

ARTICLE

# A neglected topoi in behavioural normative economics: the opportunity *and* process aspect of freedom

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## Abstract

Robert Sugden has advanced various critiques of behavioural welfare economics, offering the notion of opportunity as an alternative. We agree with much of Sugden's critique but argue that his approach would benefit from a broadening of the informational base beyond opportunities to include people's concern for decision processes. We follow Amartya Sen in arguing that the process through which choices are made (*process freedom*) is something individuals care about beyond the availability of choice options (*opportunity freedom*) as they value a sense of agency. We argue that individuals' agentic capabilities are crucial for people's process freedom and hence for their sense of agency. In the final section of the paper, we sketch the institutional implications of our argument, i.e. what a joint consideration of opportunities and agentic capabilities means for behavioural public policy.

**Keywords:** Amartya Sen; agency; behavioral public policy; opportunities; process freedom; Robert Sugden

## Introduction

Over the last decade, various attempts to reconcile findings from behavioural economics with traditional welfare economics have contributed to the emergence of the field of *behavioural normative economics* (Dold & Schubert, 2018). Broadly speaking, two distinct approaches can be identified. First, there are approaches that aim to uphold traditional economics' commitment to preference satisfaction as the normative standard for welfare (Beshears *et al.*, 2008; Rubinstein & Salant, 2012). Proponents of these approaches acknowledge that revealed preferences are an unreliable indicator of welfare-improving choices since people are prone to limited attention, cognitive ability and self-control. Hence, some form of preference purification is required to enable the economist-analyst to identify people's 'latent' or 'true', welfare-relevant preferences. Second, there are approaches that seek to overcome the

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reliance on preference satisfaction altogether by grounding normative economics in opportunities rather than preferences (Sugden, 2010, 2018, 2021). The core idea is that preferences are by their very nature unstable, context-dependent and dynamic. This makes it difficult for outside observers to identify which preferences should be taken as the basis for welfare analysis (Read, 2006). Opportunity-based approaches also criticise the absence of psychological explanations for the existence of ‘true’ preferences and question the necessary connection between neoclassical rationality – in particular, preference consistency – and welfare (Infante *et al.*, 2016).

There has been a lively debate between defenders (Bernheim, 2021; Thoma, 2021) and critics (Hargreaves Heap, 2013, 2017; Dold, 2018; Dold & Rizzo, 2021a) of preference-based approaches to normative economics. In this paper, we will focus on the increasingly prominent opportunity-based approach. In particular, we take its most prominent formulation, viz. Robert Sugden’s opportunity criterion, as a starting point for analysing an overlooked topos in behavioural normative economics: the importance of the process aspect of freedom. A concern for the processes through which decisions are made as well as for the opportunities people enjoy suggests that people will have an interest in *agency*, i.e. in being the ‘author of their own life’ (Dold & Rizzo, 2021b).<sup>1</sup> While the opportunity aspect of freedom encompasses the *options or outcomes* a person is able to achieve, the process aspect of freedom concerns a person’s ability to control the *choice process*. This requires a person to have *agentic capabilities*, such as the ability to assess choice options and to form preferences in a self-reflective way, thereby making choices they can identify with and take responsibility for. Agentic capabilities reflect the ‘conditions under which people acquire the sense of interest on which they act’ and emphasising their importance for normative assessments is, we maintain, consistent with the liberal view that ‘whatever action people take, they should feel they own it in the sense that they have had the resources to reflect on what preferences to hold and how to act on them’ (Hargreaves Heap, 2013: 995). Of course, without options to choose from a person can hardly develop a sense of agency. However, following Amartya Sen, we argue that the process aspect of freedom is also an integral part of what it means for people to be the authors of their own lives.

### Sugden on the priority of opportunities

In a series of papers culminating in his book, *The Community of Advantage*, Robert Sugden has argued that economists should replace their traditional focus on preference satisfaction as the key criterion for making evaluative judgements with an emphasis on opportunities (Sugden, 1998, 2010, 2018, 2019, 2021). Sugden’s ultimate goal is the creation of a normative economics that accords with behavioural economists’ findings that preferences are unstable and context-dependent. Hence, his emphasis on opportunity (Sugden, 2018: vii–ix, 7–13, 42–50).

