusion of the two philosophical approaches, of collectivism and
individualism. A choice mechanism such as the market arrives at social states as a
result of individuals exercising choice independently. It is an individual choice
framework and, therefore, we may only raise the question of whether decisions are
individually rational:

"...the market does not call upon individuals to make a decision collectively at all.
This being the case, market choice is just as consistent as, and no more consistent
than, the individual choice of which it is composed."\footnote{Ibid. p122.}

On this view, it is only appropriate to evaluate a collective, but not an individual
decision in terms of a social value scale. In the case of the Sen paradox, the value
judgement that individual rights are desirable is indicative of acceptance of
individualism, thus creation of a social value scale would not be regarded as
meaningful. This idea is related to Buchanan’s dissatisfaction with the evaluation of
end states independently of the process by which those end states came about:
“It becomes an empty exercise to evaluate rules independently of the outcomes that are predicted to emerge under their operation. *It should be equally empty to evaluate imagined social states without consideration of the structure of rights, or rules, that may be expected to generate them.*”\(^{13}\)

The approach standard in welfare economics is to evaluate allocation mechanisms, in this case rights structures, in terms of whether or not they bring about social outcomes which are desirable. But implicit in this is the assumption that individuals are indifferent about the mechanism, the process by which the outcome came about. This in itself is a value judgement, one which Buchanan rejects.

Buchanan, however, does not make the point in quite this way. In a more recent (1995) paper, Buchanan comments on rights themselves:

> “*in any social setting, individuals have rights*, by which I mean that individuals retain control over actions along at least some minimal set of dimensions of behavioural adjustment. *Once this elementary proposition is accepted as a positive description of social reality, the logical fallacy involved in any analyses of choice among social states stands clearly exposed.*”\(^{14}\)

The first italicised phrase is a statement about what occurs *in fact*, it is a description of ‘social reality’. There is no logical fallacy involved in an evaluation of which social states are socially *desirable* because the latter involves value judgements as opposed to facts. In other words, any ‘social value scale’ should be independent of which social states will come about in fact (‘social reality’). Buchanan’s dispute

---


\(^{14}\) Buchanan, James M., p.142.
stems from the fact that he attaches value to the rights themselves. It is not the fact that the rights are ‘social reality’, but that the rights themselves are also *valued*. 

The whole notion of social welfare needs reassessing in a contractarian context. In the case of a consequentilist ethic such as utilitarianism, social welfare is evaluated with reference to outcomes. But where value is attached to the process, then the construction of a ranking of outcomes is not sufficient to represent the welfare of society. What does the social welfare function look like in a contractarian context? It cannot merely be a ranking of end states as it is in the case of the Sen problem.

We can conclude the following in respect to the normative social welfare function. It is rejected, on this view, for two reasons:

1. The outcome which is deemed to be “best” by such a function may not be feasible, it may not emerge under any set of “political rules”.

2. “one cannot properly evaluate outcomes normatively unless one has information as to how the outcomes came about....process is intrinsically of normative relevance.”\(^{15}\)

It is Buchanan’s view that outcomes cannot be separated from the process by which they came about that implies that a conventional social welfare function cannot possibly serve the role which it is intended to - to determine which outcome is socially best. Further, the whole notion of social good is not consistent with his methodological individualism, the idea that individuals are the sole sources of value,

\(^{15}\) Ibid. p17.
this is discussed further in the section on his particular ‘brand’ of contractarianism.

**II Buchanan’s View of the Contractarian Paradigm**

Buchanan’s discussion of the ‘contractarian vision’ is illuminating since the definition implicitly excludes several other important ‘brands’ of contractarianism.

“The contractarian derives all value from individual participants in the community and rejects externally defined sources of value, including “natural rights”.

The social contract of Locke and Nozick is ruled out by this definition, since these writers envisage a social contract which is based on natural rights, and also that of Rousseau since his is based on the idea of a general will (despite Rousseau’s assertion that it is the will of each individual). Of early contractarian writers he aligns most closely with Hobbes because, for Hobbes, there was no ‘higher’ justification for the social contract, its purpose was merely to prevent war.

According to Buchanan, individuals establish a state by unanimous agreement, and “there is no resort to any source of value external to the expressed preferences of individuals who join together in political community. The state does not emerge to protect “natural rights”...”Social welfare” cannot be defined independently, since, as such, it cannot exist.” In other words, the rights or rules which are agreed on are agreed because they serve the separate interest of each individual. This position can be contrasted from that of Locke’s where the right to self-preservation was viewed as

---

16 Brennan and Buchanan, chapter two, p19-32.
17 Ibid., p21.
18 Ibid., p22.
a duty to God. The social contract was necessary because it was easier to carry out that duty in the political state as opposed to the state of nature. The origin of Nozick’s natural rights is less clear, but the idea of natural rights which we possess as human beings is there nonetheless.

The initial contractual agreement for Buchanan is agreement on rules and rights. The process of agreement of these rules is discussed in detail in *The Calculus of Consent*¹⁹. Buchanan argues that a unanimous agreement on rules is possible, given the fact that there is uncertainty with regard to the final outcome thus it is very difficult for any individual or group to identify his own separate interest. He dismisses Rawls’ veil of ignorance as “an idealised normative construction”²⁰, although recognises the clear similarity between the actual agreement on rules that he envisages and choice of rights in Rawls’ original position:

“To the extent that a person faced with constitutional choice remains uncertain as to what his position will be under separate choice options, he will tend to agree on arrangements that might be called “fair” in the sense that patterns of outcomes generated under such arrangements will be broadly acceptable, regardless of where the participant will be located in such outcomes”²¹

For Buchanan, instead of being ignorant of their situation, individuals are uncertain as to how any given rule will affect them and thus it is uncertainty as opposed to ignorance that implies that rules will be unanimously agreed to. However, the

---

¹⁹ Buchanan and Tullock (1962).
²⁰ Brennan and Buchanan, p30.
²¹ Ibid.
Rawlsian contractual agreement is hypothetical given that individuals do, in reality, have an awareness of their situation in society.

For Buchanan, there is no single common good, only the separate goods of individuals. Thus he clearly distinguishes his position from the position taken by Rousseau, that there is also an identifiable common good which is the common good of each as a member of the community. He opposes such an idea because “the paradigm is “organic” in that it embodies a definition of “good” in application to the whole community of persons rather than to individual members. In such a definition, however, there need be no crude postulation of some organic unit - for example “the state” or “society”. Individuals may still be reckoned to be the ultimate units of consciousness... The “good” defined in application to the community remains, nonetheless, supraindividual because individuals cannot question its independent existence.”

The above is a perfect description of the idea of social good envisaged by Rousseau - ‘individuals may still be reckoned to be the ultimate units of consciousness’ and yet there is a clearly identifiable social good. The above also contains elements of the idea of a social welfare function. It is Buchanan’s rejection of such an idea of social good that distinguishes his ‘social choice’ of rights and rules from other writers considered in this thesis such as Rousseau, Mill and Rawls. The absence of any kind of social welfare function is also the fundamental parallel between his ideas and the approach implicit in some of the modern resolutions of the Sen paradox. On

22 Ibid., p41.
Buchanan’s view, the idea of a social welfare function is anticontractarian since it presupposes some notion of common good, irrespective of how this notion is arrived at.

“The contractarian-constitutionalist perspective is almost necessarily nonconsequentialist and deontological. Evaluative criteria must be applied to rules or processes rather than to end states or results, at least in any direct sense. As such there is no means of evaluating any end state because there is no external standard or scale through which it can be “valued.”

The above does not preclude consideration of the possible set of outcomes when evaluating any given set of rights/rules. Indeed individuals will consider possible outcomes, but can agree on the rules, because the outcome will be uncertain at the time of deciding the rules. The motivation is individual not social (although this does not preclude any individual from deriving utility from the well being of others).

Given these views on individual welfare and the rejection of a social welfare function type view of social welfare, the original Sen problem would not concern Buchanan, it would merely be viewed as an irrelevant abstraction. Buchanan is not interested in the question of identifying a socially best social state, firstly, because he rejects the whole notion of a socially best outcome and, secondly, because such an outcome may turn out to be infeasible, given assignments of individual rights. Buchanan is, however, interested in the social choice of rights and rules, but this social choice is to be the outcome of interaction between individuals, each of whom

---

23 Ibid., p11.
seeks to maximise utility. He describes the process of agreeing on rules as analogous to the process of trade in the market:

"In politics, at the most general level, the result of "trade" among persons will be a set of agreed-on rules rather than a well defined imputation of goods among separate individuals"\textsuperscript{24}

It is in this sense that my reference to a \textit{social} choice of rights and rules is inappropriate, given that it is the product of individual interaction where each individual pursues his own private ends. Buchanan’s view of individuals as the sole sources of value rules out the idea of any social welfare function even if it is the socially best rights structure that that function seeks to identify. Thus the idea of a social welfare function is meaningless, but the notion of Pareto optimality is not. Pareto optimality can be accepted as desirable on \textit{individual} grounds. The fact that game theory analyses \textit{individual interaction} implies that the modern reformulations of the Sen problem are meaningful to Buchanan’s contractarianism, whereas the absence of game theory in the original formulation implies that this is not. Thus consideration of Buchanan’s ideas serves to highlight the fact that modern formulations of the paradox address a different problem\textsuperscript{25}.

Buchanan would have two objections to the approach to social welfare taken by Sen:

\begin{enumerate}
\item It rests on a notion of social welfare (social rationality) as depending entirely on individual welfare (individual rationality). On Buchanan’s view, either there is some organic notion of society to which we can attribute a ranking of social states \textit{or} the welfare of society is merely the welfare of individuals who make up
\end{enumerate}

\textsuperscript{24} Ibid., p25.
\textsuperscript{25} I discuss this point later.
society. The two approaches are mutually exclusive, i.e. it does not make sense
to derive some ranking of social states which reflects the welfare of the
collective (society) from rankings of social states which reflect the welfare of
individuals. Buchanan favours an individualistic approach, i.e. there is no notion
of social welfare in the Sen sense, only the welfare of separate individuals.

In conventional social choice theory (and thus the Paretian liberal paradox) the
individual preferences (and thus the social preferences) are given over end
states, i.e. with no reference to the process (rights structure) by which these end
states came about. Implicit in this is the assumption that individuals are
indifferent to the process by which social states are attained. Buchanan rejects
this assumption.

III  The Link Between Buchanan, Hobbes and Game Theoretic

Formulations of Paretian Liberal Conflict

One of the key prevailing features of Buchanan's work is the absence of any kind of
social welfare function and a reluctance to evaluate outcomes independently of the
process by which those outcomes came about. In this sense, Buchanan's
contractarianism is the antithesis of the ideas of Rousseau. Outcomes are evaluated
with reference to individual, not social, welfare. The purpose of the initial
contractual agreement is not to agree to some social welfare function, but to agree to
the rules by which individuals are to be governed:

---

26 Game theoretic formulations are discussed in chapter 6.
“The same individuals, with the same motivations and capacities, will interact to generate quite different aggregate outcomes under differing sets of rules, with quite different implications for the well-being of every participant.”

There are two points to be noted with respect to the above passage: Buchanan stresses the role of individual interaction in generating final outcomes, and reference is made to the well being of separate individuals rather than the well being of society under different sets of rules. Further, Buchanan makes reference to Hobbes in arguing for the need for rules which suggests that the rationale for rules is individually rather than socially motivated:

“We require rules in society because, without them, life would indeed be “solitary, poore, nasty, brutish, and short”....Rules define the private spheres within which each of us can carry on our own activities.”

It is the stress that Buchanan places on individual interaction within given rights and rules that puts his analysis of society and social outcomes in line with the game theory interpretations of the Paretian liberal paradox:

“The prisoners' dilemma interaction is highly simplified, but it does contain in its structure most of the elements required for an understanding of the central problems...
of the social order, those of reconciling the behavior of separately motivated persons so as to generate patterns of outcomes that are tolerable to all participants". 29

From the above, one can interpret modern game theory formulations of Paretian liberal conflict. In the original Sen problem, the social problem as it were, was to provide an acyclic ranking of alternative end social states. In the above, Buchanan was essentially rejecting the idea of ranking alternative social states as the social problem which is to be solved. Instead of considering construction of a ranking of alternatives which is to be representative of social welfare, the social problem is a co-ordination problem - that of co-ordinating the independent choices of individuals so that the possible outcomes generated will be ‘tolerable to all participants’. This is consistent with the fact that he cites Hobbes in support of a set of rules to constrain individual choices: Hobbes’s contract was motivated by a co-ordination problem in the initial state of nature, that there would be war of all against all thus generating disastrous outcomes for individuals. In the light of this discussion, the modern reformulations of the Paretian liberal paradox can be viewed as rejecting the idea that the social problem is to construct a social welfare function, and embracing the modern contractarian idea of the social problem as a co-ordination one. In this sense, the reformulation of the Sen paradox in game theoretic terms can be viewed as reflecting developments in contractarian thought, albeit belatedly.

The initial contractual agreement for Buchanan is the choice of rules by which individuals are to be governed. Buchanan is unambiguously clear about the purpose of rules:

29 Ibid. p5.
“rules that constrain sociopolitical interactions must be evaluated ultimately in terms of their capacity to promote the separate purposes of all persons in the polity. Do these rules permit individuals to pursue their own private ends, in a context where securing these ends involves interdependence, in such a way that each person secures maximal attainment of his goals consistent with the equal liberty of others to do the same?”  

Rules are there to serve the separate interests of each person, not some common social interest. Again, one can interpret the above as a modern contractarian reformulation of the original Sen problem:

1. ‘each person secures maximal attainment of his goals...’ provides an individualistic justification for the desirability of a Pareto optimal social state. Acceptance of the desirability of a Pareto optimal social state does not have to imply acceptance of some social welfare function. In Buchanan’s case, his view of the individual as the source of value provides the value judgement which explains the desirability of Pareto optimality.

2. ‘...consistent with the equal liberty of others to do the same.’ provides justification for some specification of rights. The rules can be viewed as specifying permissible strategies for individuals.

This is in line with modern game formulations of the paradox. Although the two ideas of Paretianism and liberalism are still there, analytically, the situation is very different. To interpret the prisoner’s dilemma as an example of the paradox of a Paretian liberal is to miss the markedly different views of ideas of individual and social welfare which underlie the original problem and the very recent game theoretic reformulations. However, these marked differences become clear when one

---

30 Ibid. p7-8.
compares the thought of a writer such as Rousseau, who embraces the idea of a general will as a kind of social welfare function, to a writer like Buchanan who cannot accept such a view of social welfare. In arguing for rules, Buchanan would never claim to be doing the same as Rousseau. Similarly, modern social choice theorists who claim to be merely restating the original Sen problem using game theory are engaging in a very different exercise analytically.

"In constitutional design, where there are no effective pre-existing rules, all that is relevant is the choice between the rule that generates one set of outcomes and the rule that generates an alternative set."\(^{31}\)

Again there is a clear parallel between this and the way that social choice theory itself has developed post 1990. Instead of social choice of a social state, social choice theorists now take the view that we should be considering social choice of a rights structure. The choice of a rule is tantamount to the choice of a possible set of outcomes. Thus game theory is needed to predict which possible sets of outcomes will result from which rules.

**PART II: JOHN RAWLS**

**I The Rawlsian Contract**

The social contract envisaged by Rawls differs markedly from that of Buchanan:

1. Rawls' contract is hypothetical. It is an analytical device.

2. The main purpose of Rawls' contract agreed in the original position\(^ {32}\) is to derive unanimously agreed to principles of justice which are "to regulate all

---

\(^{31}\) Brennan and Buchanan (1985), p11.

\(^{32}\) The original position is analogous to the state of nature in traditional social contract theory, this is discussed below.
subsequent criticism and reform of institutions”.

3. The acceptability of rights and rules is dependent on whether or not they violate the principles of justice.

Instead of the social contract as the device which represents the transformation from a ‘state of nature’ to a ‘civil society’, Rawls’ state of nature (original position) is really there to lend acceptability to the two principles of justice which he advocates. Any individual can put himself into the original position at any time in order to understand the desirability of the principles of justice:

“....we are not to think of the original contract as one to enter a particular society or to set up a particular form of government....the principles of justice for the basic structure of society are the object of the original agreement” 33

“In justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of the social contract. The original position....is understood as a purely hypothetical situation characterised so as to lead to a certain conception of justice” 34

The ‘veil of ignorance’ is the abstract device which characterises the original position, it denies each individual knowledge of her class, abilities, any information which is particular to herself, including her utility function:

33 Rawls, John (1972), A Theory of Justice, p11.
34 Ibid.
“no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength. Nor again does anyone know his conception of the good.”

It is this absence of particular information relating to himself that ensures that the principles of justice agreed to in the original position will in fact be just because such ignorance of particular personal details puts each individual in an equal situation.

Rawls stresses the fact that the principles of justice are the outcome of a rational choice, yet at first sight, it is unclear as to how one might apply rational choice theory to a situation in which no individual has knowledge of either his own utility function or of his own endowments. Rawls, therefore, needs to make some assumption as to what would increase utility for any individual irrespective of what his de facto preferences happen to be. He argues that this is true for “primary social goods” which he defines as “rights and liberties, opportunities and powers, income and wealth” (also self-respect). Thus individuals in the original position seek to maximise their index of primary social goods. Individuals are thus faced with choosing between different principles which will ultimately imply different possible assignments of primary social goods where each individual does not know which assignment will belong to him, nor does he have anything but the vaguest knowledge of the likelihood that it will belong to him. It is in this sense that the veil of ignorance places each individual in an identical position, each individual has an identical objective. This identification of each individual’s objective leads to a unanimous choice of principles of justice:

---

35 Ibid., p137.
36 Ibid., p92.
"the original position is interpreted so that any one can at any time adopt its perspective. It must make no difference when one takes up this viewpoint or who does: the restrictions must be such that the same principles are always chosen. The veil of ignorance is a key condition in meeting this requirement. It insures not only that the information available is relevant, but that it is at all times the same.”

Rawls argues that individuals will choose to adopt the maximin rule in choosing principles, due to concern on the part of each that it is he who will be the one with the lowest index of primary social goods.

"...the original position has been defined so that it is a situation in which the maximin rule applies”

It is adoption of the maximin decision rule which results in the following two "principles of justice” which Rawls advocates:

1. Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.”

2. The “difference principle”: “the social order is not to establish and secure the more attractive prospects of those better off unless doing so is to the advantage of those less fortunate” or “initial inequality in life prospects is justifiable only if the difference in expectation is to the advantage of the representative man who is worse off.”

37 Ibid., p139.
38 Ibid., p155.
39 Ibid., p75.
40 Ibid., p78.
These principles are accepted as just because each individual is aware that he would accept these in the original position behind the veil of ignorance. The idea of a hypothetical contract is used to explain the universal acceptability of the principles. Economic arrangements, i.e. rights and rules are determined in accordance with these principles.