Sugden defines an *opportunity* as ‘something that [an individual] has the power to bring about, if he so chooses’ (Sugden, 2010: 49). Opportunities include consumption of goods and services and participation in ‘modes of life’ such as being married or having children (Sugden, 2018: 100, 102). An individual’s *opportunity set* is ‘the set

<sup>1</sup>We understand agency subjectively, as the decision-maker’s sense of competence and autonomy.

of options from which he can choose' (2018: 84). For Sugden, having a bigger opportunity set is valuable for the individual, independent of whether she has coherent preferences. This is because 'it is in each individual's interest to have more opportunity rather than less', irrespective of her preferences, the reason being that 'to have a lot of opportunity means you can satisfy whatever preferences you might happen to have' (2018: 84).

Sugden's emphasis on the importance of opportunities reflects his commitment to *contractarianism* (Sugden, 2018: 29–52, 83–84). For contractarians, the ultimate authority for assessing an individual's interests is that person herself; the individual is the ultimate sovereign in matters concerning her own life and it is her values and decisions alone that count in making normative judgements. Hence, Sugden's remark that 'the most fundamental requirement for a contractarian criterion is that it can be endorsed by the individuals to whom the economist's recommendations are to be addressed. Each of those individuals must be able to recognize it as a representation of his interests, as he perceives them' (Sugden, 2018: 84).<sup>2</sup> Sugden argues that the opportunity criterion satisfies this requirement because individuals, being aware that their preferences are context-dependent and variable, will recognise that it is invariably in their interests to have more options from which to choose. Individuals will therefore endorse the opportunity criterion as the standard for making normative judgements.

Sugden's account of why opportunities have value for individuals is underwritten by a particular account of people as responsible – rather than rational – agents. An individual is a responsible agent 'to the extent that, at each moment, she identifies with her own actions, past, present, and future' (Sugden, 2018: 106). She views those actions as her own and takes responsibility for their consequences (Sugden, 2010: 54–55, 2018: 106). This is important because if an individual is understood as a continuing locus of responsibility, then any increase in her lifetime opportunities is unambiguously good for her; the bigger her opportunity set, the more she is free to do, irrespective of whether she has coherent preferences (Sugden, 2010: 55, 2018: 106).

Sugden's approach leads to a broad presumption in favour of institutions that 'give individuals as much opportunity as possible to do whatever they want to do, both in their actions as separate individuals and in voluntary transactions with one another' (2019: 34). While not denying the need for government regulation to deal with monopoly power and externalities, Sugden 'views the market favourably' because 'it is the institutional embodiment of voluntary exchange' and so affords people considerable opportunities to serve whatever preferences they have (Sugden, 2019: 35). The lodestar that should be used to judge institutions and guide their design and regulation is the extent to which they afford people opportunities to act on whatever preferences they have at any particular moment. As Sugden writes, 'any expansion of a person's opportunity set promotes her interests, irrespective of her actual preferences' (Sugden, 2018: 99).

<sup>2</sup>Hence, Sugden's rejection of the idea that normative analysis should be addressed to an imaginary, benevolent social planner who designs policies with a view to satisfying a criterion of success that is external to the values of individual people (e.g. to satisfy their 'true', 'error'-free preferences or to maximise 'social welfare') (2018: 14–15, 19–24, 37–40, 63–67, 2019: sections entitled 'Sen's widening of the informational base' and 'Implications for behavioural public policy').

### A critique of opportunities-only

In Sugden's approach, people's interest in freedom is interpreted as the wish to obtain larger opportunity sets that allow them to satisfy whatever preference they might hold in the future. The availability of a wide choice of opportunities is undeniably important for the possibility of agency. In Sugden's (1998: 311) words, '[the] richer the set of opportunities from which a person has chosen his way of life, the more that way of life is his'.

However, opportunities alone are arguably insufficient for feeling in charge of one's life. Insights from positive psychology (Ryan & Deci, 2020) suggest that people need autonomy and competence in order to feel a sense of agency. Autonomy means 'a sense of initiative and ownership in one's actions', while competence comprises 'the feeling of mastery, a sense that one can succeed and grow' (Ryan & Deci, 2020: 1). Consequently, agency requires not just a large opportunity set but also a sense of being control of the *choice process* and of not feeling overwhelmed by outside influences, such as social manipulation or informational complexities. Sugden's approach by and large ignores this choice process-centric perspective: the character of the cognitive processes preceding choice and the quality of the information that describes given choice options are not seen as integral parts of economists' normative analyses (Dold & Rizzo, 2021b: 367).