II  The Idea of Justice and its Relationship with Social and Individual Welfare

Thus social welfare is not determined by some social welfare function derived from actual preferences, but established in the original position when no individual has knowledge of his actual utility function. Rawls emphasises the fact that individual preferences are ever changing over time, as a result of reflection and changing circumstances\(^41\). To base an idea of social welfare on actual preferences at any point in time would be tantamount to make it dependant on ‘accidental circumstances’\(^42\) of the world which would not make for a stable society. The fact that the idea of social good is independent of actual preferences at any given point in time can be interpreted as unease with the idea that preference satisfaction is always good, irrespective of the preference itself, similar to Mill:

“...in justice as fairness one does not take men’s propensities and inclinations as given, whatever they are, and then seek the best way to fulfil them. Rather their desires and aspirations are restricted from the outset by the principles of justice......the concept of right is prior to that of the good...... The priority of justice is

---

\(^{41}\) Discussed below.

\(^{42}\) Rawls (1972), p475.
accounted for, in part, by holding that the *interests requiring the violation of justice have no value.*\(^{43}\)

Thus social welfare is not based on individual preferences, irrespective of what those preferences are, as in the construction of a Sen type social welfare function.

The actual rights structure is established on the basis of the principles of justice, and is thus only an indirect result of the initial contractual agreement. The principles of justice, therefore, are operative at a social level in that rights and rules must be consistent with them. But it is also the case that *each individual* has a sense of justice which constrains that from which he derives utility:

“moral personality is characterised by two capacities: one for a conception of the good, the other for a sense of justice”\(^{44}\)

Rawls is using a contractarian device to *explain* an individual’s moral sentiment, or moral personality:

“...the explanation of some moral feelings cite some principle of right that would be chosen in the original position.....”

The individual’s “sense of justice” acts as a constraint on his pursuit of the good.

“the general desire for justice *limits* the pursuit of other ends”\(^{45}\)

The are parallels with Rousseau’s ideas of the individual’s general and private will here: exercise of the individual’s private will was implicitly subordinate to ‘exercise’ of his general will. Similarly, if an individual’s idea of ‘good’ violates his

\(^{43}\) Ibid., p31.
\(^{44}\) Rawls, p561.
\(^{45}\) Rawls, p5.
sense of justice, then he does not act upon it. His first priority is not to violate his sense of justice. Further, I have argued in chapter two that the general will is the individual social welfare function. Analogously, his sense of justice serves social welfare.

_A Theory Of Justice_ is a deontological ethical theory in the sense that it "does not interpret the right as maximising the good"\(^{46}\) in the way that utilitarianism does. There are notions of right and wrong which are established independently of the actual utility functions of individuals. It is the fact that the principles of justice are independent of _de facto_ preferences, and that the principles of justice serve the social welfare that pre-empts the possibility of conflict between individual liberty and social welfare.

The fact that individuals have these two senses, a notion of their own interest and a moral sense could be interpreted as a dual preference (utility) framework: Each individual has a set of actual (_de facto_) preferences. But, in cases where acting according to these _de facto_ preferences would require him to violate his sense of justice, he does not. The set of preferences underlying his acts, therefore, is slightly different, in that it also incorporates this moral sense. It incorporates the fact that he does not wish to act upon a desire which violates his sense of justice.

Rawls' assertion that social welfare is independent of actual utility considerations stems from his unease with viewing the individual's _de facto_ preferences at any point

\(^{46}\) Rawls (1972), p30.
in time as representing his good. He prefers to take a longer-term view, using the idea of an individual’s rational plan of life:

"a person’s good is determined by what is for him the most rational long-term plan of life given reasonably favourable circumstances. A man is happy when he is more or less successfully in the way of carrying out his plan.....the good is the satisfaction of rational desire."\(^{47}\)

An individual’s conception of his good can be thought of as his rational plan of life, or preferences consistent with this rational plan of life. He is free to choose any plan of life provided it is allowed by the principles of justice. He then employs reason to assess which of his desires are consistent with his life plan, these are rational, and which are not. There is a parallel with Rousseau here. Utility is not merely the satisfaction of any existing preference.

"An individual who finds that he enjoys seeing others in positions of lesser liberty understands that he has no claim whatever to this enjoyment. The pleasure he takes in others’ deprivations is wrong in itself: it is the satisfaction which requires the violation of a principle to which he would agree in the original position. The principles of right, and so of justice, put limits on which satisfactions have value; they impose restrictions on what are reasonable conceptions of one’s good."\(^{48}\)

\(^{47}\) Rawls, p92-3.
\(^{48}\) Rawls, p31.
This passage can be interpreted as follows: “enjoys” relates to the individual’s \textit{de facto} preferences, or what he really desires with respect to the various alternatives (ignoring his sense of justice). But the individual does not passively seek to satisfy his desires in his actions, he acts according to (what is referred to here as) his “conception of the good”. The principles of justice agreed to in the original position come prior to his \textit{de facto} preferences (his desires), they constrain his \textit{de facto} preferences in that they “\textit{put limits on what satisfactions have value}”. One can use a dual utility idea to understand this passage:

1. ‘enjoyment’ relates to his satisfactions, or his desires taken at face value. There is no reason involved here, no discrimination between one desire and another, it simply represents his desires taken as brute facts. This is what I mean by his \textit{de facto} preferences.

2. ‘conception of good’, in the above, can be taken to refer to the preferences that underlie the individual’s \textit{choices}. This set of preferences is based upon his desires, \textit{but incorporate the individual’s moral sense}.

Therefore, the “\textit{moral capacity,”} \footnote{Rawls p46} which each individual has constrains his pursuit of the good, and this can be interpreted as two sets of preferences: one constrained by the sense of justice, one unconstrained.

\section*{III The Idea of Individual Good as a Rational Plan}

Provided it does not conflict with the principles of justice, individuals are free to hold whatever conceptions of the good that they choose. In this section, I intend to focus on Rawls’ idea of the good and rationality post-original position, assuming that
the sense of justice is not violated. Possibly the most fundamental difference between Rawls' notion of the good and the notion of the good standard in economic theory is the importance given to the role of reason in determining which desires are rational and which are not. Rawls emphasises the process of reflecting on preferences and thus change in preferences over time, in some ways similar to Mill's emphasis on the process of individual preference development. One can link Rawls' view of individual good as a longer-term plan of life rather than a set of preferences at any given point in time to his idea of social welfare as something which is independent of individual preferences (the fact that the initial contractual agreement on the principles of justice takes place behind a 'veil of ignorance'). Rawls' main problem with utilitarianism is that it assumes that satisfying all desires is good:

"even if interpersonal comparisons of satisfaction can be made, these comparisons must reflect values which it makes sense to pursue. It is irrational to advance one end rather than another simply because it can be more accurately estimated. The controversy about interpersonal comparisons tends to obscure the real question, whether the total happiness is to be maximised in the first place"

Rawls does take the view that happiness should be maximised, but he does not accept that the satisfaction of all desires will necessarily make someone happy. He has an Aristotelian idea of happiness, of happiness as eudaimonia, the idea that humans are happiest when they feel fulfilled. Individuals first decide upon a rational plan of life using deliberative rationality, their wants can then be classed as rational

---

50 Rawls, p91.
or not according to whether or not they are consistent with the rational plan.

"a rational plan of life establishes the basic point of view from which all judgements of value relating to a particular person are to be made and finally rendered consistent."\(^5\)

Only those wants which are consistent with one's plan are rational. This is the only difference between Rawlsian rationality and economic rationality. It is not rational to pursue all desires according to Rawls, it is not rational to pursue those which conflict with our rational plan of life:

"Keeping in mind that our overall aim is to carry out a rational plan, it is clear that some features of desires make doing this impossible"\(^5\)

The rational plan itself is formed as a result of rational deliberation, "a rational person will not usually deliberate until he has found the best plan open to him. Often he will be content if he forms a satisfactory plan"\(^5\)

This does not necessarily imply that Rawlsian rationality suggests satisficing rather than maximising behaviour. The above passage is perfectly consistent with the motive of utility maximisation as is supported in the quote below:

"Rational deliberation is itself an activity like any other, and the extent to which one should engage in it is subject to rational decision. The formal rule is that we should

\(^5\) Rawls, p409.
\(^5\) Ibid., p419.
\(^5\) Ibid., p418.
deliberate up to the point where the likely benefits from improving our plan are just worth the time and effort of reflection."54

The idea is that a rational (i.e. utility maximising) period of deliberation is deliberation up to the point where the marginal benefit of deliberation is equal to the marginal cost. So the idea that the rational plan is a satisfactory plan is consistent with the idea of rationality as maximising utility. One can see a parallel between this idea that the plan should be satisfactory rather than the best plan and Mabbott’s idea that one should not spend too long in deliberating to form a time plan.

“Planning of time itself consumes time and may leave too little of these commodities for the activities planned.”55

Rawls emphasises the role played by reason in forming our idea of our good.

“Awareness of the genesis of our wants can often make it perfectly clear to us that we really do desire certain things more than others. As some aims seem less important in the face of critical scrutiny, or even lose their appeal entirely, others may assume an assured prominence.”56

Clearly the major difference between the Rawlsian utility function and the utility function standard in economic theory is in the role of reason as necessary in

---

54 Ibid.
55 Mabbott, J.D. (1953), p122.
56 Rawls (1973) p 420.
determining Rawlsian individual preferences. I am not trying to imply that reason is normally absent, but it is not necessary. The notion of rationality in economics is simply choice consistent with existing preferences. Rawlsian rationality emphasises the role of reason in changing preferences. It is the rational plan of life that determines a person’s good, not satisfaction of any desire that he has (similar to Mill). Rawls appears to have been influenced by Mabbott’s paper ‘Reason and Desire’\textsuperscript{57} since he cites this in his discussion of desires and one’s rational plan of life. Mabbott discusses the role of a time-plan in influencing our desires, in determining which are satisfied and which are not. It suggests that Rawls was averse to the Humean idea that “reason is and ought to be the slave of the passions”\textsuperscript{58} but that one can use one’s reason to influence one’s desires. Rawls’ notion of the rational life plan suggests that he does not want individuals to be slaves to their desires. In my view, most important is Mabbott’s view that one can alter desires by adopting a certain plan because this highlights the fact that desires need not be accepted as brute facts.

“there are many ways in which planning results in altering the desires themselves, and the possibility of satisfying them. The desire whose satisfaction is postponed may diminish or disappear....I may reject altogether the satisfaction of one desire as being incompatible with the satisfaction of too many others”\textsuperscript{59}

\textsuperscript{57} Mabbott, J.D (1953), p 113-123.
\textsuperscript{58} David Hume, \textit{Treatise of Human Nature}, quoted in Mabbott (1953).
\textsuperscript{59} Mabbott, p 115.
I am not trying to argue that the utility function of orthodox economic theory is hedonistic where reason has no role, for this is clearly not the case. An individual could desire to smoke a cigarette, but a long-term concern for his health could cause the individual to rank the social state in which he does not smoke it above that in which he does. In this case he derives more utility from the state in which the desire for a cigarette is not satisfied because his long-term health is an argument in his individual utility function as well as pleasure. This is the advantage of the notion of utility adopted by economists, utility is whatever the individual regards as good, that which is preferred. An individual may or may not use reason in forming his preferences. But, because the use of reason is not necessary in forming preferences in economic theory, one’s preferences at any given point in time may not be consistent with a considered judgement about what is in one’s interest. The acceptance of preferences as brute facts by economists has a Humean flavour to it, the suggestion that one cannot alter preferences by the use of reason.

IV The Notion of Social Welfare, the Link with Individual Welfare and the Paretian Liberal Paradox

"The utilitarian must concede the theoretical possibility that configurations of preferences may lead to injustice as ordinarily understood. For example, assume that the larger part of society has an abhorrence for certain religious or sexual practices. This feeling is so intense that it is not enough that these practices be kept from public view; the very thought that these things are going on is enough to arouse the majority to anger and hatred. Seeking the greatest satisfaction of desire may, then, justify harsh repressive measures against actions that cause no social injury. To defend individual liberty in this case the utilitarian has to show that given the
circumstances the real balance of advantages in the long run still lies on the side of freedom.\textsuperscript{60}

In the above passage, Rawls is essentially using the possibility of Paretian liberal conflict to argue against utilitarianism as an approach to social welfare: If social welfare is equated with 'the greatest happiness of the greatest number', where 'happiness' is defined as preference satisfaction, then the socially best state may be one in which individual liberty for some individuals is sacrificed. But the argument could be interpreted more broadly than this, as an argument against any benchmark of social welfare which is based upon existing preferences, i.e. a Sen type social welfare function (where all issues are subject to the social welfare function, e.g. liberty). Rawls is unambiguously clear that an issue such as individual liberty should not be at the mercy, so to speak, of individual preferences (or some idea of social welfare based upon individual preferences), as is the case here. Rawls's contractarian argument establishing the priority of liberty could be viewed as preempting such an undesirable scenario, where liberty is subject to a preference-based idea of social welfare. According to Rawls' idea of social welfare, there is no question of Paretian liberal conflict ever arising for the following reasons (points two and three essentially follow from point one):

1. Social welfare is identified with the principles of justice (which are agreed upon behind the veil of ignorance) and whether or not institutions are consistent with them.

2. The right to individual liberty is \textit{not} contingent on individual preferences, but is independent of them. It is one of the principles of justice and thus cannot be violated. Further, each \textit{individual's} sense of justice implies that each does not

\textsuperscript{60} Rawls, p450
wish to impinge upon the liberty of any other irrespective of his preferences over outcomes.

3. The acceptability of Paretianism is questionable. The problem with Paretianism is that it is based upon actual preferences at any given point in time which reflect the different situations of individuals. As a principle of justice itself, therefore, it would be rejected. Once the priority of individual liberty is established, it is the difference principle, not Pareto optimality, which provides a benchmark for the socially best allocation of resources. Such a social state would be consistent with Paretian value judgements, although, given a situation of injustice, changes may be required which do not constitute a Pareto improvement:

"...the difference principle is compatible with the principle of efficiency. For when the former is fully satisfied, it is indeed impossible to make any one representative man better off without making another worse off, namely, the least advantaged representative man whose expectations we are to maximise....Justice comes prior to efficiency and thus requires some changes that are not efficient in this sense."61

Equal liberty is part of the initial contractual agreement made behind the veil of ignorance and thus cannot be violated:

"On the contract view, the grounds of liberty are completely separate from existing preferences. Indeed we may think of the principles of justice as an agreement not to take into account certain feelings when assessing the conduct of others."62

---

61 Rawls, p79-80.
62 Ibid. Italics not in original.
But if one were to construct a Sen type social welfare function, for example, for use instead of the difference principle for determining the best social state once the priority of liberty were established, based upon individual preferences, it is the sense of justice which pre-empts any possibility of Paretian liberal conflict because it rules out the possibility of any individual holding the kind of preferences which would give rise to Paretian liberal conflict:

"The principles of right, and so of justice, put limits on which satisfactions have value; they impose restrictions on what are reasonable conceptions of one's good"\(^63\)

There are clear parallels with the resolution implied by Rousseau’s notion of the general will:

1. Individuals are acting autonomously when acting according to the principles of justice chosen in the original position. Thus they are more free when ‘constrained’ by their sense of justice.

2. The notion of social good is similar: the sense of justice is similar to the general will. Everyone has this sense and the original position describes the conditions in which we discover it.

"In the original position the parties agree to be held responsible for the conception of justice that is chosen. There is no violation of our autonomy so long as its principles are properly followed"\(^64\)

Another way of viewing this analogy is in viewing \textit{de facto} preferences as individual private wills. Any social welfare function based on \textit{de facto} preferences would not

---

\(^{63}\) Rawls, p31

\(^{64}\) Rawls, p519.
be representative of the common good, but would be something similar to the will of all. This is why the veil of ignorance is necessary in determining the principles of justice in the original position, so that establishment of the principles is truly in the interest of society and not influenced by particular considerations that relate to any private individual:

"...the requirement of a unanimous agreement connects up with the idea of human beings who as members of a social union seek the values of the community"\(^65\)

The ‘well-ordered’ society follows from the fact that the members of this society have a sense of justice, i.e. the sense of justice is in the interest of social welfare. Rawls is providing us with a sketch of the kind of individual who will make up a ‘good’ society. This is reminiscent of the way that Plato identifies a ‘type’ of individual corresponding to each type of society (democracy, tyranny etc.) in *The Republic*\(^66\). But there is an interesting and fundamentally important difference between Rawls and Plato. Plato evaluates different types of society from the individual’s perspective. The notion of social good is absent. Plato argues that the republic is better than tyranny by showing that “the tyrant is 729 times more unhappy than the philosopher king”\(^67\). In other words, Plato argues for being just by arguing that the individual will be better off if he has such a sense.

Rawls, however, acknowledges the possibility that the individual may not view himself as better off with such a sense. Rawls does not justify acquisition of a sense

\(^{65}\) Ibid. p565.
\(^{66}\) Plato (1974). The four types of imperfect society and the corresponding character types are discussed in book VIII (pgs 543-592b).
\(^{67}\) Ibid. Editor’s note, p413 of this edition.
of justice from the point of view of individual good. His argument is that it is

collectively rational to have such a sense of justice:

“our good depends upon the sort of persons we are, the kinds of wants and
aspirations we have and are capable of. It can even happen that there are many who
do not find a sense of justice for their good; but if so the forces making for stability
are weaker...Yet none of this nullifies the collective rationality of the principles of
justice; it is still to the advantage of each that everyone else should honour them.”

Thus Rawls justifies the sense of justice with reference to the social good rather than
the individual good.

In the light of Rawls’ discussion, the Paretian liberal paradox can be interpreted as
illustrating the problem of basing a notion of social welfare upon de facto
preferences of individuals. The purpose of Rawls’ principles of justice are to make
for a stable society. They are based on the idea of a common good:

“the principles of justice are public: they characterise the commonly recognised
moral convictions shared by the members of a well-ordered society”

Again, note the parallel with the general will: these commonly held moral
convictions serve the common good. There is a further parallel with Rousseau in
that individual freedom is defined with reference to adhering to the principles of
justice:

“the desire to express our nature as a free and equal rational being can be fulfilled
only by acting on the principles of right and justice as having first priority.”

---

68 Rawls, p576.
69 Ibid., p570.
70 Ibid., p574.
This is analogous to Rousseau’s assertion that we are more free when ruled by the
general will. However, in contrast with Rousseau, in the case of Rawls the first
principle of justice is equal liberty for all members of society. This requires
individuals being given actual liberty to make choices, whereas in the case of
Rousseau the extent to which individuals should have liberty to exercise their private
wills is more difficult to ascertain71.

CONCLUSION

The notion of social welfare is of fundamental importance to the Paretian liberal
paradox in that the paradox arises when trying to rank social states according to their
desirability for society. The paradox rests on a particular view of social welfare as
being represented by a social welfare function. The result is that it is impossible to
derive a ranking of social states which represents the welfare of society from
individual rankings of social states, where the social ranking can be said to reflect
both Paretian and liberal value judgements. The paradox is interesting in that a value
judgement which essentially relates to the process by which social states (outcomes)
are achieved (a judgement about individual rights) is incorporated into the social
welfare function itself. Although the social welfare function merely specifies a
social ranking over end states for a given set of individual rankings over end states,
Sen has incorporated a condition which reflects a value judgement that individual
liberty is desirable, a value judgement about the process, within an analytical
framework which solely values outcomes. Within social choice theory, there has
been much debate, particularly during the 1980s, on the issue of whether condition L
adequately captures this value judgement. Some writers took the view that social

71 I discuss this issue in depth in chapter two.
choice theory, as an analytical framework, was incapable of capturing this value judgement which precipitated a move towards the use of game theory to formulate the paradox. Game theory models individual interaction and the possible outcomes of such interaction. Thus it is capable of formulating individual rights. However, the issue which is almost invariably overlooked within the social choice theory literature, is that as an analytical framework, it is incapable of handling the view of social welfare implicit in the original Sen paradox.