Sugden's approach, therefore, fails to do justice to the possibility of situations where the relationship between the size of an individual's choice set and their sense of themselves as agents breaks down. This may reflect issues such as *choice overload* (where an individual is overwhelmed by the sheer number of options) or *obfuscation* (when additional options obscure the value of some elements in the choice set). A diminished sense of agency may also result from the feeling that the context is subtly influencing one's choices (e.g. when the inclusion of additional items makes some items suddenly appear more attractive). Crucially, the force of such *menu effects* can increase when the choice set expands (Thaler & Sunstein, 2021: Chapter 5). The reason is that due to high decision costs, individuals are looking for context cues to reach a decision. Taken together, choice overload, obfuscation and menu effects can reduce the individual's feeling of *autonomy* ('sense of ownership') and *competence* ('the feeling of mastery'). In such cases, notwithstanding larger choice sets, individuals may not fully identify with their choices, especially when they reflect on a series of choices and realise how much their preference formation process was shaped by, as Sugden puts it, 'alien causal forces'. Such examples suggest that it is not invariably true that 'any increase in that individual's opportunity is good for [a person] in an unambiguous sense' (Thaler & Sunstein, 2021: 106). More opportunities may be associated with a reduced sense of agency and a person may prefer to have fewer options if the increase in her sense of agency offsets the loss in opportunities (Dold & Rizzo, 2021b: section 'Sen's widening of the informational base').<sup>3</sup>

<sup>3</sup>Within a contractarian framework, it is of course crucial that individuals themselves perceive a larger opportunity set as reducing their agency. It is not enough for the philosopher-economist to stipulate that other people's choice sets should be restricted since it likely enhances their sense of agency.

## Sen's widening of the informational base<sup>4</sup>

Amartya Sen has anticipated the aforementioned point, arguing that 'sometimes more freedom of choice can bemuse and befuddle, and make one's life more wretched' (1992: 59). In such situations, 'a person may actually prefer to have a smaller range of options'. The significance of such points is that 'in assessing freedom and opportunity the different types of effects of undertaking choice acts and of having more options must be properly accounted' (Sen, 2002: 606).

To highlight the fact that people care about both the process of choosing ('undertaking choice acts') and the quantity of opportunities ('having more options'), Sen (2002: Chapters 20–22) distinguishes between *opportunity freedom* (the availability of real, achievable options) and *process freedom* (a person's capacity to control the choice process).<sup>5</sup> Both are valuable.

Freedom can be valued for the substantive opportunity it gives to the pursuit of our objectives and goals ... [so that] the focus is not directly on what the processes involved happen to be, but on what the real opportunities of achievement are for the persons involved. This 'opportunity aspect' of freedom can be contrasted with another perspective that focuses in particular on the freedom involved in the process itself (for example, whether the person was free to choose himself, whether others intruded or obstructed, and so on). This is the 'process aspect' of freedom. (Sen, 2002: 10; also see 623)

Process freedom means choosing for oneself and not delegating the choice to others and also that the preference formation process is not dominated by social and cognitive factors that diminish the individual's sense of autonomy. For Sen, having the capacity to engage in reasoned decisions about which preferences to hold is an integral part of process freedom (2002: 615–620).<sup>6</sup>

The process and opportunity dimensions of freedom often complement and reinforce each other, as when the *opportunity* to acquire an adequate degree of literacy enables a person to feel in charge of financial decision-making *processes*. But they may also diverge: a person may have 'more direct control over the levers of operation and yet be less able to bring about what she values' (Sen, 2002: 10); or she may have the power to achieve certain opportunities (perhaps with assistance of her peer group) but lack the means to reflect critically upon them and ask whether they are really things she values. Where the opportunity and process aspects diverge, people

<sup>4</sup>The term 'informational base' refers to the information needed to evaluate outcomes and institutions (Sen, 1985: 185, 1999: 56–58).