Contractarian approaches to social welfare, in general, place value on the process of agreement. More specifically, they involve an initial contractual agreement in which individuals unanimously agree on either the set of rights/rules by which they are subsequently to be governed, or they agree to be ruled by some sovereign. In the case of Rawls they agree to principles of justice which must not be violated in all subsequent conduct. The initial contractual agreement could be either individually or socially motivated. To be individually motivated there is no need to accept some idea of a common good or social welfare, all one needs to accept is the idea of separate goods of individuals: in general, individuals are better off with rather than without the contractual agreement. The contractarian thought of Hobbes and Buchanan can be put into this category. The contractual agreement of Rousseau and Rawls falls into the other category: the contract is socially motivated, i.e. it rests on some idea of common good.

James Buchanan’s approach to social welfare (i.e. as merely the collection of separate individual utilities of individuals) implies the rejection of a social welfare function. It does not, however, imply the rejection of Paretian and liberal value
judgements. The desirability of Pareto optimal social states can be justified on individualistic grounds (as social states in which it is not possible to make any individual better off without making at least one individual worse off) and individual liberty is valued. Modern game theoretic reformulations of Paretian liberal conflict can be interpreted as illustrating “the central problems of the social order, those of reconciling the behavior of separately motivated persons so as to generate patterns of outcomes that are tolerable to all participants”. Thus analysis of the contractarian thought of Buchanan is illuminating in highlighting the different nature of the problem that the game theoretic formulation is dealing with. Game theory formulations cannot be interpreted as attempts to identify the best social state, but can be interpreted as dealing with Buchanan’s contractarian problem (of individuals deciding upon a set of rights/rules) given that there is no social ranking of social states, only separate individual rankings. It thus highlights that what is generally acknowledged to be a reformulation of the original Paretian liberal paradox is, analytically, a very different exercise.

Rawls’s social contract resolves the paradox by the fact that the contractual agreement on principles of justice is made when each individual is placed behind the veil of ignorance, i.e. when each individual has no knowledge of his actual preferences. Abiding by the principles of justice is in the interest of social welfare, and thus these principles come prior to individual utility considerations. Another way of viewing this resolution to the problem is that the social welfare function is not based upon actual preferences, thus when individual preferences go against liberty considerations (as in the case of Sen’s example) there is no conflict because it

---

72 Ibid. p5.
is not *de facto* preferences which determine social welfare. The determinants of social welfare are established in the original position when noone has any knowledge of *de facto* preferences. This contractarian approach to social welfare, therefore, precludes the possibility of any conflict between individual liberty and social welfare, given that individual liberty is established as a necessary condition for social welfare in the original position:

"On the contract view, the grounds of liberty are completely separate from existing preferences. Indeed we may think of the principles of justice as an agreement not to take into account certain feelings when assessing the conduct of others"  

In terms of the motivation for the contractual agreement, there are parallels with Rousseau: the contract is established in the interest of social welfare. However, at variance with Rousseau, individual liberty (natural liberty), i.e. freedom to exercise one’s preferences is fundamentally important and is assigned priority.

In terms of logical ways out of the paradox, the contractarians analysed in this chapter suggest the following solutions:

1. *Buchanan*. We should get rid of the idea of a social welfare. The whole idea of common good is meaningless, there is only individual good. Thus the construction of a social welfare function is a pointless exercise. If it is impossible to construct such a function then this presents no problem, given that the whole notion of social welfare which it represents has no meaning anyway. Logically, it is the social welfare function itself which is abandoned. Social

---

choice of a social state is a pointless exercise, rights and rules are chosen and they are chosen to serve the separate interests of individuals. The value judgements of Paretianism and liberalism are not abandoned, thus conflict may persist in a different form. It may be the case that a rights structure which could be deemed to be libertarian could result in social states which are not Pareto optimal, but this is a separate issue and does not present a problem to a contractarian such as Buchanan. It is the process of agreement which is the most important issue, thus agreement to an outcome is more important than the issue of whether or not it is Pareto optimal.

2. Rawls. Social welfare is independent of de facto preferences. Thus the Sen type social welfare function (based upon existing preferences) is not truly representative of social welfare. It is unanimously consented to principles of justice that make for a stable society. Such principles should be independent of existing preferences. Abandonment of a Sen type social welfare function is not necessary to resolve the conflict between Paretianism and liberalism. The sense of justice is accepted at the individual level, it constrains individual preferences, thus individuals would not desire that other individuals had lesser liberty for the sake of getting a more preferred social outcome.

I Introduction

This chapter first explores the link between the social welfare function and Rousseau's idea of the general will of society which was suggested in chapter two. The Sen paradox is interpreted as stemming from giving the social welfare function the status of the general will. That is to say, of accepting the social ranking of alternatives as representative of social good and thus the idea that all issues, including all rights, should be subordinate to it, whilst also adhering to the mono-utility idea. Of the interpretations of a social welfare function which were discussed in chapter one of the thesis, this corresponds to what I refer to as interpretation one, an ethical interpretation, together with the idea that such a device is actually to be used to determine social outcomes. The extent to which writers either accept or reject this interpretation has implications for the possible logical ways that the paradox can be resolved. Section three outlines these possible approaches to resolution of Paretoan liberal conflict, and the remaining sections of the chapter link some of the resolutions which have been proposed within social choice theory with these different approaches. The chapter also highlights the way that resolutions presented in chapters two to four of the thesis relate to the approaches identified here.
II  The Extent to Which the Social Welfare Function Can be Interpreted as Representative of the General Will of Society

"...a value judgment is implied in any given way of making social choices based on individual utilities... But, given these basic value judgments as to the mode of aggregating individual desires, the economist should investigate those mechanisms for social choice which satisfy the value judgments and should check their consequences to see if still other value judgments are violated. In particular, he should ask the question whether or not the value judgements are consistent with each other."

The above passage highlights one of the main differences between Rousseau's notion of the general will and the ranking of alternatives which represents society's good within social choice theory: The axioms of Arrow's and Sen's theorems have value in themselves because they represent basic value judgements which are deemed to be desirable. The Social Contract, however, gives one the impression that there is some general will which is 'out there' to be discovered, all we need to do is to bring about the conditions which are most likely to discover it. In other words, if the social welfare function were merely a means of discovering the general will, we would be looking for axioms which were most likely to make that general will known. Rousseau attaches no intrinsic value to the process of discovering the general will, and thus axioms would have no intrinsic value. On this view, one could interpret the Paretian liberal paradox as follows: The conditions P, L and U may not enable us to discover the general will and thus are not appropriate axioms to impose on a social welfare function. The social

---

1 Arrow, K.J (1963), p4-5.
choice theorist, however, concludes that the value judgements are not consistent with each other.

Rousseau states that the general will is found by the majority view\(^2\), and he suggests that the larger the majority, the more sure we can be that we have found the general will:

"the more important and crucial the decision is, the more nearly unanimous should be the opinion which prevails."\(^3\)

There is an obvious link between unanimity and Sen’s condition P, given that the latter is an equivalence between a unanimous preference over a given pair of alternatives and society’s ranking of these two alternatives. But a unanimous preference is just one aspect of Paretian value judgements. Rowley and Peacock identify two others\(^4\):

1. Each individual is considered to be the best judge of his own welfare and
2. Social welfare is solely dependent on the welfare of individual members of that society.

Both of the value assumptions above are at variance with Rousseau’s idea of a general will. Referring to the general will, Rousseau comments,

"Thus when an opinion contrary to my own prevails, this proves nothing more than that I was mistaken, and that what I thought to be the general will was not."\(^5\)

The above suggests that it is not the individual that is the best judge of social welfare, but ‘society’. Any single individual can be mistaken with regard to the social good

---

\(^2\)(where individuals are motivated by the common good, this is discussed in chapter two.)

\(^3\)Rousseau, Book 4, Chapter 2. (4.2), p119.


\(^5\)Rousseau, (4.3) p118.
because individuals are fallible. The idea of an infallible general will which is “always right” and should, therefore, govern society seems to run contrary to the spirit of Paretian value assumptions one and two above. This is not only because it questions the judgement of the individual, but also in its suggestion of a less straightforward link between individual and social welfare\textsuperscript{6}. The fundamental point is that the only link between Sen’s condition P and the general will lies in the fact that unanimity is a process by which the general will may be discovered. The link does not apply to Paretian value judgements per se.

However, it is the similarity between the social welfare function and the general will which is the underlying theme of this chapter. Sen requires that the ranking of alternatives generated by the social welfare function be acyclical:

“\( R \) (the social preference relation) should generate a ‘choice function’, that is, in every subset of alternatives there must be a ‘best’ alternative .”\textsuperscript{7}

The similarity between the general will and the social welfare function lies in the fact that the latter identifies an outcome which is socially ‘best’. The difference lies in the interpretation of the two, discussed above. But if one accepts the idea that one can derive a ranking of alternatives which is representative of society’s good, to which all issues are subordinate, then there is a sense in which one is accepting the idea of the social welfare function as analogous to the general will. To be more specific, the Sen paradox may be interpreted as stemming from giving the social welfare function the

---

\textsuperscript{6} Aggregation of individual preferences via voting could give us the will of all, rather than the general will.

status of the general will, i.e. of accepting that all issues, including basic rights and liberties, are to be subject to the social welfare function. In other words, the paradox can be viewed as a result of assigning the social welfare function as much importance as Rousseau assigns to the general will:

"the general will alone can direct the forces of the state in accordance with the purpose for which it was created, namely, the common good. It is exclusively on the basis of this common interest that society must be governed." 8

The analogy applies to the role and status of the general will, as the device which represents the social good and determines all issues within society. Acceptance of the idea that there is some general will which exists prior to the process of preference aggregation, which this process is designed to discover, is not necessary for the acceptance of this analogy. One has to accept interpretation one of the social welfare function set out in the introduction, that the social welfare function is generally accepted as a device which identifies the best social state, together with the further value judgement that the function should actually be used to determine the complete social state.

III Possible Ways in Which Paretian Liberal Conflict can be Resolved

Sen is trying to construct a social decision function which is to be representative of social welfare. He imposes three conditions on this function: unrestricted domain, U,

---

8 Rousseau, (2.1) p25. Italics not in original in this and all subsequent quotes, unless otherwise stated.
weak Pareto principle, P and minimal liberalism, L. He finds that it is not possible to impose both conditions P and L (given the imposition of U) and still generate an acyclical ranking of alternatives, i.e. imposition of both these conditions make it impossible to establish such an analytically distinct concept of social good. In the light of the analysis of earlier writers of chapters two to four, the following routes out of the paradox are suggested:

1. **Commitment to the concept of a social welfare function, (a distinct concept of social good) as well as**
   (i) **Commitment to the mono-utility idea, that each individual has a single utility function.**

This is not a route out of the paradox suggested by earlier writers, but it is one which has been chosen by social choice theorists in the early 1970s. In this case, one of the axioms P or L has to be abandoned because imposition of both makes it impossible to construct a social welfare function. Many social choice theorists have responded in this way because of their commitment to the concept of a social welfare function and the mono-utility framework of microeconomic theory. Given acceptance of both these ideas, the only way round the problem is to modify or abandon one of the axioms. Condition P follows from acceptance of an individualistic approach to social welfare, which only leaves L. However, the liberty/welfare conflict is not really resolved. Such a resolution is tantamount to choosing social welfare over liberty and thus does not really resolve the conflict.

---

9 I discuss this at length in chapter one.
(ii) Rejection of the mono-utility idea

One possible reason for commitment to the idea of a social welfare function would be acceptance of the idea of the general will. In this case, although condition L may have to be abandoned, one is not having to choose between liberty and social welfare because it is the social welfare function (general will) which is representative of the true welfare of each individual. In other words, the liberty/welfare conflict is dealt with by ‘splitting’ the individual’s utility function.

Another possibility is that the dual utility idea implies that the individual preferences which give rise to the paradox will not arise. For the case of Rousseau, this possibility was explored in the concluding section of chapter two: If the general will includes an element of natural liberty, then when individuals express preferences which reflect their general as opposed to their private wills, there will be no conflict between P and L. This is because the individual preferences expressed reflect a liberal attitude, they reflect a preference for private spheres. On this interpretation, conflict between P and L only arises if individuals express preferences which represent their private wills.

This also applies to the case of Rawls. But a ‘Rawlsian’ resolution of conflict would never require abandonment of L. Individuals each have a sense of justice. One can think of the two sets of preferences here as their actual preferences ignoring the sense of justice, and the preferences they wish to act upon which are ‘constrained’ by their sense of justice. Individuals’ first preference is for liberty, thus there is no conflict between P and L. Technically, this resolution works by abandoning U: there are certain sets of preferences which will never arise, given that individuals only express preferences
consistent with their general will/sense of justice\textsuperscript{10}.

2. \textbf{Reject the concept of a social welfare function as having the status of the general will.} The social welfare function does not have the \textit{status} of the general will in that individual liberty considerations are not subordinate to it, but are independent of it. In other words, the individual liberty issue is not viewed as a \textit{social} problem, it is mutually exclusive to any social welfare function. Writers who are of this view, therefore, cannot accept the idea of liberty being represented as a condition imposed on a social welfare function. This is the approach taken by contractarian writers such as Nozick and Buchanan. It can be subdivided as follows:

(i) \textbf{There is still a social welfare function operating}, but it does not have the status of the general will, i.e. some issues (individual liberty) are deemed to be outside its domain. Writers who argue that rights should constrain the domain of alternatives of the social welfare function fall into this category because they are essentially subordinating the social welfare function to considerations of individual welfare. Conflict is resolved by weakening the status of the social welfare function and not allowing it to act as a general will, i.e. not allowing all rights to be subordinate to it.

(ii) \textbf{The idea of a social welfare function is abandoned altogether}. This is the approach taken by James Buchanan. The idea of an analytically distinct concept of social welfare

\textsuperscript{10} This also indicates a possible link between Rawls and Rousseau: the Rawlsian veil of ignorance could be thought of as a device which enables individuals to "see" their general will because, from behind it, information regarding their own particular interests is denied them.
is viewed as meaningless, or inconsistent with commitment to individual liberty. Society is nothing more than separate welfare of individuals (not aggregated). Thus there is no Sen problem.

The rest of this chapter discusses some early responses to the Sen paradox (1970-1980) and seeks to link these responses to the resolutions suggested by political philosophers identified above.

IV Commitment to the Concept of a Social Welfare Function and Mono-Utility Framework, but Abandonment of Condition L (and thus liberty)

For writers who choose to retain the idea of a social welfare function as representative of the social good, it is more common for them to abandon or modify L as opposed to P. This is due to the almost universal acceptance amongst economists of the idea of a Pareto improvement as being socially better, the majority of writers were reluctant to question such a well established notion. This section focuses on writers who fit into category 1(i) above. A clear commitment to the idea of a social welfare function based on condition P is evident. What is interesting about a lot of the writers in this section is that the Paretian social welfare function almost seems to be assigned the status of the general will in that it is this which is accepted as representative of social good, whilst other issues (such as the idea of a private sphere of choice) are merely subordinate to it. This seems to be why L is abandoned in these cases, the independent justification for L seems to be lacking here, it is merely subject to the Paretian social welfare function. But, unlike Rousseau, there is almost no evidence of any dual utility device. Thus these
writers must ‘resolve’ the problem by choosing social welfare over liberty.

Hillingher and Lapham\textsuperscript{11} argue for abandoning condition L by violating Hume’s law\textsuperscript{12} in claiming that the principle of liberalism “does not apply” in cases such as Sen’s where there are externalities:

“When individual choices are independent, the Paretian principle does not conflict with the principle of liberalism. \textit{In the general situation of interdependence, there applies no general principle of liberalism of which we are aware, although the Pareto principle applies}. Therefore, there cannot be any conflict between the two principles. The contradiction obtained by Sen is the consequence of his imposing on the social choice of a society arbitrary values which conflict with the preferences of individuals of society.”\textsuperscript{13}

The terms ‘independent’ and ‘interdependent’ relate to utility, i.e. independent means there are no externalities, interdependent means there are externalities. It is the italicised sentence which is of interest, given that Paretian liberal conflict stems from the presence of externalities. This sentence can be read as follows:

“From the \textit{fact} that there are externalities, it follows that the liberal value judgement does not apply.” They are essentially making the desirability of the liberal value judgement contingent on the absence of externalities. Thus liberalism is not a basic value judgement and the liberal axiom is not valued in itself. It is the “preferences of

\textsuperscript{11} Hillingher, C and Lapham, V (1971), p1403-5.
\textsuperscript{12} The rule that one cannot derive a value judgement from a fact.
\textsuperscript{13} Hillingher and Lapham (1971), p1405, italics added.
society] which are sovereign whereas as liberalism is dismissed as an “arbitrary” value judgement. In this case, it is clearly the Pareto principle which determines social desirability, liberalism is subordinate to this. But Hillingher and Lapham go even further than this, arguing that liberalism is not a separate value judgement at all: “when the actions of one individual do not impinge upon the welfare of others, then liberalism follows as a special case of the Pareto principle.”

In other words, there is no need for an axiom which reflects the liberal value judgement because in cases where it conflicts with the Pareto principle it is not desirable, and in cases where it does not, it is unnecessary. Thus there is only one basic value judgement here, Paretianism. Hillingher and Lapham’s resolution of the conflict rests on the argument that liberalism is merely a ‘special case’ of this value judgement and, therefore, cannot conflict with it. Referring to the last sentence of the passage cited in note thirteen above, Hillingher and Lapham attribute the paradox to the ‘imposition’ on society of a set of ‘arbitrary values’ which conflict with the preferences of individual members of that society. This again reflects their dismissal of liberalism as a value judgement. Condition L is dropped, therefore, because it interferes with the establishment of a Paretian social welfare function.

Gibbard proposes a resolution of Paretian liberal conflict which, he argues, reflects the ‘strong libertarian tradition of free contract’: “There is a strong libertarian tradition of free contract, and on that tradition, a person’s rights are his to use or bargain away as

---

14 Ibid., p1403.
he sees fit....it does seem important at least to find a version of the libertarian claim that is consistent with the Pareto principle, and thus permits those bargains to which everyone would agree". The resolution that he proposes does not actually involve a rights trade, but rights waiving. He argues that individual rights should be alienable, i.e. individuals should be just as free not to exercise their rights as to exercise them. Sen has presented us with the result that imposing both conditions L and P on the social welfare function generates cyclical social preferences. Gibbard addresses the question, “At which point should the cycle be broken?” in a pragmatic way, i.e. by considering whether, in practice, an individual would exercise his right or not. His argument can be thought of as follows: If I have a right over alternatives x and y (and I prefer x to y) but exercising my right to x would ultimately lead to an outcome z which I feel to be worse than y, then I would realise that choosing x is tantamount to choosing z and thus would waive my right to x in order to avoid the outcome z. The point is that, in assigning an individual a right over (x,y), he is being given the power to avoid outcome y (by exercising his right), but this is of no use to him if avoiding y will result in a worse outcome, z (via someone else exercising her right to z over x or unanimous preference). In that case, he would waive his right to avoid y in order to avoid z. Gibbard presents an example on pages 398-399 of his paper which illustrates this. My problem with the resolution it that it is too pragmatic, considering what, in fact, will happen here, the individuals' utility maximising strategy. Is this what ought to happen? Gibbard would argue that, yes, individuals ought to have the right to waive rights and this is where the

\[15\] Gibbard, page 397. Resolutions proposed in the 1980s which their authors argue also reflect this tradition are criticised in part two, chapter six of this thesis. The result which is generally referred to as Gibbard's paradox is discussed later in the chapter.
normative element of the analysis creeps in. One could interpret his argument as the idea that, in stipulating a correspondence between individual and social preference over pairs of alternatives over which individuals are assigned rights, Sen is denying individuals the freedom to waive rights. However, Sen could argue that his original formulation L is more in line with what Mill had in mind for a right to liberty. Mill was of the view that the right to liberty is inalienable:

"The principle of freedom cannot require that he should be free not to be free. It is not freedom to be allowed to alienate his freedom"\(^{16}\)

Although Mill was referring to the particular issue of an individual who wants to sell himself as a slave here, he adds that it is "of far wider application". However, the idea of an individual waiving his rights is more ethically appealing than the idea of individuals trading their rights over their personal spheres, which characterised the 'libertarian' resolutions of the 1980s\(^{17}\). If an individual waives his right, he is not actually giving that right to anyone else, he is merely not using it. One of the problems that writers had with Sen’s correspondence between individual and social preference is that, they argued, it assumes that individuals would always choose to exercise their rights.

\(^{17}\) See part two, chapter six.
Thus Gibbard 'breaks the cycle' of social preferences by making rights alienable: individuals would choose to waive their rights. He is effectively subordinating individual liberty considerations to Pareto optimality. One has the impression that the whole resolution is motivated by the acceptance of Pareto optimality as a social objective:

"How, then, should the libertarian claim be modified to accommodate the Pareto principle?"18 Thus it is clear at the outset that it is the libertarian claim which Gibbard feels has to be relaxed, not Pareto optimality. One could view Gibbard's resolution as trying to ascertain what kind of right to liberty is consistent with a Paretian social welfare function. In other words, it is the Paretian social welfare function which is representative of society's good, all other considerations, including individual liberty, are subordinate to it.

Blau's approach to resolving conflict is similar to Gibbard's in that he too seems to accept the idea of unanimity as being socially desirable and, therefore, it is liberalism which must be relaxed to resolve the paradox:

"I can see no case for an outside observer denying a unanimous choice. This leads inevitably to modifying L."19

Blau notes that the Sen paradox stems from the fact that "each of the two persons feels more strongly in opposing the other's private decision than he does about his own private decision"20, and his resolution works by making the liberal right contingent on

---

18 Gibbard, p.398.
19 Blau (1975), p401.
preferences not being meddlesome. A meddlesome individual, i, is someone whose utility is more affected by what another individual j chooses within j’s personal sphere than it is by what i herself chooses within i’s personal sphere. Blau’s whole approach seems to revolve around implicit acceptance of a Paretian social welfare function as all important and establishing what kind of liberal right is consistent with that. However, his use of emotive words such as ‘meddlesome’ and ‘nosiness’ suggests that he views the individual preferences in the case of Sen’s example as blameworthy in some sense: “...the considerations above yield a sufficient condition for nosiness, and correspondingly a way to weaken L to make it more nearly accord with its stated purpose.”²¹

(The sufficient condition referred to here is the fact that each individual is more affected by the private choice of the other.) This is a puzzling statement. Surely the purpose of L is to protect the individual’s right to determine matters which are personal to him, thus it is in cases of ‘nosiness’ that L is most needed. What is contradictory about Blau’s resolution is that it involves subordinating all considerations for liberty to a Paretian social welfare function, whilst asserting that this makes L ‘more nearly accord with its stated purpose’. In reality, such a resolution does exactly the opposite as far as L is concerned: L is now unable to protect the individual’s right to liberty within his personal sphere because it has been modified such that it is subject to Paretianism. This resolves Paretian liberal conflict, but it is at the cost of liberalism. Blau expresses concern about these preferences being ‘meddlesome’ or stemming from ‘nosiness’, which could

²¹ Ibid., p.397.
provide grounds for “denying a unanimous choice”\textsuperscript{22} and thus resolving conflict by abandoning condition P. His concern at the meddlesome nature of preferences would constitute a reason for retaining L, not weakening it, however he opts for the latter alternative because he cannot let go of the idea that Pareto optimality will always be representative of the social good. It is in this sense that his resolution is somewhat inconsistent.

Implicit in the analysis presented by Ng\textsuperscript{23} is the acceptance of a Benthamite utilitarian social welfare function. The social welfare function is Benthamite because Ng’s notion of individual utility is cardinal rather than ordinal, the socially best outcome is that which maximises the sum of utilities of individual members of society:

“Suppose you strongly prefer sleeping on your back, but two individuals mildly prefer your sleeping on your belly and all others are indifferent. Majority voting would dictate that you should sleep on your belly, which is clearly undesirable. Liberalism may thus be seen as an alternative to majority rule in this and similar cases.”\textsuperscript{24}

According to Ng, liberalism is the idea that choices which are private should be left for that individual to decide for himself (and he does not accept that this is represented by condition L), but it is clear from his account that this is merely because this is the rights allocation which will maximise the sum of utilities. There is no basic value judgement

\textsuperscript{22} See note 19 above.
\textsuperscript{23} Ng, Y.K. (1971), p1397-1402.
\textsuperscript{24} Ibid., p1399, italics added.
that individual liberty is desirable, Ng is merely in favour of liberalism because it will result in maximisation of the sum of utilities of individual members of society. In this case it is as if the utilitarian social welfare function has the status of the general will: all considerations are subordinate to it. Ng’s idea of ‘the practice of liberalism’ that “one is permitted to do anything he likes only if it does not affect others”\(^{25}\) is entirely dependent for its existence on the utilitarian social welfare function in the way that rights depend for their existence on the general will in *The Social Contract*. Ng’s argument for liberalism is based on the fact that, in the majority of cases, the individual to whom a choice is personal will be more affected (his utility will be more affected) than the utility of individual(s) for whom the choice is not personal:

“the enforcement of liberalism would lead to a social improvement in nine out of ten cases”\(^{26}\)

Thus, *according to this utilitarian social welfare function*, one should be left to himself to decide whether to sleep on his back or front.

V Commitment to the Concept of a Social Welfare Function, but Rejection of the Mono-Utility Idea

To my knowledge, only one writer uses a Rawlsian idea of a sense of justice to resolve conflict (Ben Fine). Sen provides discussion of choices and preferences which seems to indicate acceptance of the dual preference idea of private and general will, but does not go on to use this to resolve conflict between liberty and social welfare. The ideas of

\(^{25}\) Ng (1974) p1400.

\(^{26}\) Ng, p1400.
both writers are presented here, starting with Ben Fine.

If each individual accepts the liberal value judgement, and acceptance of this is reflected in his preferences, then there will be no conflict between liberalism and Paretianism at the social level (the ranking of alternatives when conditions L and P are imposed on the social welfare function will be acyclical). This is because each individual will, firstly, prefer that other individuals have their own preferences reflected in issues which are personal to them because of his commitment to individual liberty. Any preferences which he may have over the outcomes of such private decisions are subordinate to his commitment to liberty. This notion of a liberal individual is analogous to the interpretation of Rawls' idea of an individual with a sense of justice, presented in chapter four. One could separate this individual commitment to liberalism from individual preferences over social outcomes, in which case the liberal value judgement would create a divergence between preference and choice: the commitment to liberty would stop individuals from acting on some preferences. This is the dual utility idea: the individual has a set of actual preferences over outcomes, but this is not necessarily the set he would want to act upon because he also has a sense of justice. The set of preferences that underlies his choices (or voting) is his preferences considered in the light of his desire for justice (liberty).

The way that Paretian liberal conflict is resolved by Ben Fine fits perfectly into this Rawlsian mould discussed above:
“We examine the consequences of restricting individual preferences to be liberal.”

The way that such a resolution works at the social level is that condition U is no longer imposed on the social welfare function, thus making P and L consistent with one another. Condition U specifies that the domain of the social welfare function is unrestricted, i.e. the social welfare function specifies a ranking of alternatives for every possible configuration of individual preferences. Restricting individual preference profiles to be liberal is tantamount to restricting the domain of the social welfare function, i.e. abandoning condition U.

Fine initially separates the individual’s commitment to liberalism from his preferences over outcomes:

“An individual is liberal if, over alternatives which are “none of his business”, his preferences recognise the sovereignty of the individual to whom the alternatives are personal. *This does not exclude the possibility of preference over the choice that might be made by another*, for “I prefer you to decide for yourself whether to read the book or not, but would rather you decide not to” is apparently neither an inconsistent nor an illiberal statement.”

According to Fine, a liberal prefers, firstly, that individuals be given freedom to choose over aspects which are personal to them, but this does not stop him from having a

---

28 Ibid. p1277.
preference over the outcome of that choice. His own preference over the outcome, however, is subordinate to his preference that the individual be given the freedom to exercise choice himself because he is a liberal. Fine is essentially resolving the Sen paradox at the individual level so that it will not arise at the social level (at the level of aggregating preferences). At the social level, the paradox can be thought of as conflict between a value judgement about who should have rights to determine what and a value judgement that a unanimously preferred outcome is better than another. The former can be viewed as a value judgement about the process, the latter as a value judgement relating to outcomes. The social welfare function uses individual preferences over outcomes. Fine is introducing an individual preference over the process which takes precedence over the individual preference over the outcome. In a way, he is abandoning P in favour of L, but at the individual as opposed to the social level. One could separate out an individual’s sense of justice in the same way. In Rawlsian society, individuals all have a sense of justice which means that they prefer freedom to coercion. But one could separate this from preference over outcomes (they could still have preferences regarding what they want another individual to want). These are the individual’s two sets of preferences (one could also think of this as analogous to the individual’s general and private wills).

Fine distinguishes between two types of want: essential wants and (personal) wants. Our essential wants relate to what we want others to want whilst our personal wants relate to what we ourselves want. According to Fine, an individual A essentially wants x...
if "A wants x if B wants x and A wants B to want x". \(^{29}\)  

If the individuals in Sen’s example are liberal, then their first wish is that the other individual is able to choose whether he reads the book or not. Thus liberal lewd essentially wants prude to read the book and wants to read it himself, whilst liberal prude essentially wants lewd not to read it and does not personally want to read it.\(^ {30}\) Fine describes it as a conflict between essential wants and wants. The only way to resolve the conflict, therefore, is if satisfaction of essential wants is always preferred to satisfaction of personal wants.

Fine’s final resolution involves restricting preferences “so that each member of society is indifferent to matters which are none of his business”.\(^ {31}\) Adopting the Rawlsian dual preference idea discussed above, the set of preferences which Fine refers to here can be thought of as his preferences constrained by his sense of justice. Fine incorporates what could be thought of as the individual’s liberal sentiment into his preferences over outcomes: The individual firstly prefers that others be free to choose in affairs that are their business and thus effectively would want any personal preference over those issues to be ignored in considerations of social welfare. Or, one could argue that, given that the individual firstly wants others to be free to choose (due to his sense of justice), he is incapable of deriving utility from anything which violates this. Thus his individual preferences reflect this. This is essentially how Rawls was analysed in chapter four. Either way, the dual utility idea is still there: we have two sets

\(^{29}\) Ibid, p1279.  
\(^{30}\) Ibid.  
\(^{31}\) Ibid p1281.
of preferences corresponding to whether or not we take into account the individual’s sense of justice.

There is a clear parallel with Rousseau’s notion of the general will here. The parallel lies in the fact that Rawls argues for the individual cultivation of a sense of justice with reference to the social, rather than the individual, good:

"It can even happen that there are many who do not find a sense of justice for their good;......Yet none of this nullifies the collective rationality of the principles of justice; it is still to the advantage of each that everyone else should honour them."\(^{32}\)

Similarly, according to Rousseau, individuals should act (or vote) according to their general will (social good). Thus there is clearly some form of social welfare function implicit in Rawls’ analysis. One could argue that it is consistent with the general will that individuals have a sense of justice. This aspect of Rawls’ theory means that he has more in common with Rousseau than with other contractarians, those for whom the idea of a social welfare function is absent or viewed as meaningless.

Several writers have resolved conflict by arguing that individual choice will not necessarily reflect underlying individual preferences. They argue that actual choice will be influenced by factors other than individual preferences, which will create a divergence between the two. This argument, if applied to choice per se., obviously

\(^{32}\) Rawls, p576.
undermines Sen’s condition L as a condition which places value on allowing individuals to determine aspects of the social state which are private to them: if individuals are not going to choose according to their preferences, then condition L is no longer appropriate to reflect a value judgement about individual liberty. This section argues for an interpretation of this view as attributing two sets of preferences to the individual, one for his role as a private individual, the other for his role as a citizen, i.e. each has a private will and a general will. By individual preferences, these writers mean to refer to the individual’s private will, his choice may reflect his general will.

The clearest illustration of Rousseau’s ideas of a private and general will can be found in a 1983 paper by Amartya Sen in the Journal of Philosophy\textsuperscript{33}. The analogy is clearest here because Sen was defending his condition L against the argument that there is a divergence between choice and preference. Sen’s counter argument was that, although in general choice may reflect factors other than individual preference, in matters which are private it will not:

"The force of preferring as a ground for choosing is altogether more powerful in decisions about one’s personal life, which do not directly affect others, than in decisions of other kinds. One’s desire is a good reason for choosing in one’s own personal sphere, but less compelling for choosing in other people’s personal spheres or even in public spheres."	extsuperscript{34}

\textsuperscript{34} Ibid., p20-21, italics added.
Sen discusses an example to illustrate his point. An individual has a preference for peaches over apples and is selecting a fruit when the fruit basket is passed around the table after dinner.

"There is only one peach, but many apples in the basket. The choice is not a purely personal choice for him, since his taking the peach would leave some with no choice at all"

Sen’s point is that the individual will not necessarily act according to his personal preference by choosing a peach because it does not lie within his recognised personal sphere - there is a direct effect on others. Sen cites this as a case in which an individual may well “act against his own preference” and uses it to show that it does not constitute an argument against his preference based characterisation of individual liberty, because his individual liberty condition applies only to recognised personal spheres.

I shall use the example to show the sense in which each individual can be viewed to have a private and a general will, as opposed to merely a single private will. When the fruit basket is passed around the table after dinner, the individual could be viewed as acting according to his general will rather than, “against his own preference”. This is because the individual is aware that his decision has consequences for the rest of society and it is these considerations that influence his decision. The difference can be attributed to the fact that one decision is purely private and thus the individual is motivated by his self-interest, the other is not and thus he is motivated by the social interest (he is acting as a citizen, according to his individual social welfare function).

One can conceive of two separate rankings of alternatives which reflect these two
motivations. It is interesting to consider the following passage taken from the *Social Contract* in the light of the above discussion:

"Each individual may, as a man, have a private will contrary to, or divergent from the general will he has as a citizen. His particular interest may speak to him quite differently from the common interest; his existence being naturally absolute and independent."35

In the language of Rousseau, Sen's argument can be interpreted as follows: Each individual will act according to his private will within his recognised personal sphere because there is no effect on society. In choices in which there are externalities, however, he should act according to his general will. The latter might imply acting contrary to his private will, since the common interest may diverge from the private will he has as a separate individual, but it does not imply acting against his own preference since the general will is his own preference, but the motivation differs.

However, the personal sphere is now defined in terms of whether or not there are externalities present. The idea of liberty as a separate value judgement has been lost, it is now effectively subordinate to utility considerations. Thus this resolution appears to lie along the lines of Rousseau's subordinating everything to the general will.

---

VI Rejection of the Concept of a Social Welfare Function as Having the Status of the General Will

This section discusses writers who reject the idea of a social welfare function as analogous to the general will of society, i.e. they reject the idea that all considerations, including the issue of individual liberty, are subject to the social welfare function. We can distinguish between those who reject the whole idea of a social welfare function per se. (e.g. Buchanan) and those who accept it, but argue that the individual liberty issue should be independent of it (e.g. Nozick). The section begins by considering Gibbard’s paradox. Gibbard’s paradox can be viewed as formalising a concept of individual liberty which makes it impossible for a social welfare function to exist.

(i) Gibbard’s Paradox

Alan Gibbard presented the result that, if Sen’s condition L is strengthened a little, then imposition of this strengthened condition L alone is sufficient to generate cyclical social preferences thus making it impossible for the social welfare function to act as a general will. One can use J.S. Mill’s views on individual liberty to argue for imposition of Gibbard’s condition L rather than Sen’s which suggests an underlying problem with representing a right to liberty in the way that Sen has done:

“considerations behind the (libertarian) claim in Sen’s version also lead in a natural way to a version that is inconsistent by itself.”

---

36 Gibbard, pp.388-410.
37 Gibbard, p.388.
The only difference between Sen’s and Gibbard’s condition L is that Sen gives each individual the right over at least one pair of social states (which differ with respect to an aspect of the social state which is private to that individual) whereas Gibbard gives each individual a libertarian right over every pair of social states which differ with respect to this aspect. Gibbard uses an example of two individuals who are deciding on the colour of their bedroom walls - either white or yellow. In this case, the colour of the walls is the personal aspect of the social state. Each individual is assigned libertarian rights over every pair of social states which differ solely with respect to the colour of his walls.

Referring to Gibbard’s example, I am assigned libertarian rights over \((a_{ww}, a_{yw})\) and \((a_{wy}, a_{yy})\) where the first subscript refers to the colour of my walls, the second to those of the other person (referred to as Grundy). Similarly, Grundy is assigned \((a_{wy}, a_{ww})\) and \((a_{yw}, a_{yy})\). “I want my bedroom walls to be a different colour to Mrs Grundy’s ....Grundy....wants her bedroom walls to be the same colour as mine”\(^{38}\) These individual preferences lead to cyclical social preferences in the following way: \(a_{yw}Pa_{ww}, a_{wy}Pa_{yy}\) for my rights and \(a_{ww}Pa_{wy}, a_{yy}Pa_{yw}\) for Grundy. This produces the cyclical social preferences \(a_{yw}Pa_{ww}Pa_{wy}Pa_{yy}Pa_{yw}Pa_{ww}......\) etc.