<sup>5</sup>Sen makes this distinction in various places (e.g., Sen, 2002: 10; also see 1985: 209–12, 1999: 17–18, 37–41, 2002: 9–13, 585–87, 623–629). We follow Sen's terminology but give the notion of process freedom a slightly more expansive meaning. For Sen, process freedom primarily means active choice and freedom from external (social) coercion. We understand it here as active choice free of dominating external and internal information-processing impediments. For us, having process freedom means choosing *autonomously and competently*. It encompasses the agent's capacity to control the choice and preference formation process.

<sup>6</sup>Hence, as Prendergast (2005: 1160) has observed, in Sen's work autonomy, which many thinkers would treat as part of positive freedom, 'is grouped alongside non-interference as part of the process aspect'.

*qua* agents ‘may go in somewhat different directions’, sometimes choosing to ‘value real opportunities to achieve certain things no matter how this is brought about’, but also prioritising ‘in many cases, the process of choice’ (Sen, 2002: 10).

The opportunity and process aspects are analytically distinct from one another: opportunities to achieve outcomes can be important irrespective of the processes through which they arise; and participating in and being in control of decision-making processes can be valuable independent of the outcomes to which they lead: ‘We may have good reasons to attach significance to both aspects of freedom, and the relative importance we attach to them respectively may vary with the nature of the choice and its context’ (Sen, 2002).

In Sen’s framework, the process dimension of freedom is crucial since it concerns three core features of *agency* (Crocker & Robeyns, 2010: 80–83). The first is the value of being involved in the process of making choices, independent of the range of opportunities available or the outcomes achieved. For example, when participating in some decision-making process, I may choose to articulate my own concerns even though I know of someone else who can express my views better than me, precisely because I have an interest in being actively involved in the process (‘let me speak for myself’) (Sen, 2002: 10).<sup>7</sup> There may also be situations where we get what we want but have not enjoyed process freedom because we did not personally decide to perform the acts required to achieve that outcome.

Second, in highlighting the process dimension of freedom, Sen emphasises the importance of reasoned scrutiny preceding choice: ‘What is needed is not merely freedom and power to act, but also freedom and power to question and reassess the prevailing norms and values’ (Dreze & Sen, 2002: 258). This is a crucial feature of what it means to be free, for Sen, not least because he views *preference adaptation* – i.e. the unconsidered internalisation of prevailing norms – as a prime obstacle to agency and genuine choice (Sen, 1999: 58–63).<sup>8</sup>

Third, and relatedly, reasoned scrutiny is crucial not just for counterbalancing preference adaptation and social manipulation, but also for ensuring that ‘[the] agent’s decision is not for *no* reason, based on a whim or impulse, but is for *some* reason or to achieve some goal’ (Crocker & Robeyns, 2010: 81).<sup>9</sup> In short, reasoned scrutiny as part of the process dimension of freedom helps to ensure that our motives are chosen by us. As Sen (2002: 618) writes, ‘the role of preference revision and reform [is an essential] part of the freedom of living ... The scrutiny and cultivation

<sup>7</sup>This preference for decision autonomy has been identified in economic experiments suggesting that people value being in control of their own choices independent of the associated outcomes (Owens *et al.*, 2014).

<sup>8</sup>Sugden has criticized Sen for this ‘wider’ understanding of freedom and argued that it is contrary to a contractarian approach (Sugden, 2006). Yet, as we argue in this paper, the ‘wider’ understanding of freedom is consistent with a contractarian logic since individuals who value agency and are aware that their preferences are context-dependent may well recognise claims about the need for opportunity *and* process freedom as a representation of their interests.

<sup>9</sup>For instance, it is conceivable that due to menu or framing effects a person happens to choose an option she is satisfied with. Yet, if the person has not arrived at her preference through some minimal form of reasoned scrutiny, she can hardly be said to have enjoyed process freedom.