Thus we cannot identify the best social state, given this assignment of rights and these individual preferences and there has been no mention of condition P. Gibbard’s modification of condition L is intuitively appealing since both of these pairs \((a_{ww}, a_{yw})\) and \((a_{wy}, a_{yy})\) can be viewed as lying within my recognised personal sphere, in that they differ with respect to an aspect of the social state which is my business alone. In this way, Gibbard’s paradox can be combined with Mill’s idea of a right to liberty in

personal matters to argue that "the social choice formulation of individual rights is incompatible with Mill’s conception of the right to liberty". Sugden has used the paradox in this way in a relatively recent paper (1993). He uses the argument to support the idea that to model rights, we need to model procedures (by using game theory), not just preferences over outcomes. The fact that such a minor and intuitively appealing modification of Sen’s condition L can generate a cycle of social preferences raises questions about the underlying formulation itself. Sugden draws attention to the fact that the social preference cycle implies that, if we are committed to identifying a best outcome, society cannot respect the personal spheres of both individuals. Another way of interpreting the result is that the idea of rights to liberty within personal spheres conflicts with the idea of the social welfare function as the general will of society and thus one cannot consistently advocate both these ideas.

It is Mill’s idea of a right to liberty within one’s personal sphere which perhaps explains why writers who criticise Sen’s condition L often do so by using Gibbard’s modified condition L. It has thus strengthened the case against the use of social choice theory to formulate rights. Sen does not accept criticisms of his formulation L which are based upon the use of Gibbard’s stronger condition L on the grounds that he was seeking to incorporate minimal considerations of individual liberty into the social welfare function.

---

40 The debate between game forms versus preference forms is the focus of chapter six, part 1 of this thesis.
41 Gaertner, Pattanaik and Suzumura (1992) discuss difficulties which apply to Sen’s condition L and also Gibbard’s stronger version arguing “it is not clear why one should object to (1.6) (Gibbard’s formulation) if one is ready to accept (1.1) (Sen’s formulation). At the very least, they seem to have much in common as far as the underlying motivation goes.”(p.164, brackets added.) This paper by is discussed in chapter six.
whereas Gibbard’s condition is stronger.42

(ii) A Contractarian Approach to Social Welfare

“From the perspective of indirect utilitarianism, each person’s rights matter by virtue of their contribution to the overall good of society... Rights, then, ultimately serve a social purpose. From a contractarian perspective, in contrast, there is no such social purpose. Each person’s rights matter to her because they work for her good....The overall good of society is not relevant to contractarian morality.” (Robert Sugden)43

The above illustrates how contractarianism can resolve the Paretian liberal paradox: by rejecting the whole idea that there is some analytically distinct concept of social good which can be represented by a social welfare function. The Sen paradox arises in assessing individual liberty with reference to the social good, where the social good is a ranking of outcomes. In contrast, contractarians such as James Buchanan do not recognise such a notion, they assess rights with reference to individual good. Many writers follow Buchanan in abandoning the idea of a social welfare function as being representative of the social good. Nozick does not abandon the idea of a social welfare function altogether, but he treats issues over which individuals have rights as independent of this ranking. Referring to the Sen problem, Nozick states:

"The trouble stems from treating an individual’s right to choose among alternatives as the right to determine the relative ordering of these alternatives within a social ordering"\textsuperscript{44}

In other words, the problem arises as a result of evaluating rights with reference to social welfare, as opposed to individual welfare. One could interpret his response as arguing that it is inappropriate to make rights dependant on the social welfare function, or general will. He sets out what he regards as a ‘more appropriate’ view of individual rights:

"each person may exercise his rights as he chooses. The exercise of these rights fixes some features of the world. Within the constraints of these fixed features, a choice may be made by a social choice mechanism based upon a social ordering; if there are any choices left to make! Rights do not determine a social ordering but instead set the constraints within which a social choice is to be made...\textit{Rights do not determine the position of an alternative or the relative position of two alternatives in a social ordering; they operate upon a social ordering to constrain the choice it can yield}\textsuperscript{45}

The above reveals a great deal about Nozick’s views of individual and social welfare. The two notions are separate. Individual rights are there to serve individual welfare and therefore should not be assessed with reference to social welfare. Further, individual

\textsuperscript{44} Nozick, R (1974), p165.
\textsuperscript{45} Ibid p166.
welfare is implicitly given priority over the welfare of society by allowing exercise of individual rights to constrain the domain of social alternatives over which a social choice mechanism operates. I do not think that Nozick has this view in mind, he views the two notions as entirely separate (the idea of social welfare is not relevant to questions of individual rights because rights concern the good of the individual). By allowing individual rights to “fix some features of the world” and then excluding these features from considerations of social welfare, one is unable to assess whether these rights serve the social good. Nozick is effectively arguing that the question of social good is not relevant here, but this is a debatable assumption. It could be argued that liberalism is the value judgement which justifies such an approach: liberalism gives rights to fix features of the world to certain individuals. This seems to be the approach Nozick is taking. There are fundamental similarities between these views of individual and social welfare and the approach taken by Buchanan. The similarity lies in the idea that rights are concerned with individual, as opposed to social, welfare. The key difference lies in Buchanan’s refusal to accept any sort of social value scale, i.e. the notion of social welfare seems to be redundant in this case. Nozick can accept the idea of social choice, but he is implicitly giving individual welfare priority by allowing exercise of rights to determine the domain of social alternatives.

However, the first sentence of the passage below suggests that Nozick may be thinking of the actual choice process as opposed to a value scale:
“Social choice must take place within the constraints of how people choose to exercise rights... How else can one cope with Sen's result? The alternative of first having a social ranking with rights exercised within its constraints is no alternative at all.”

Nozick is concerned with the fact that individual rights will be ineffective if the social outcome is determined by the social welfare function in reality. In this sense he is adopting a pragmatic approach to what is essentially a theoretical problem. The clear parallel with the ideas of Buchanan can be seen in the following passage (taken from this 1995 paper) below:

“in any social setting, individuals have rights, by which I mean that individuals retain control over actions along at least some minimal set of dimensions of behavioural adjustment. Once this elementary proposition is accepted as a positive description of social reality, the logical fallacy involved in any analyses of choice among social states stands clearly exposed.”

The Sen paradox is not a 'positive description of social reality', the analysis is normative and thus independent of social reality. Both of the above quotes from Nozick and Buchanan suggest that they are thinking of the actual determination of a social state using this social ranking, which would obviously invalidate all individual rights. Their view is that such analysis is pointless, given that in practice, individuals have rights.

46 Ibid. p166.
Their approach reflects a refusal to accept any evaluation of rights with reference to social good, there is only individual good and thus there is no Sen paradox.

The first paper within the social choice theory literature to suggest a resolution to Sen’s paradox which reflects a contractarian approach to social welfare was a paper by V.S. Ramachandra in 1972.48

“It appears that the whole problem of paradox lies in attempting to find an optimal situation for the society at a single stroke....In any organised behaviour, first, a framework is decided upon and second, within that framework people try to achieve the best possible situation.”49

This is one of the papers of the 70s which is critical of the analytical framework itself, of the whole approach to social choice.50 It is the first to propose the idea of there being two stages to the determination of a social state: determination of a rights structure, then the exercise of those rights. Ramachandra’s ideas presented in section three of his paper reflect a contractarian approach to social welfare in the sense that the existence of two stages necessitates consideration of the process by which a social state is brought about. The framework within which Sen presented the original theorem is incapable of incorporating such a consideration in that it solely ranks end states.

---

49 Ibid p52.
50 Other writers critical of the social choice approach in the 1970s were Rowley and Peacock (1972 and 1975) and Sugden (1978).
There is a clear link between the discussion of a two stage process presented by Ramachandra and the ideas of Buchanan and Rawls. Ramachandra refers to the first stage as “choice of a ‘Constitution’”. By the term ‘Constitution’ he means a rights structure\(^{51}\). Referring to the domain of alternatives of this first-stage decision function, he writes:

“....some alternatives cover all aspects of society and how it should function, including the positions of each individual. Some alternatives may be content with defining only policies for certain vital issues leaving much for the individuals to decide for themselves. The outcome of the first stage decides the domain for the second stage.”\(^{52}\)

The second sentence of the above (italicised) describes what most would regard as a liberal Constitution. This is the sense in which liberalism may or may not be “an outcome of social choice”: Instead of being a condition which is imposed on a social welfare function which ranks final social states, liberalism is an alternative itself at the first stage along with illiberal Constitutions. Thus whether or not the rights structure is liberal is dependant on how individuals rank alternative rights structures, it may or may not be the outcome of the social choice of a Constitution. Ramachandra’s point is that, in the Sen paradox, there is no discussion of the actual rights structure itself. If a liberal

---

\(^{51}\) Note the distinction between Ramachandra’s use of the word ‘Constitution’ and Arrow’s notion of a constitution as a “process of determining a social ordering or choice function from individual orderings (of outcomes)” (Arrow (1963), p104-5). This section refers to Ramachandra’s notion of a Constitution as a rights structure, and uses a capital ‘C’ to distinguish this from Arrow’s.

\(^{52}\) Ibid p53.
Constitution is chosen via a social welfare function at the first stage, it "restricts accordingly the set of alternatives to be considered at the second stage"\(^3\). Here lies a similarity with Nozick and Buchanan: individual rights act as constraints, but in Ramachandra’s framework those rights are themselves the outcome of a social choice, thus the notion of a social welfare function has not been abandoned completely. The obvious weakness with Ramachandra’s discussion is that he says nothing of the social welfare function itself, but this was written at a stage when such two stage procedures were in their infancy.

"Suppose two states, \(x\) and \(y\), differ only in a matter purely private to individual \(j\). Would a Liberal say that individual \(j\) should be decisive between \(x\) and \(y\), so as to have a modicum of individual liberty? He is much more likely to say that there is no social choice to be made between \(x\) and \(y\), since they differ in a matter private to individual \(j\)."\(^4\)

Farrell’s paper can be viewed as formalising the ideas of Nozick, where individual rights constrain the domain of social alternatives of the social welfare function. Although the social welfare function has not been abandoned altogether, it can no longer act as a general will of society in that the domain of this social welfare function is now constrained by the assignment of individual rights. In other words, there are now certain rights which do not depend on the general will for their existence. In this sense, the

\(^3\) Ibid., p53.

social welfare function is subject to considerations of individual welfare as opposed to individual welfare being subject to the general will. Farrell deems all pairs of social states which differ solely with respect to a matter which is private to some individual $j$ to be "socially equivalent". Such socially equivalent pairs make up the elements of a set $P$, a partition of the set $S$ of all possible social states.

"Thus the problem of social choice is that of choosing among elements of $P$, not elements of $S$; once a socially equivalent subset has been selected, the choice of an element from this subset is not a social one, but will be determined by the private decisions."

The above can be compared to Nozick's example below:

"If I have a right to live in New York or in Massachusetts, and I choose Massachusetts, then alternatives involving my living in New York are not appropriate objects to be entered in a social ordering"  

Social states which differ solely with respect to whether Nozick lives in New York or Massachusetts are "socially equivalent" and thus this subset of social states is a single element of the set $P$. Thus the social welfare function in this case is ranking pairs or groups of social states. Presumably, for any given socially equivalent pair of social states, the social preference relation between them is implicitly social indifference. Here

55 Ibid., p9.
lies the key to a Nozick/Farrell type resolution of conflict: Instead of interpreting Liberalism as a correspondence between individual and social preference over pairs differing only with regard to a private aspect, Farrell (and Nozick implicitly) is deeming members of such pairs to be "socially equivalent" (which can be read as socially indifferent). The social welfare function is silent on the question of which member of such a pair is better and thus there is nothing to conflict with Paretnianism. There is still a social welfare function operating here, but it does not have the status of the general will because there are certain issues which are outside its domain. Thus the Nozick/Farrell resolution could be interpreted as a result of not allowing the social welfare function to act as a general will of society.

VII Conclusion

This chapter has set out the limited number of logical ways out of the Sen paradox that are available. We can take as our starting point the idea that there is some social welfare function which is to determine all issues in society, all rights are subordinate to it. In this sense, the social welfare function is being given the status of the general will (all issues are subordinate to the social welfare function). However, given Sen's result, it is not possible to incorporate any commitment to liberty within such a welfare function. Thus we are left with a conflict between liberty and welfare.

The number of ways out of the conflict are limited. Some early responses to the paradox from social choice theorists reflect commitment to both the idea of a Paretnian social welfare function and the mono-utility paradigm of economic theory. These two
commitments imply that these writers are forced to choose between social welfare and liberty. These writers (Blau, Hillingher & Lapham, Gibbard, Ng) subordinate the liberal right to the Paretian social welfare function. The way that they write suggests that the Paretian social welfare function has the status of the general will: the liberal value judgement is dismissed in the face of conflict with the Paretian social welfare function.

The chapter also identified a resolution of conflict which used the dual utility device: Ben Fine resolved conflict by 'liberalising' individual preferences. His resolution is analogous to the way that conflict is resolved by the Rawlsian sense of justice. Further, there is awareness of the dual utility idea from Sen, although Sen does not use it to actually resolve the paradox. The only other remaining ways out of the conflict are to either abandon the concept of a social welfare function altogether or to accept the idea that there are certain natural rights which are absolute (Nozick). Farrell employed a device which reflected Nozick’s view of social welfare, and Ramachandra suggested the idea of choosing rules instead of social states, thus reflecting a Buchanan type approach to social welfare.
CHAPTER SIX: ANALYSIS OF THE SEN PARADOX

WITHIN SOCIAL CHOICE THEORY, POST 1980

This chapter divides debate within the social choice literature during the 1980s and 1990s into two main strands, each of which is discussed:

1. There was much debate on game form versus preference formulations of individual liberty in the 1980s and early 1990s. Although there was some discomfort with Sen’s preference based formulation as a characterisation of liberty in the 1970s (see Sugden 1978), game theory formulations were not used widely until the mid-1980s. The debate focuses on how well these formulations articulate rights, the extent to which each formulation is consistent with our intuition about what having a right entails. In other words, the issue of liberty is considered independently of issues of individual and social welfare. Sugden argues for the game form against the preference form in the light of Mill’s discussion of liberty (1985). Sen and Riley are arguing that the two formulations are equally suitable. However, the point that is almost invariably missed (with the possible exception of Sugden, 1993) is that whether Sen’s formulation L or the game form is chosen almost invariably has implications for social welfare. If the object is to construct some kind of social value scale, then something like Sen’s condition L is needed (i.e. liberty needs to be reflected as a condition on some kind of social welfare function), irrespective of how one feels rights should be articulated. Post 1990, the Sen paradox is often discussed within a game theoretic framework. The chapter shows how this analytical framework precludes consideration of the original problem that Sen was addressing (establishment of the socially best outcome), unless the game theory constitutes part of a broader
social choice framework. Without some kind of social welfare function, the notion of social welfare is implicitly contractarian. Pattanaik and Suzumura develop a conceptual framework which combines elements of game theory and social choice theory. However, they do not use the framework to show how Sen’s condition L and the game form specification of liberty could be used simultaneously and thus illustrate that the two formulations serve different roles in relation to social welfare. Instead, Pattanaik and Suzumura’s discussion of the Sen problem is along the lines of others working purely within a game theoretic framework, of considering whether the social outcome is likely to be Pareto optimal, given some rights assignment. This, however, is an entirely different question.

2. The second strand of the debate in the 1980s focused on “libertarian resolutions” to the Sen problem. These resolutions still adopt preference based formulations of individual liberty but introduce an additional “stage” in the determination of the social outcome, development of an idea which was first suggested in the early 1970s. They argue that the idea of a trade in rights is reflective of contractarian thought, i.e. Buchanan. The idea of rights trading to resolve the paradox has been viewed as problematic and is rejected by Sen (1983 and 1992). The social welfare issues underlying this debate are discussed.
Part I: Debate Between Game Form And Preference Based Formulations
Of Individual Liberty And The Link With The Notion Of Social Welfare

I Introduction

Sen's formulation of individual liberty is generally referred to as "preference-based" in that it establishes a link between individual and social preference. For any pair of social states, x and y, over which an individual has been assigned a libertarian right, the individual's preference over this pair of states is reflected in the social ranking. In other words, the social value scale which is being constructed ranks x above y if and only if, for this individual, i, xPiy. Objections to this characterisation of individual liberty almost invariably focus solely on the extent to which such a definition captures our intuitive idea of what an individual right entails. It is argued here that such a narrow focus leaves important issues of social and individual welfare unanswered. Such issues are fundamental to the Sen paradox, given that the paradox arises as a direct result of constructing a social value scale based on individual value scales. The debate during the 1980s and very early 1990s is characterised by this narrow focus on the formulation that best represents what we intuitively understand by individual rights, with the possible exception of Sugden (1993).

Writers tend to cite either J.S. Mill, Nozick, or both in support of an alternative formulation of an individual right as a game form. It is no coincidence that two authors who have quite markedly different views of social welfare are both cited in

---

support of the same formulation of individual liberty, the social welfare issue is not dealt with. This part of the chapter focuses on this debate and the use which has been made of game theory within the literature on the problem, post 1990. It argues that the adoption of game theory is indicative of the fact that the debate on the problem has focused almost entirely on the liberty issue, the result of which is that the underlying social welfare problem which Sen was addressing has been lost.

II Game Form versus Preference Based Formulations of Individual Liberty

The first paper focused on is a 1985 paper by Robert Sugden to critically analyse the arguments against the preference based formulation because the two main objections raised by him were shared by other writers who advocated use of game forms as opposed to the preference based formulation. Sugden’s critique in his 1985 paper was largely based on the idea that Sen’s formulating liberty as a correspondence between individual and social preference has the following problematic implications:

(i) It does not accurately describe what having a right entails in practice.

(ii) If individuals were assigned rights over private spheres and left to exercise choice independently, the social outcome may imply a violation of Sen’s condition L when no violation of any individual’s liberty had actually occurred, given that each was exercising choice freely. These objections were shared by Gaertner, Pattanaik and Suzumura in their 1992 paper. My objection to this approach is that it focuses solely on a positive analysis of what occurs in fact when individuals exercise their rights, without considering the implications of such an approach for the notion of social welfare. The implications for social welfare of rejecting the original analytical framework of Sen in favour of the game theory framework are far reaching: It is tantamount to abandonment of a view of social welfare as an analytically distinct
concept, in favour of an individualistic approach along the lines proposed by some contractarian thinkers such as Buchanan\(^2\). I am not arguing that such an approach is not a valid resolution to the Sen problem, but that it is not merely a characterisation of liberty which is being rejected, but a view of social welfare.

"On the sort of matters that belong to the personal sphere,...individuals do not normally choose between alternative social states...Thus Sen’s characterisation of individual liberty ties social preferences to choices that in most cases can only be hypothetical"\(^3\)

Sugden’s objection is typical: Sen’s condition L does not reflect what happens in practice when individuals are given rights over aspects of the social states which are personal. Sugden presents an example of two individuals who are keeping private diaries to clarify the point. There are four possible social states corresponding to outcomes where either one or both individuals express political or non-political views:

"The procedure actually used in all remotely free societies can be described very simply: each individual chooses the content of his or her own diary. Note that this is not a choice between social states: the content of any one person’s diary is a characteristic of the social state, and not a social state in itself."\(^4\)

The approach taken by Sugden, above, is to consider how well Sen’s formulation of liberty describes the exercise of rights in practice. But this is not what condition L is

---

\(^2\) James Buchanan and David Gauthier are prime examples - the social welfare function is absent, all that remains is the separate utilities of individuals.