**Table 1.** Two different informational bases for behavioural normative economics

	Sugden	Sen
Objective	Opportunity freedom	Opportunity and process freedom
Behavioural Foundation	Context-dependent preferences	Adaptive and/or unconsidered preferences
Contractarian Justification	More opportunities are in the interest of each individual, independent of their preferences	A combined concern for opportunities and agentic capabilities is in the interest of each individual, independent of their preferences
Policy Mantra	'Give people more opportunities!'	'Give people the means to make good choices!'

of preferences – and the freedom to be able to do that (whether or not one actually does it) – can be quite relevant to the assessment of a person's overall opportunities'.

On this view, process freedom is both intrinsically and instrumentally valuable. It is intrinsically valuable because we have reason to value process freedom for its own sake. It is often better to act than be acted upon, a judgment Isaiah Berlin captures when he states: 'I wish to be the instrument of my own, not other men's, acts of will. I wish to be a subject, not an object ... a somebody, not nobody; a doer – deciding, not being decided for, self-directed and not acted on by external nature or by other men' (Berlin, 1969: 131). But process freedom is also *instrumentally valuable* as a means to good consequences. If people are in charge of their decision-making process – i.e. they freely scrutinise, shape and decide on their preferences – their actions are more likely to result in well-being achievements and outcomes they can fully identify with and take responsibility for (Crocker & Robeyns, 2010: 83).

The possibility of enjoying process freedom requires people to possess certain *agentic capabilities*: the cognitive capacity to reflect on their evolving preferences and to engage with opportunities as they appear; the ability to imagine ways of exploiting those opportunities; and the capacity to evaluate those projects, assessing how well they cohere with and contribute to their broader goals and values. Without the capacity for such 'practical reasoning', people will be unable to make the most of the opportunities afforded them. It is in recognition of such considerations that James Buchanan – who like Sugden emphasises the importance of people having a wide range of opportunities, and from whose work Sugden draws inspiration – also contends that 'the ranking of prospects requires valuation' and that society should 'provide persons with both an array of imagined prospects and some means of valuation' (Buchanan, 1979 [1999]: 254).

Following Buchanan and Sen, we argue that for individuals to be the 'authors of their own lives' they need those agentic capabilities. For an individual to feel that she is in charge of her choices and can make choices that cohere with her overall conception of who she has been, is, and wants to become, both opportunity *and* process freedom are necessary. Only then will individuals feel a sense of agency – i.e. a sense of being in charge of the choice and preference formation processes – and identify with, and take responsibility for, them. Table 1 summarises our discussion and contrasts the normative frameworks of Sugden and Sen, including some contrasts that will be developed below.



## Implications for behavioural public policy

We now turn to the policy implications of the perspective sketched above. Before commencing, we want to sound a note of caution. Doing justice to the importance of people's agency concerns and process freedom alongside opportunities means that behavioural normative economists must work with diverse and potentially incommensurable information. It is insufficient for assessing the relative merits of outcomes and institutions simply to look at the (formal) opportunities they afford people. The view presented here calls for a pragmatic approach encompassing both concrete available opportunities and people's agentic capabilities. In this sense, it follows the idea that freedom is 'an inherently diverse concept' (Sen, 1999: 298). If Sen is right, then people's assessment of available opportunities will depend on whether they have the means to make *autonomous* and *competent* choices among given opportunities. Consequently, people will have reason to be concerned with a balance of opportunity and process freedom.

Bearing that caveat in mind, we follow Hargreaves Heap (2013, 2017) in arguing that a behaviourally informed normative economics that takes agency seriously would shift the focus of policy away from concrete outcomes towards the social rules and institutions that facilitate and constrain people's efforts to reflect and act upon their evolving preferences. This kind of 'constitutional approach' to behavioural public policy, as Hargreaves Heap (2017) describes it, 'would seem naturally to be concerned with the [institutional] conditions... that support reflection on what preferences to hold' (2013: 995). This reflects the point that there is

a deep complementarity between individual agency and social arrangements. It is important to give simultaneous recognition to the centrality of individual freedom and to the force of social influences on the extent and reach of individual freedom. (Sen, 1999: xii)

The goal of policy, on this view, would be to establish institutions and rules that equip people with agentic capabilities – the capacity to imagine ways of exploiting opportunities and to assess how those projects might further an individual's broader goals and values – and other resources required to exercise agency and reason about their preferences. But in contrast to libertarian paternalism, such a policy would not take a strong view about precisely what people's preferences should be.