\(^4\) Sugden (1985) p219
supposed to do. Given that Sen's analysis was normative, the criticism that formulation L is not representative of actual choice is unfair, yet it is a criticism that is shared by other writers\textsuperscript{5}. Sugden concludes that, "the best way to describe this kind of procedure is a game form". But Sen is not trying to describe a procedure by which a social state comes about with condition L, he is trying to construct a social value scale. Use of game theory to represent an individual right may be more consistent with our intuition of what a right to liberty entails, but it divorces the individual right from considerations of social welfare. A game can describe individual or group choice, but this puts it in the realm of positive as opposed to normative analysis. The fact that L may not best describe the procedures by which social states come about does not constitute a reason for rejecting it.

To return to Sugden's private diary example, he also uses the example to make another point (point (ii) above). The example is identical to Gibbard's (1974) wall example but for the fact that individuals are choosing the content of private diaries as opposed to the colour of walls\textsuperscript{6}. Sugden assigns each individual the right to choose whether to express political or non-political views in his diary. Individual preferences are such that one individual (Ken) prefers to express the same views as the other whilst the other (Liz) likes to be different. At the time of choosing, however, each individual is ignorant of the choice of the other. Sugden considers the outcome that would result if each individual adopted a maximin strategy in choosing the content of his diary. He also assigns any pair of social states which differs with

\textsuperscript{5} Gaertner, Pattanaik and Suzumura consider a similar example in their 1992 paper.

respect to the individual’s private aspect of the social state to that individual’s personal sphere. Referring to the actual outcome that results from individuals exercising choice independently, he writes, “On Sen’s characterisation of liberty, this outcome fails to respect Liz’s personal sphere....But who has invaded Liz’s personal sphere? No one....The logic of the claim that her liberty is not being respected is that this hypothetical choice is not being respected. But if liberty is understood in terms of non-interference, it is surely Liz’s actual choice that has the first claim on society’s respect.”

The above argument confuses positive and normative issues. The liberal value judgement is in the initial rights assignment, but there is then a positive analysis of what outcome will result in fact when individuals exercise choice independently so as to maximise utility. Each individual is motivated by his own individual good (although not necessarily) so why should the outcome serve the social welfare? Given that condition L reflects a correspondence between individual and social preference only when the aspect of the social states which is private to the individual differs and all other aspects remain the same, as a value judgement it seems fairly unobjectionable.

Sugden presents another example of three people with varying preference of who they do or do not marry. Again Sugden uses this example to show that, due to uncertainty, the outcome which results in fact from individuals exercising choice

---

8 Ibid. p.221-222.
may well violate condition L (i.e. the outcome is the least preferred of two alternatives within someone’s recognised personal sphere). He reiterates the point: “Sen’s approach seems to require that society respect a hypothetical choice even though it runs counter to a real one” \(^9\)

My argument is that it is not condition L which is inappropriate, but Sugden’s insistence on comparing it to “real” choices. Condition L is not only reflective of a liberal value judgement, but also a particular view of social welfare. This view of social welfare is absent in considering the “real” outcome of a game where individuals have been assigned individual rights. Sen is constructing a social value scale against which “real” choices can be assessed. Sugden is using the fact that, given some particular rights structure the outcome may violate condition L, to argue against the value scale.

“These examples show that in two particular cases, traditional ideas about liberty cannot be expressed in Sen’s framework. Traditional liberals would say that each individual ought to be left free to choose the thoughts he or she expresses in a private diary; formulated in Sen’s terms, this principle can generate a contradiction” \(^10\)

However, this “contradiction” is as much about a conflict between different views of social welfare as it is about a conflict between different views of liberty.

“Traditional liberals” are unlikely to embrace a view of social welfare which subordinates all issues to a social welfare function, and yet it is this idea that underlies the Sen paradox. The examples which Sugden uses both use game forms

\(^9\) Ibid. p.222.
\(^10\) Ibid. p.222.
to specify rights, i.e. value is implicitly placed on liberty above anything else.

"Traditional liberals" might be more likely to adopt a contractarian approach to
social welfare, i.e. it is the fact that the process by which the social state came about
is agreed to which is important to them as opposed to the actual outcome itself. This
is the approach to social welfare which underlies the examples which Sugden
presents in his paper, the process by which the outcome is brought about does not
violate anyone's rights to determine some aspect of the social state. Given the very
different views of social welfare underlying Sugden's examples and the Paretian
liberal paradox, it is unsurprising that there should be contradiction here. In the light
of this, one can reinterpret Sugden's claim, 'traditional ideas about liberty cannot be
expressed in Sen's framework', as 'valuing liberty above all other considerations
contradicts subordinating all considerations to a social welfare function'. Interpreted
in this way, the contradiction between Sugden's examples and Sen's formulation L is
unsurprising. The question, therefore, is not whether formulation L is appropriate,
but whether one who values individual liberty could accept the idea of a social
welfare function acting as a general will of society.

Sugden then proceeds to reformulate liberty as a game form:

"A recognised personal sphere is a property of a game form, and it is quite
independent of individuals' preferences or hypothetical choices over social
states....views about rights can be expressed by describing rightful procedures for
making social choices. A rightful procedure is a game form in which all the
strategies open to every individual are the ones which may be rightfully chosen"\textsuperscript{11}

\textsuperscript{11} Ibid. p.225. Italics added.
Placing value on the ‘rightful procedure’ implies a different view of social welfare. Sugden then notes, “On this characterisation of liberty and rights, the two examples cause no problems at all.”\textsuperscript{12} This is unsurprising, given that it is precisely this characterisation of rights which underlies the examples which Sugden has presented us with!

Given Sugden’s reformulation of individual liberty, he then reformulated the question of consistency of Paretian and liberal value judgements as,

“if a society adopts procedures that respect individual liberty, will these procedures tend to choose Pareto-efficient social states?”\textsuperscript{13}

This is the question that he and many subsequent writers who have used game theory to consider the Sen paradox are asking. It is not a normative question, but a positive one. Sugden notes that this is “an empirical and not a logical question”, whereas Sen was dealing with a logical question. This is exactly the point: where is the normative analysis now? The Sen problem has been dealt with by abandoning the idea of a social welfare function, but this is in the guise of rejecting Sen’s formulation of individual liberty. Sugden presents us with examples where the underlying view of social welfare is contractarian, or liberal, and then attempts to surprise us with the revelation that these examples contradict Sen’s formulation of liberty. Within Sen’s analytical framework, the liberal value judgement is being used, together with Paretianism, to construct a social value scale, to identify the socially “best” outcome. Sugden’s examples are doing no such thing. Presumably, Sugden and other writers who have argued in this vein would claim that the normative component of their

\textsuperscript{12} Ibid.

\textsuperscript{13} Ibid. p.227.
analysis lies in the fact that there is a normative basis for the game form (liberalism) and the outcomes are being evaluated with reference to another value judgement (Paretianism). However, the view of social welfare is different. No longer is a value scale being constructed. Instead individual liberty has priority and thus the notion of social welfare appears to be redundant, there is only individual welfare left.

Using this reformulation of the Sen problem quoted above, Sugden ‘restates’ Sen’s result as, “We must, I think, accept that procedures that respect individual liberty will sometimes bring about Pareto-inefficient outcomes.” Notice again the emphasis on procedures, a different approach to social welfare. Finally, Sugden concludes: “It is perfectly consistent to claim, as Mill did, that every individual human being is entitled to an area of life to be controlled by himself or herself alone.....It may be that such a claim cannot be formulated in the language of conventional social choice theory, but if so, that reveals only the inadequacy of that theory.”

Given the differing views of social welfare discussed above, I prefer to interpret this conclusion as follows: The idea that every individual has an absolute right to liberty in certain private matters is inconsistent with the idea that it is possible to construct a social welfare function which is representative of the social good. Perhaps the reason why it is assumed that the idea of a personal sphere which is protected from outside interference is consistent with having a social welfare function is that it was Mill, a utilitarian, who advocated such a personal sphere. As a utilitarian, Mill presumably would accept a utilitarian social welfare function. Sugden is not the only

---

14 Ibid.
15 Ibid. p.229.
writer to cite Mill in support of the personal sphere, many others also cite him. However, all focus on his view of liberty without considering his view of utility.

A 1992 paper by Gaertner, Pattanaik and Suzumura presents further examples where individuals are given the right to determine an aspect of the social state and thus, once again, the social outcome violates Sen’s condition L. Gaertner et al use the emotive phrase “intuitive conception” to refer to their formulation of individual rights as the “power to determine a particular aspect or feature of the social alternative.” They discuss the rights issue in detail, but, in common with Sugden, focus on what we intuitively feel a right to liberty entails and how Sen’s formulation violates this. However, there is a very different view of social welfare underlying the ‘intuitive conception’, as discussed above. Their approach taken is along the lines of the approach taken by Sugden in that they consider an example and how the actual choices violate Sen’s formulation L. They argue the following:

“In the absence of a tight link between the social states and the alternative options that the individual can choose with respect to the aspect of social states that falls within his recognised personal sphere, there arises a tension between our intuition, which runs in terms of choice over such options, and formulation S(1.1) (Sen’s formulation L) which runs in terms of individuals’ preferences over social states.”

This is because, intuitively, we tend to think in terms of individual welfare with respect to individual rights. Or, to put it another way, the approach to social welfare

---

17 Ibid. p.167.
18 Ibid.
19 Ibid. Italics and brackets added.
which underlies our intuition is contractarian. Once an individual has been assigned a right, in practice, he knows he is free to exercise it as he chooses, thus he tends to think about his own individual welfare in respect to it. The approach to social welfare underlying the Paretian liberal paradox is not contractarian hence the ‘tension’ between intuition and condition L.

Gaertner, Pattanaik and Suzumura conclude that rights need to be represented by game forms, and also pay particular attention to Nozick in support of this argument: “Under Nozick’s conception, the individual’s act of choice from among the alternative options fixes only some features of the social states; and this, rather than the individual’s preferences over some pairs of social states, imposes the constraint on social choice.”

What Gaertner, Pattanaik and Suzumura fail to note is that Nozick’s conception implies a slightly different view of social welfare: social welfare is subordinate to considerations of individual welfare, instead of vice versa. The Sen problem stems from subordinating all considerations to the social welfare function, when the social welfare function is based on individual liberty and Paretian value judgements. Nozick is adopting the view that considerations of individual liberty constrain the domain of such a welfare function. There is a sense in which social welfare is subordinate to individual welfare on this view. This resolves the Sen problem, but it is by abandoning Sen’s view of social welfare rather than any intrinsic problem with his condition L. The problem with Gaertner, Pattanaik and Suzumura's discussion is

---

20 Ibid. p175.
that they cite Nozick without explicitly acknowledging why it is that his approach provides a way out the problem\textsuperscript{21}.

Amartya Sen also contributed to the game form versus preference form debate in 1992, largely replying to criticisms made by Gaertner, Pattanaik and Suzumura\textsuperscript{22}. Sen’s argument took the same approach as that taken by Sugden and Gaertner, Pattanaik and Suzumura, by considering the extent to which his formulation was consistent with our intuition of what a right to liberty entails. Gaertner, Pattanaik and Suzumura had criticised Sen’s formulation \(L\) for assigning individuals more power than they would be allowed if they were merely free to determine a single aspect of the social state. However, this is because they were adopting the approach also taken by Sugden, Gibbard and others of assigning each individual not just one pair of social states, but every pair which differed with respect to the aspect of the social state which was private to him. Sen argued, however, that his condition \(L\) (or \(ML\)) was intended to be necessary but not sufficient for liberty:

“\textit{The minimal demand for personal liberty was formulated in terms of a person having the choice over at least one pair of social states, differing from each other in a way that is his or her private concern, given everything else. The condition of ‘minimal liberalism’ or ‘minimal liberty’ (ML) requires that at least two persons in the society must have a non-empty private sphere of at least one pair each.}”\textsuperscript{23}

\footnotesize{\textsuperscript{21} Nozick’s approach to social welfare is discussed in chapter five. \textsuperscript{22} Sen, Amartya (1992), p139-159. \textsuperscript{23} Ibid. p140.}
Such a minimal requirement gets around the problem of Gibbard’s paradox\textsuperscript{24} and the problems identified by Gaertner, Pattanaik and Suzumura (similar to problems identified by Sugden, 1985).

Sen focuses on the “versatility of social choice formulations”\textsuperscript{25}. He distinguishes between two interpretations of social preference, xPy:

“Social choice: y should not be the outcome in the choice over any set that contains x.

Social judgement: x is socially judged better than y.”\textsuperscript{26}

He also distinguishes between two interpretations of individual preference xPiy:

“Individual choice: person i does not choose y from any set that contains x.

Individual desire: person i desires that x be chosen rather than y.”\textsuperscript{27}

The advantage of his condition L, he argues, is that it permits this variety of alternative interpretations. Sen’s formulation allows for the desire as well as the choice interpretation of individual preference. This can take account of ‘invasive actions’, i.e. where one’s personal sphere is invaded as a result of the action(s) of other(s) and what he terms ‘choice inhibition’ where ‘social influences may induce a person not to choose in the way he or she would really like’\textsuperscript{28}. Sen’s idea of ‘choice inhibition’ is interesting because it is very similar to the possibility of an individual being motivated by social factors when his choice affects others\textsuperscript{29}, this was

\textsuperscript{24} Gibbard, Alan (1974). Gibbard showed that if each individual is assigned the right to be decisive over every pair of social states which differ with respect to the aspect which is private to the individual, then cyclical social preferences could be generated without imposing condition P.

\textsuperscript{25} Sen (1992) p.142.

\textsuperscript{26} Ibid.

\textsuperscript{27} Ibid.

\textsuperscript{28} Ibid. p.143.

\textsuperscript{29} See Sen’s example of an individual choosing a fruit when the fruit bowl is passed around the table after dinner, cited (and discussed) in chapter 5.
discussed as the possibility of an individual being motivated by his general will in chapter five.

It is the social judgement interpretation above that contractarians would find hardest to accept since it is a judgement about outcomes with no reference to the process by which these outcomes came about. Sen argues for the importance of the social judgement interpretation of the social preference scale:

“dismissing the ‘social judgement’ interpretation is inconsistent with valuing liberty adequately”30

This need not necessarily be the case. One could argue that the assessment of social welfare with reference to a ranking of alternatives does not place sufficient value on liberty. This is the main reason why writers have called for the specification of rights as game forms, so that individuals have the power to fix certain aspects of the social state. Implicit in calls such as Nozick’s for individuals to have the power to fix features of the world is the idea that valuing liberty is inconsistent with the idea that a social welfare function should be used to determine certain issues.

Rather than argue against specifying rights as game forms, Sen focuses on the links between the social choice and game form formulations of individual liberty. He focuses first on the problem caused for game forms of cases where one’s right to do something is conditional on what others do/prefer, e.g. the right to smoke being contingent on others not objecting to smoking. In cases of interdependence such as

---

this, the permissible strategy sets would need to be specified with reference to the actions of others.

"The 'game form' formulation may well be helpful, but for it to work, the connection with freedom to influence outcomes - even if seen simply as combinations of strategies - would have to be clearly established. And this indicates that the alleged contrast between the game-form approach and the social choice approach cannot be particularly deep."\(^{31}\)

His main argument that links these two approaches to modelling rights is that the assignment of individual rights is very often motivated by consideration of the outcomes which will result from given assignments of rights. Therefore, although rights are specified in terms of permissible strategies, the strategies which are permissible will almost invariably be determined by the consequences of such strategies:

"A combination of strategies produce an outcome - a social state. Social choice formulations concentrate directly on social states. Game-form formulations concentrate, instead, on 'admissible' strategies for each player. As admissibility is, in turn, worked out - directly or indirectly - in the light of characteristics and consequences of combining different people's strategies (e.g. smoking is inadmissible if it leads to 'passive smoking' of unwilling victims who happen to be there), the alleged dichotomy is more presentational than substantial."\(^{32}\)

\(^{31}\) Ibid. p.152.
\(^{32}\) Ibid. p.153.
But the difference between the two formulations lies in the fact that, with the preference formulation, the focus on outcomes is necessary, whereas with the game form formulation it is not. Sen is assuming above that individual rights will be assigned by considering the outcomes that will result from given assignments of rights. But this is because underlying many government policies is a utilitarian social welfare function. Consider Sen’s example of a policy of banning smoking in public places:

"...smoking is often banned in public places whether or not others are present there, or whether or not others object to smoking. But if it is asked what motivates such a ban, we have to come back to the likely outcomes and to interdependencies. A general ban may be in practice the most effective way of avoiding passive smoking, even when no explicit reference is made to the motivation of avoiding passive smoking."33

Referring to Mill’s idea of a recognised personal sphere, in order to protect the sphere of the non-smoker, it is necessary to forbid smoking in public places by smokers.

III Analysis of the Paradox within an Extended Social Choice Framework

By the early 1990s, there were essentially two points of view on the subject of the correct specification of individual rights:

1. Game forms are needed to specify individual rights, preference-based formulations being somewhat counter-intuitive (this view is taken by Sugden, Nozick, Gaertner, Pattanaik and Suzumura).

33 Ibid.
2. Both social choice theory and game theory can be used to specify individual rights, the analytical framework used does not alter the basic Sen result that individual rights conflict with Paretian value judgements. (This view is taken by Sen and Riley.)

It is unsurprising, therefore, that analysis of the Paretian liberal conflict largely took place within a game theoretic framework post 1990. This section disputes point two above, and argues that writers who claim to analyse the Paretian liberal paradox within a game theoretic framework are not addressing the problem with which Sen was originally concerned at all. The problem stems from the fact that the debate on the most appropriate formulation of liberty largely centred around notions of liberty and the extent to which social choice and game form formulations of liberty were consistent with an intuitive idea of what an individual right entailed. This obscured underlying issues of individual and social welfare. Thus the original analytical framework of social choice theory was rejected on intuitive grounds rather than welfare grounds.

Deb, Pattanaik and Razzolini address the Sen paradox wholly within a game theoretic framework.

"given the game form formulation of individual rights, there cannot be any direct logical contradiction between individual rights and the Pareto principle, but one can still distinguish between two types of indirect tensions between rights and the Pareto principle." 

---

34 J. Riley’s theorem 1 explicitly links the results within social choice theory and game theory. See Riley (1989).
36 Ibid. p.76.
Deb, Pattanaik and Razzolini acknowledge the impossibility of the original conflict identified by Sen persisting within the game theory framework, thus it is unclear what analysis within such a framework can contribute to the original question.

Referring to the original logical problem of constructing a social welfare function which reflects both Paretian and liberal value judgements, logically it is resolved by abandoning the view of social welfare upon which the original problem was based.

"............under the game form approach rights are described by specifying the permissible strategies of the individuals and the outcome function; so long as every individual is free to choose any of his permissible strategies and so long as no individual chooses an impermissible strategy, the rights of all individuals are fully protected, irrespective of the preferences that individuals may have and irrespective of the final outcome that may result....."37

The approach to social welfare implicit in the above is that of Nozick or Buchanan (Buchanan probably being more accurate). The italicised phrase is the key: individual liberty now takes priority over all other considerations. Deb, Pattanaik and Razzolini also include a section in their paper on the intuitive appeal of specifying rights in terms of game forms, again obscuring the social welfare issue. In terms of addressing Sen’s original logical problem, adopting the approach of modelling rights as game forms resolves it. What is interesting about Deb, Pattanaik and Razzolini is that they insist on addressing a contemporary Sen problem within this alternative analytical framework. The problem with which they are concerned is whether or not a Pareto optimal outcome will result from a given assignment of

37 Ibid. p.82. Italics added.
rights. This can be distinguished from the original problem in the following way:

The question of which is the most socially desirable social state has already been answered, it is accepted that those social states which are Pareto optimal are the most socially desirable. All that remains, therefore, is to analyse whether such a socially desirable social state will come about in fact. Instead of being a logical contradiction, the revised version of Sen’s paradox is a ‘tension’ between individual rights and the Pareto principle:

“Given a game form G representing individual rights, the individual rights are in conflict with the Pareto principle if and only if, for some preference profile \((R_1,\ldots,R_n)\), there exists an “equilibrium” of the game \((G; (R_1,\ldots,R_n))\), and for some “equilibrium”, the outcome is Pareto inoptimal within the game.”\(^{38}\)

Deb, Pattanaik and Razzolini refer to this situation as the “weak paradox”, weak because “it only shows the possibility of conflict between individual rights and the Paretian principle.” They also identify a strong version of the paradox, in which all equilibrium outcomes are Pareto inoptimal (for some given type of equilibrium).

The fundamental problem with the game theoretic treatment of the Sen paradox is that it is treating it as a classic case of collective failure: the Nash equilibrium (or some other notion of equilibrium) is Pareto inoptimal, thus the current rights assignment is deemed to be undesirable. However, in assigning everyone absolute rights, the status of the social welfare function is undermined (because individual rights have priority over the operation of the social welfare function). It can either be seen as a pragmatic solution to the Sen paradox or reflect a genuine dissatisfaction

\(^{38}\) Ibid. p.83.
with the idea of a social welfare function being assigned the status of the general will. Buchanan and Nozick do not accept such an idea. According to Nozick, rights exclude certain alternatives from the domain of any social welfare function, whilst Buchanan rejects the whole concept of a social welfare function. Such an approach to social welfare thus resolves the original logical problem.

A 1996 paper by Pattanaik and Suzumura provides an interesting combination of a social choice approach to social welfare with game theoretic analysis\(^\text{39}\). Pattanaik and Suzumura consider the social choice of a rights structure, thus formalising earlier suggestions from the 1970s that the appropriate objects for social choice are not outcomes but assignments of rights. They define an extended alternative as an ordered pair where the first element specifies the narrowly defined social outcome and the second the rights structure. They adopt the game form approach to specifying rights thus the rights are given by assigning permissible strategies to individuals. One can derive an extended social welfare function from individual preferences over extended social alternatives which is analogous to the conventional social welfare function over conventional social alternatives: the extended social welfare function specifies a single ordering of extended alternatives for every profile of individual orderings of extended alternatives. Pattanaik and Suzumura envisage a two stage process by which a social outcome is reached: first, the rights structure is determined by society, then a conventionally defined social alternative emerges after people exercise their rights\(^\text{40}\).


\(^{40}\) This is reminiscent of the procedure that Ramachandra had in mind in his 1972 paper – see chapter 5.
“..when choosing the rights structure, the society has to take into account the conventionally defined social state(s) that may result when the individuals exercise their rights subsequently....”\(^{41}\)

Game theory comes into play in predicting the outcomes of any given rights structure, i.e. game theory enables us to associate a set of outcomes to a given rights structure. Given that, in practice, there is likely to be more than one outcome associated with any given rights structure, the social choice that society faces at the first stage is not choice of an extended alternative, but choice of an ordered pair which consists of an uncertain prospect and a rights structure. Therefore, we need a social welfare function which ranks ordered pairs of \((B,G)\) where \(B\) is the set of possible outcomes associated with a rights structure \(G\). Pattanaik and Suzumura refer to such ordered pairs as generalised extended alternatives (GEAs), where the final outcome is an element of \(B \times G\). It is thus assumed that individuals have preferences over generalised extended alternatives and that these can be used to derive a generalised extended social welfare function. The generalised extended social welfare function (GESWF) provides a unique ranking of GEAs for any given profile of individual orderings of GEAs.

The social choice of a rights structure is essentially the identification of the best GEA. The GESWF is exactly analogous to the conventional social welfare function, but in this case it is defined over assignments of rights rather than social outcomes. In other words, the idea of a ranking of alternatives which is representative of the social good is still in the analysis. What is disappointing about the Pattanaik-Suzumura paper, however, is that the Sen problem is not addressed in the context of

\(^{41}\) Pattanaik and Suzumura, p198.
identifying the best GESA. This is because they view Sen's original condition L as merely an articulation of rights, one which can be used as an alternative to game forms. Since they are choosing to specify rights as game forms, they appear to take the view that this implies that there is no room for Sen's condition L:

"the game form articulation of individual rights does not assign any role to individual preferences, since the formal contents of rights are construed to consist solely of the complete freedom in choosing permissible actions or strategies and the obligations not to choose an impermissible strategy"42

However, condition L is not merely an articulation of rights, it plays a key role in identifying the social welfare. Given the conceptual framework of the original problem (i.e. rankings of conventionally defined social alternatives), once individual rights have been specified as a game form there is no room for condition L, since the social outcome would be determined by the way that individuals chose to exercise their rights. However, this is not the case in the enriched conceptual framework of Pattanaik and Suzumura, since they are concerned with the social choice of a GEA. In other papers, where rights are specified as game forms (e.g. Deb, Pattanaik and Razzolini above), the liberal value judgement is represented by a specific game form, thus the rights assignment is determined at the outset by the liberal value judgement. Since these rights must be protected, there is then no room for any social welfare function over outcomes to operate: the outcome is determined by rights exercising.

However, given Pattanaik and Suzumura's GEAs, it would be possible for them both

---

42 Ibid., p205.
to specify rights as game forms and to impose condition L on the GESWF. They do not do this.

Despite their enrichment of the social choice theory framework by identifying a GESWF, in their analysis of the Sen paradox, Pattanaik and Suzumura treat the socially best GESA as given, it has already been identified:

"Suppose that, given an issue A and a profile (of GESAs), the society chooses rights-structure G* and suppose x* emerges as the final narrowly defined social outcome. Since this social outcome x* emerges through the free exercise of rights which are embodied in the A-based game form Gₐ, there is no possibility of any violation of individual rights whatsoever in the sense of game form rights. In order to see if the Pareto libertarian paradox persists even when we choose to articulate individual rights in terms of game forms, what remains to be examined is the Pareto (in-)efficiency of the social outcome generated through the exercise of game form rights."\(^4\)

Pattanaik and Suzumura’s paper is illuminating in identifying the way that the original Sen problem has been ‘lost’ in this literature. Sen’s condition L is viewed merely as a way of articulating individual rights rather than as part of a process of ranking social alternatives according to the social good, part of a process of identifying the social good. The game form approach to specifying rights is viewed as a mutually exclusive articulation of rights. But the game form and preference form articulations are only mutually exclusive within the conventional social choice

\(^4\) Ibid. p.209.
framework, where the social welfare function is specified over final outcomes. One of the advantages of Pattanaik and Suzumura's framework is that it helps to elucidate the point that the game form specification of rights is merely a way of articulating rights, questions of social welfare are left open. Sen's formulation, however, is a way of incorporating liberty considerations into a social value scale. Thus, within this extended framework, one could have rights specified as game forms and impose condition L on the GESWF.

In their analysis of the Sen paradox, however, Pattanaik and Suzumura assume that the best GESA is the n person version of the prisoner's dilemma, thus the narrowly defined social outcome will not be Pareto optimal. This prompts the following conclusion:

"It is clear from this example that the conflict between game form rights and the requirement of Pareto efficiency of the social outcome persists in this extended framework in a slightly different form."^44

Thus, despite, their introduction of an alternative SWF, their conclusion with respect to the Sen problem itself is essentially the same as Sugden’s (1985) and Deb, Pattanaik and Razzolini’s above.

Pattanaik and Suzumura have essentially identified a different form of the social welfare function. Given that the social welfare function in this case ranks alternative assignments of rights, the Sen problem is concerned with identifying the socially best

^44 Ibid.
assignment of rights. If Pattanaik and Suzumura can do this incorporating Paretian and liberal value judgements, then there is no Sen problem.

**Part II: ‘Libertarian’ Resolutions To The Sen Problem**

*(Avoiding The Paradox Via Rights Trading)*

**I Introduction**

This part focuses on the argument put forward in the 1980s that the Sen paradox can be resolved by individual parties agreeing to trade their rights over their respective private spheres with one another:

“any inefficiency can be resolved by a Pareto improving contract jointly decided upon by some of the involved individuals”\(^ {45} \)

Writers focused on in this part of the chapter are essentially arguing for the introduction of a first stage in the determination of the social state, where individuals are free to trade rights with each other and then exercise them. The motivation for such a contract is obvious: The individual preferences that give rise to the Paretian liberal paradox are such that each individual’s utility is more affected by the aspect of the social state which is personal to the other individual, thus each individual would prefer to have the right to determine the aspect of the social state which lies within the private sphere of the other individual. This part focuses on three papers of the late 1980s which argue that such an initial contract resolves Paretian liberal conflict, and the responses which Sen has given to such an idea. It argues the following:

1. That, somewhat paradoxically, such a contract is not consistent with the thought of either Rawls or Buchanan. Writers tend to argue that such a trade of rights is consistent with the tradition of “free contract”. This part of the chapter uses the analysis of Rawls and Buchanan presented in chapter four to argue precisely why both Buchanan and Rawls would not support such a contract.

2. The fact that writers feel a Pareto improving contract would resolve the problem suggests that they are either unaware of, or seeking to evade, the normative question which the paradox poses. The ‘Pareto improving contract’ does not address the normative question with which Sen was concerned, of how we are to identify the best social state if we accept both these value judgements. This is essentially the argument made by Sen (1983), but this part expands on his argument and relates it to contractarian and Rousseau-type views of social welfare.

II ‘Libertarian Resolutions’ to Paretian Liberal Conflict

Barry’s ‘resolution’ of conflict follows from his value judgement that “the Pareto principle is a criterion for judging the goodness or badness of states of affairs, whereas the liberal principle a la Mill or Hayek is a criterion for assigning rights to individuals”46. He views the two things, Pareto optimality and liberalism as having “different subject matters” and, therefore, rejects condition L given that it constitutes an attempt to incorporate considerations of individual liberty into an idea of social welfare. In discussing his proposed resolution to the paradox, he makes no reference

46 Barry, p.27.
to a social welfare function because, as he later reveals, he rejects this idea of social welfare\(^47\). He treats the Sen paradox as a case of collective action failure by analysing what a ‘utility-maximising actor’ would do, given these individual preferences and assignment of rights. He argues that, if we allow for trade in rights before rights are exercised, individuals will “exchange control over the event in which they are less interested for control over the event in which they are more interested.”\(^48\) The argument rests on his view that liberalism assigns control over pairs of outcomes within one’s personal sphere (i.e. individual rights), and is unrelated to social welfare. Individuals should be at liberty to trade these rights with one another. In the case of the Lady Chatterley example, liberalism assigns Prude control over whether he (Prude) reads the book and Lewd control over whether she reads the book. However, because Prude’s utility is more affected by whether or not Lewd reads the book than by whether or not Prude himself does, Prude would prefer to have the right to determine Lewd’s reading or not reading. The same argument applies to Lewd, she prefers to control Prude’s choice of whether to read or not. Thus Prude trades his right to choose whether he reads Lady Chatterley for Lewd’s right and vice-versa. Post rights trade, each individual has control over the event in which (s)he is most interested, prude determines that lewd does not read Lady Chatterley, lewd determines that prude does and, therefore, the outcome is Pareto optimal.

This would solve a collective action problem where we were concerned that an assignment of rights were going to result in a Pareto suboptimal outcome (ignoring

\(^{47}\) I discuss these further in the following section.  
\(^{48}\) Ibid. p.16.
the problem of enforcement of the re-assigned rights), because in that case the best outcome would not be in question. Instead of addressing this normative question as to what is the socially best outcome, Barry assumes an answer to it (that Pareto optimality is best), and shows how this outcome might be achieved. This is the fundamental problem with Barry's resolution, but it follows from the fact that he rejects the normative question which Sen is addressing.

Peter Bernholz also approaches the paradox from the perspective of a utility maximising individual. He takes individual preferences as given and considers the possibility of the occurrence of Pareto optimal outcomes under different structures of rights and decision rules. Given that he is analysing independent individual behaviour under different institutional frameworks, the criticism made of Barry's analysis, that he does not address the normative question with which the original paradox was concerned, can also be applied to him.

"The members of society decide within an institutional framework, which may result in mutually inconsistent decisions and in non-Pareto optimal outcomes no one had wanted. This is the meaning of expressions such as 'intransitive' or 'cyclical social preferences' containing non-Pareto optimal outcomes. The existence of a 'social welfare function' or a 'social preference ordering' would thus convey the idea that the decisions that the members of society take lead to a consistent pattern and to Pareto optimal outcomes, if each person has transitive preferences."  

---

In other words, conditions P and L have disappeared, and so too has the social welfare function of the original paradox. Instead, the existence of a 'social welfare function' is inferred from the occurrence of Pareto optimal social states under different assignments of rights and decision rules. Liberalism is no longer a condition imposed upon a social welfare function, but instead describes the constitution itself. Sen's impossibility result goes because Bernholz finds that:

".....we always can find a liberal constitution that assigns the rights to decide among all different pairs of outcomes to two or more persons and that assures the existence of a transitive social preference order and a Pareto-optimal outcome to which no other Pareto-optimal outcome is preferred by society."

But the 'social welfare function' to which Bernholz refers does not exist, there is no normative construct which is identifying the best social state since the best social state has already been identified as that which is Pareto optimal. Bernholz illustrates the implications of this result for the Paretian liberal paradox by referring specifically to Sen's Lady Chatterley example. He assumes there to be four possible outcomes (he includes the possibility of both individuals reading the book). He adopts the interpretation of liberalism used by Gibbard, where each individual is assigned a right over all social states which differ with respect to the aspect that is personal to them, thus prude is assigned rights over pairs \(((1,1), (0,1))\) and \(((0,0), (1,0))\) and lewd assigned rights over \(((1,1), (1,0))\) and \(((0,1), (0,0))\). He argues that it

---

51 The first element of each pair refers to prude's choice, the second to lewd's. 1 denotes that the individual reads the book, 0 that he does not.
"would correspond to the spirit of liberalism", if the outcome over the pairs \{(1,1), (0,0)\} and \{(0,1),(1,0)\} were determined by the unanimity rule, presumably because these pairs differ with respect to both aspects of the social state and thus affect the personal spheres of both individuals. Recalling the preferences of Prude and Lewd:

<table>
<thead>
<tr>
<th>Prude</th>
<th>Lewd</th>
</tr>
</thead>
<tbody>
<tr>
<td>(0,0)</td>
<td>(1,1)</td>
</tr>
<tr>
<td>(1,0)</td>
<td>(1,0)</td>
</tr>
<tr>
<td>(0,1)</td>
<td>(0,1)</td>
</tr>
<tr>
<td>(1,1)</td>
<td>(0,0)</td>
</tr>
</tbody>
</table>

Such an assignment of rights and use of decision rules means that prude would choose not to read the book [(0,1) over (1,1) and (0,0) over (1,0)] whereas lewd would choose to read it. However, the individuals would collectively agree that (1,0) were better than (0,1) ((1,0) is unanimously preferred to (0,1)). Bernholz’s point is that such a collective agreement is consistent with "the spirit of liberalism" and thus the resulting cyclical preferences should not be interpreted as a contradiction between liberalism and the Pareto principle. He argues that the cyclical social preferences should be attributed to the initial assignment of rights instead and, therefore, the cycle can be removed merely by reassigning these rights. Individuals would agree to the reassignment of these rights because they collectively prefer (1,0) to (0,1) (and such a collective agreement does not conflict with liberalism, in his view). He, therefore, argues for resolving the paradox by reassigning rights in the way that Barry does, by assigning each individual the right to decide what the other reads because these are the rights which result in a Pareto optimal outcome and, therefore, would be agreed to collectively:
"...it would be profitable for both of them to exchange their original rights which allow them to decide on their own actions" \(^{52}\)

But the problem with such a resolution is that the rationale for the rights reassignment is the fact that the outcome which results from the initial assignment is not Pareto optimal. Bernholz focuses on the fact that the reassignment will be agreed to collectively to argue that it is 'in the spirit of liberalism', but the collective agreement is motivated by the fact that it ultimately leads to a Pareto improvement. Referring to the passage quoted above, Bernholz seems to view the reassignment as a Pareto improving trade. But the initial rights assignment (condition L) reflected the value judgement that each individual ought to be free to decide matters which are personal to him for himself. The rights reassignment is viewed as good because it would be agreed to, but the reassignment cannot reflect the same value judgement as before, given that each individual now has the right to determine the aspect of the social state which is personal to the other individual. Bernholz would presumably counter this with the argument that the process of consent is consistent with liberalism, but if so, such an argument needs a fuller justification \(^{53}\).

Harel and Nitzan's resolution provides a more comprehensive justification for the initial rights trade. They use the possibility of rights trading to modify condition L. They propose a weaker version of condition L which "also respects the libertarian tradition of free contract by allowing voluntary exchange of rights. Any rights-system is interpreted ...as the final outcome of an exchange process that hinges, first,

---

\(^{52}\) Bernholz, P. p.262, italics added.

\(^{53}\) This point is discussed further in section three below.
on the initial endowment of individual rights and, second, on the individuals’ preferences on rights”

Thus the rationale for the rights trade is essentially the same as that provided by Barry and Bernholz, but Harel and Nitzan justify it more carefully. This is the sense in which the final rights assignment has been consented to by individuals. I shall argue in section three that such a condition imposed on the social welfare function is not reflective of the contractarian thought of Buchanan. For the moment, it is accepted. The individuals’ preferences on rights are based on ordinal intensity of preference over outcomes. Given two pairs of alternatives, an individual prefers to have a right over the pair of alternatives which affects his utility the most, e.g. if \( xP_{i} yP_{i} zP_{i} w \), then \((x,w)\text{P}_{1}(y,z)\). This is the sense in which individual preferences over pairs of alternatives over which they would like to be decisive are derived from individual preferences over final outcomes. In the case of Sen’s ‘Lady Chatterley’ example, the rights trading suggested by Barry and Bernholz is consistent with Harel and Nitzan’s extended individual preferences over pairs of alternatives.

Harel and Nitzan modify condition L so that all mutually advantageous trades of rights have taken place. The initial rights assignment is determined by the idea that individuals should be free to determine aspects of the social state which are personal to them, but the modification of L reflects the idea that individuals ought to be free to trade this right. Thus the modified condition L, condition L", can be viewed as

---

55 Ibid. p.341.
incorporating an additional value judgement, that rights to liberty over private spheres can be traded amongst individuals. Harel and Nitzan argue that this “respects the libertarian tradition of free contract”. I argue against this in section two below. In summary, the resolution stems from the social state being determined by a two stage process: replacing condition \( L \) with condition \( L' \) resolves the paradox at the second stage because the individuals have exchanged their rights to liberty within their respective private spheres at the first stage.

### III Link Between These ‘Libertarian’ Resolutions And The Approach To Rights And Social Welfare Taken By Contractarians

The account of the libertarian resolutions in section one has emphasised the similarities between them. However, at first sight the papers themselves suggest different underlying views of social welfare. Bernholz and Harel and Nitzan discuss the paradox in terms of a social welfare function, whereas Barry explicitly divorces the idea of individual rights within personal spheres from the idea of a social welfare function:

“....if a social welfare function tells us what constitutes a better state of the world, there can be no conflict between any social welfare function, whatever its content, and the principle that there should be a protected sphere within which people shall be legally free to do what they choose. For the two have different subject matters: one is about what is ‘socially better’, the other about what people shall be able to do without legal coercion.”\(^{56}\)

---

The above passage is consistent with the contractarian idea that individual rights are there to serve the individual’s good (not the social good). It is reminiscent of Nozick’s idea that the assignment of individual rights exclude these issues from the domain of any social welfare function. On this view, liberalism determines the assignment of individual rights, but the use made of those rights is then irrelevant to considerations of social welfare. Although the libertarian resolutions to the conflict discussed here all reflect this approach to social welfare, Barry is the only one of the three to explicitly reject the idea that liberal considerations can be incorporated into a social welfare function. However, although Barry’s approach to individual and social welfare referred to here is similar to the approach taken by Nozick, the idea that individuals will trade these individual rights is not.

All three writers view the final assignment of rights as being determined by a two stage process:

1. Individuals have some initial assignment of rights which is determined by some idea of liberalism (i.e. that individuals have rights over those pairs of alternatives which differ with respect to aspects of the social state which are personal to them).

2. They are then free to trade their assignment of rights with others, analogous to the way that individuals trade goods with one another. It is this element which resolves Paretian liberal conflict.

It is only after these two stages have taken place that the actual exercise of rights takes place. To draw an analogy with social contract theory, the initial contractual agreement can be viewed as the rights trade which takes place at stage two in the
above since this is where the process of agreement comes into play. Further, this contractual agreement is individually rather than socially motivated and is thus more consistent with the ideas of Hobbes or Buchanan. It is not consistent with the ideas of Rawls. However, the similarity ends here for the reasons discussed below.

Although Buchanan at one point refers to the process of agreement of rights and rules as a kind of trade, analogous to the way that individuals trade goods, the analogy is taken to an extreme by Harel and Nitzan. Buchanan’s argument as to why individuals will reach unanimous agreement on rights and rules is based on the fact that rights and rules apply generally, not just to specific cases\(^57\). In other words, at the contractual agreement stage, individuals would be agreeing to whether or not each should have rights to liberty in personal private matters of which reading would be just one example. It is hard to imagine that individuals would reach unanimous consent on the rule that each individual is to have the right to determine the reading matter of another and vice versa! Yet this is the result of the supposedly libertarian resolutions presented here. The strange result stems from combining only a few elements of contractarian thought with the idea of a social welfare function. But the two approaches to social welfare are not compatible, they can be viewed as mutually exclusive. To a contractarian such as Buchanan, the social welfare problem is for society to reach agreement on rights and rules, not to identify the “best” social state. Harel and Nitzan (and Bernholz), however, are trying to do both by attempting to incorporate the idea of contractual agreement into a social welfare function. This is why their result is strange. It is the fact that rules and rights agreed to initially will be

\(^{57}\) See chapter four.
applied generally which creates a ‘veil of uncertainty’ and facilitates unanimous agreement on those rights. Individuals do have knowledge of their preferences, but their preferences will vary depending on the particular issue in question. For example, in the case of Lady Chatterley’s Lover, each individual is more affected by whether the other reads the novel, but their preferences are unlikely to be like this for all such personal matters.

The only element common to the resolutions presented here and the thought of Buchanan is in the fact that the contractual agreement is individually motivated. However, the rights trade is based solely on individual preferences over final outcomes and thus no account is taken of individual preference over the process. Such a process of establishment of rights is entirely at variance with the contractarian thought of Rawls. Firstly, there is no veil of ignorance, thus the final rights assignment is dependant on the particular preferences of individuals. The rights assignment advocated by the ‘libertarian’ writers here is precisely the kind of assignment the veil of ignorance is designed to prevent. It is the fact that the particular preferences of individuals are accepted passively by Harel, Nitzan, Bernholz and Barry that such an anti-libertarian assignment of rights results. Individuals are motivated by their own particular interests, their respective private wills. Thus the initial contractual agreement here is not in the public interest.

These libertarian resolutions provide excellent examples of the problems that can result in resolving Paretian liberal conflict without fully interpreting what exactly is going on in terms of issues of individual and social welfare. All resolutions are somewhat ad hoc in that the rationale for modifying condition L is a rationale for
rejecting the social welfare function itself, but Barry is the only writer to do the latter. Of the three resolutions, Barry is the writer who comes the closest to addressing the normative question as to what is the socially best outcome: The resulting rights assignment in the case of the Sen paradox shows just how unsatisfactory such a process of rights establishment could be - individuals end up with the right to make choices which are personal to other individuals!

**IV Failure Of The ‘Libertarian’ Resolutions To Address The Underlying Normative Problem Of The Original Paradox**

Sen is dismissive of writers who claim to resolve the paradox by a Pareto improving contract. His 1983 paper clarifies the normative issues involved and the failure of advocates of a contract to deal with those issues. The fact or otherwise of a contract does not remove the normative result that, given that we feel individual preferences over matters within private spheres should be respected and that unanimous preferences should be respected, it is impossible to identify the best social state. Referring to Pareto improving contracts, Sen writes,

“.....further questions are raised about the normative relevance of such exchanges and their enforcement.....the normative problems....may be viewed not merely from the position of outsiders, but also from the position of the involved individuals themselves. In that context, the individual’s choice behaviour cannot - obviously - be taken as given. The question that has to be faced then is: “Should I seek such a contract?”.....the status of preference is one of the central issues involved in the impossibility of the Paretian liberal. It can be seen as showing the impossibility of giving priority to preferences over personal spheres while accepting the priority of
unanimous preference rankings. In the context of the morality of personal choice, this conflict has to be faced. The possibility of a Pareto-improving contract does nothing to resolve it.”

Focusing on the first italicised phrase in the above, the underlying normative problem can be clarified by considering a single individual trying to reach a judgement as to what is the best outcome based on such a ranking. Consider one of the individuals in Sen’s Lady Chatterley scenario. If the individual accepts
(a) That society should respect individual preferences over social states which lie within individual personal spheres.
(b) That unanimously preferred outcomes are socially better.

Then it is impossible for him to come to a judgement as to what is the best social outcome using preference information alone. Logically, the ways round the problem are limited: either one rejects this idea of social welfare or it is resolved at the individual level by a prior preference for liberty (Rawls) or some dual utility idea (Rousseau). Contractarian writers would reject such a view of social welfare, but in that case, the whole idea of a social welfare function needs to be rejected explicitly and an alternative approach to social welfare discussed. Logically, writers who advocate a Pareto improving contract are rejecting (a) above, the value judgement that individual preferences over personal spheres ought to be respected.

Returning then to the idea of an individual addressing the normative question, “Should I seek such a contract?”

If I give priority to “preferences over personal spheres”, No.

---

58 Sen, A.K. (1983), 27. Italics added
If I give priority to "unanimous rankings over social states", Yes.

This, implicitly, is what individuals who agree to such a Pareto improving contract are doing: the contract itself is motivated by the unanimous preference of individuals. I accept that this is one way out of the dilemma, but the underlying dilemma is still there, society is still forced to choose between these two priorities.

This is the point that is almost invariably missed within the literature due to the shift away from the underlying normative question to analysis of what individuals will decide to do in fact. This criticism is particularly pertinent to the game theoretic analyses of the paradox, however, it also applies to libertarian resolutions. These libertarian resolutions seem to take for granted the idea that the post trade assignment of rights will be as desirable as the initial rights assignment (where individuals had rights over personal spheres). The desirability of the post trade rights assignment seems to rest on the fact that it was consented to by the individuals concerned. However, for anyone who values the idea that individuals should have the right to exercise choice in matters which are personal to them, the rights trade is not desirable. Thus the idea of liberalism implicit in the original result has been sacrificed.

**CONCLUSION**

The focus of this chapter has been the way that the underlying normative problem of the original Paretian liberal paradox has been 'lost' in the 1980s and 1990s in either, (i) the analytical framework which is used to describe it (game theoretic formulations, discussed in part one), or (ii) advocating a Pareto-improving rights trade to resolve it (discussed in part two).
Both of the above strands within the social choice theory literature lose the problem by analysing the utility maximising behaviour of individuals and considering the possible outcomes that could result. The game theoretic analyses rest on the assumption that Pareto optimal outcomes are desirable, the 'libertarian' resolutions on the assumption that Pareto optimal trades are desirable. Yet these are issues which the Paretian liberal paradox prompts us to question. One possible way round the paradox is to reject the idea of a social welfare function as being representative of social welfare and adopt a contractarian perspective (Rawls and Buchanan were considered in chapter four). But, in that case, game theory does not help us since it analyses the possible outcomes which could result from the utility maximising behaviour of individuals, given some assignment of rights. It is a positive analysis of actual behaviour and is thus incapable of addressing the normative issues involved.

Harel and Nitzan argue, of their 'libertarian' resolution, that it is based “not on disposal of rights but rather on the preservation of individual rights”, and that this is “in accordance with the strong libertarian tradition of free contract”. But such a rights trade would be rejected by contractarian writers. Considering Rawls first, it seems most appropriate to view the initial rights assignment as that which might be agreed to in the original position, i.e. when individuals have no knowledge of their preferences. If this were the case, then the initial rights assignment would be desirable precisely because no individual has knowledge relating to his own particular situation. The rights trade to which Harel and Nitzan refer, however, is motivated by individuals furthering their own particular interests (their private wills, to use the language of Rousseau). The normative question, “Should I seek such a contract?” is answered with reference to the principles of justice, not to the
individual's actual preferences, and thus the answer to the question is an emphatic, “no!”. Individuals would agree in the original position to the priority of liberty within individual private spheres and thus would not choose to act on their preference for controlling the reading of the other individual. So a Rawlsian approach to social welfare would reject such a Pareto improving rights trade. On the surface, there appears to be more chance of Buchanan accepting the ‘libertarian’ resolutions, given that individuals agree on rights and rules with full knowledge of their preferences. However, individuals are agreeing to rights that are to apply to all similar cases, whereas these ‘libertarian’ writers are referring to a specific case. Individuals would be extremely unlikely to accept an assignment of rights which gave each the right to determine the personal decision of the other, given that their preferences are unlikely to be like this for all similar personal matters. Further, with the exception of Barry, the idea of a social welfare function is adhered to. Yet, if the resolution proposed reflects the contractarian thought of Buchanan, the whole idea of a social welfare function would be rejected, there would only be the welfare of separate individuals.

We can find answers to the underlying normative question of the Paretian liberal paradox by analysing the thought of contractarian writers such as Buchanan and Rawls. However, to merely take elements of their thought and attempt to incorporate this into conditions imposed on a social welfare function, as Harel and Nitzan have done, produces a strange result which is counter-intuitive. The counter-intuitive result is unsurprising, given that it attempts to combine two very different approaches to social welfare. The problem common to the rights trading resolutions and game

59 Acting on such a preference would go against their ‘sense of justice’.
theoretic analyses of Paretian liberal conflict presented in this chapter is that the analysis is largely positive, it analyses how individuals will behave in fact. Such analysis is, therefore, incapable of suggesting answers to the Paretian liberal problem, given that this is normative.
In the Paretian liberal paradox, Sen has presented us with a result which suggests that it is logically inconsistent to be committed to all of the following three ideas:

1. Acceptance of Paretian value judgements (condition P)
2. Some minimal commitment to individual liberty (condition L)
3. Acceptance of a social welfare function as representative of social good.

Point three above constitutes a third value judgement, but this is often overlooked within the social choice literature. This leads inevitably to an interpretation of Sen’s results as a conflict between just two value judgements, Paretianism and liberalism per se. Yet, provided one rejects the idea of a social welfare function, there is no necessary conflict between these ideas. It is the attempt to incorporate liberty into a Paretian social welfare function which precipitates the impossibility result. Sen has presented us with a particular view of liberty and social welfare which seems to be logically inconsistent. The paradox thus poses the question:

“What views of liberty and social welfare are logically consistent?”

To conclude, this chapter considers how the writing of the three different schools of political philosophy focused on in the thesis help us find an answer to this question.
Three answers are suggested immediately from inspection of Sen's result itself. One can accept any two of the value judgements, provided one lets go of the third. This implies the following logically consistent positions on liberty and social welfare:

1. Commitment to a Paretian social welfare function, but abandonment of some minimal commitment to individual liberty.
2. Commitment to Paretian value judgements and the desirability of individual liberty. But rejection of the concept of social welfare as something which can be represented by a social welfare function.
3. Commitment to the desirability of individual liberty and the concept of a social welfare function. But rejection of Paretian value judgements.

The third position seems untenable (or unreasonable). It is hard to imagine a meaningful concept of social welfare which is not a function of the welfares of individuals (either individual private welfare or the individual's view of social welfare). This leaves the viewpoints presented in one and two. Focusing first on point one, we are left with Sugden's vision of the social welfare function as "dictatorial decision-maker", i.e. serious commitment to the idea of a social welfare function rules out any commitment to individual liberty. Of the historical writers considered in this thesis, Rousseau, Mill and Rawls were all committed to some form of social welfare function and individual liberty. All seem to have come up against some kind of conflict between the two. Perhaps the most interesting point about this is the fact that they each had distinctly different views of social welfare, which

---

1 Sugden (1978)
implied a different form of social welfare function. For example, it has been argued (chapter three) that Mill's utilitarian social welfare function does not really fit into the analytical framework of social choice theory. Rousseau's idea of the general will, however, does. This suggests that the conflict between liberty and social welfare identified by Sen is fundamental. Instead of being merely symptomatic of the particular kind of social welfare function Sen was constructing, the underlying logical problem is caused by the social welfare function in whatever form.

The other interesting point is that these writers have all resolved conflict between liberty and social welfare by using what is essentially the same analytical device: dual utility. Rousseau makes the social welfare function a welfare function of each individual (alongside his private utility function), thus there is no infringement of his liberty when he is ruled by the social welfare function. Rawls introduces the idea of a sense of justice: individuals each have some set of de facto preferences, but the preferences which they wish to act upon are those which are constrained by their sense of justice. It is the sense of justice which serves the social welfare. According to Mill, liberty provides an individual with the opportunity to transform her utility function into one which she ultimately prefers (thus more utility). Social welfare follows as the sum of the utilities of separate individuals.

However, there is little evidence for the dual utility device in the responses to the Paretian liberal paradox from social choice theorists. As far as I am aware, only Ben Fine (1975) employs the device. Fine's idea of a liberal individual is a perfect
analogy of an individual with a Rawlsian sense of justice\(^2\). It enables him to construct a social welfare function based upon conditions P and L (not U). Other writers who adhere to the mono-utility idea are forced to abandon liberty in order to retain commitment to a Paretian social welfare function\(^3\). In other words, a dual utility device is the only way out of position one presented earlier.

We turn now to the second logically consistent viewpoint set out at the start of this chapter. Apart from dual utility, the only other way of resolving conflict between Paretian value judgements and liberalism is to abandon the concept of a social welfare function. Buchanan explicitly rejects Rousseau’s dual utility idea that individuals are motivated by public good in ‘political or collective action’, e.g. voting, and private good in ‘economic action’. According to Buchanan, writing with Tullock here, “the same basic values motivate individuals in the two cases”\(^4\). Given Buchanan’s adherence to the mono-utility idea, together with his commitment to liberty and Paretian value judgements, Sen’s result implies that he is forced to reject the concept of a social welfare function. Thus it is in this sense that Sen’s paradox can be used to explain Buchanan’s approach to social welfare.

To conclude, yes, there is a conflict between liberty and social welfare.

Three things suggest that the dual utility route may be the only way out of the conflict between liberty and the social welfare function:

---

\(^2\) I discuss Fine’s paper in chapter five.
\(^3\) See chapter five, I am referring to Ng, Blau, Hilingher and Lapham discussed relatively early in the chapter.
1. Rousseau, Rawls and Mill all represent quite different schools of thought within political philosophy. Yet all three employ this device in some form to resolve conflict.

2. A writer who is vehemently opposed to the idea of dual utility (Buchanan), but committed to individual liberty and Paretian value judgements, abandons the whole idea of a social welfare function.

3. Modern writers within social choice theory who adhere to the mono-utility paradigm seem to have to choose between liberty and welfare.

Unless one adopts what could be thought of as a ‘schizophrenic’ approach to utility like Rousseau, or abandons the whole concept of social welfare altogether like Buchanan, one or the other must be assigned priority. The question then remains, “how do we respond to the Sen paradox in practice?” In practice, it seems to be the case that liberty has priority. This is the approach suggested by Nozick. Nozick’s view is that individual rights have priority, rights determine constrains within which any social welfare function must operate. This pragmatic approach to the result is reminiscent of the view taken by Adam Smith:

“People of the same trade seldom meet together even for merriment and diversion, but the conversation ends in a conspiracy against the public, or on some contrivance to raise prices. It is impossible indeed to prevent such meetings by any law which either could be executed or would be consistent with liberty and justice. But though the law cannot hinder people of the same trade from sometimes assembling together,

---

5 Nozick’s view is discussed in section six of chapter five. Within the social choice literature, Farrell proposes a resolution which reflects Nozick’s ideas, again discussed in chapter five.
it ought to do nothing to facilitate such assemblies, much less to render them necessary.” (Adam Smith)⁶

Smith is arguing that, although meetings of “people of the same trade” may well conflict with the social good, we cannot deny them the liberty to meet. We have the impression from this passage that the right to liberty is accepted almost without question. The position taken by Adam Smith above is indicative of how the liberty/social welfare issue tends to be resolved in practice today. If a social welfare function is employed, it is taken for granted that there are certain rights which constrain the operation of the social welfare function. It is an approach which might be described as a natural rights approach because there seems to be this idea that people have certain basic liberties that we cannot violate. It is a pragmatic response to the Sen problem. Referring again to the quote above, the whole market failure issue can be looked at in this way. There might be certain things we could do to improve welfare, but that would involve such a violation of liberty that, in practice, these policies are not carried out. Thus the pragmatic response to the liberty/welfare conflict taken by economists is much closer to the response of natural rights theorists than that suggested by those committed to a Paretian social welfare function.

⁶ Smith, Adam, p102.
BIBLIOGRAPHY


Mabbott, J.D. 1953. “Reason and Desire.” Philosophy, 28, pp.113-123.