For example, policy would focus on establishing institutions designed to enhance the cognitive processes through which people make decisions and exercise agency ('process facilitation') (Sher *et al.*, 2022; Figure 1).

Such measures would aim to bolster both the *quality of information* (e.g. by reducing 'sludge', defined as information-processing frictions caused by overwhelming or poorly formatted information) and also the *quality of cognitive operations* through which information is interpreted (e.g. by means of 'boosts', understood as interventions that enable people to exercise agency by developing their decision-making competences) (Hertwig & Grüne-Yanoff, 2017; Sunstein, 2022).<sup>10</sup> This process-oriented

<sup>10</sup>For a more detailed discussion of 'sludge' and its conceptual-normative ambiguities, see Mills (2020). For a more detailed overview of interventions that can facilitate the choice process, see Sher *et al.* (2022).



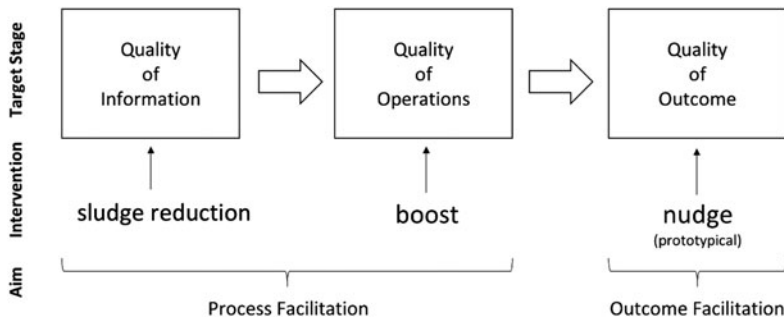


Figure 1. Two aims and three intervention targets in choice architecture (adapted from Sher *et al.* (2022)).

perspective would not require policy-makers to pre-judge what outcomes should be achieved, thereby avoiding one of the shortcomings of libertarian paternalism.

Second, the extent to which people possess agentic capabilities, and are able to exercise them to good effect, also depends on the broader social environment. Hargreaves-Heap (2013: 995) refers to ‘the educational system, the media, the family, vibrancy of the arts world’ as examples of the kinds of institutions that can foster and/or impede the development of people’s agentic capabilities and their effective use. Those institutions, along with the workplace and wider civil society, facilitate and constrain people’s agency in various ways. The workplace can help to equip people with the cognitive capacities required to reason about the kinds of preferences they want to have (e.g. through the general workplace culture, interactions with co-workers or continuing education). And participation in the institutions of civil society (such as local elections, community volunteering or engagement in sports clubs) can teach people to reflect on and take responsibility for their actions, as emphasised by thinkers from Tocqueville to Elinor and Vincent Ostrom (Dold & Petersen, 2021). As Wilhelm von Humboldt and John Stuart Mill argued, institutions that encourage *experiments in living* can help to ensure that people are exposed to a variety of different viewpoints and identities, thereby providing them with ‘raw material’ – in the form of exemplars of different ways of life – to inform their efforts at cultivating their preferences and identities (Delmotte & Dold, 2022).

## Conclusion

Sen’s attempts to extend the informational base of normative economics and his arguments in favour of process freedom are, in part at least, motivated by issues of preference adaptation and situational impulsivity. For Sen, a one-sided focus on opportunity freedom can lead to policy recommendations (such as ‘more choice is always better!’) that neglect individuals’ agency concerns. As Sugden rightly highlights, having opportunities is a core condition for agency and freedom. However, considerations of process freedom add an important qualitative dimension to the discussion of opportunities, reflecting people’s interest in being in control of choice and preference formation processes.

Can our argument for opportunity *and* process freedom be squared with Sugden's idea of contractarianism? Our view is that process and agency concerns are, like opportunities, prior to welfare and pluralist about value. They suggest neither what constitutes welfare nor how an individual should trade-off various values, including opportunity and process concerns, but rather highlight the crucial role of *practical reasoning* in the process preceding choice. Sugden (2018: Chapter 8) defends the idea that normative criteria need to be 'psychologically stable' (i.e. the implications of those criteria need to be consistent with human psychology). Put differently, people must see themselves represented by, and accept the implications of, those criteria. We believe that a combined concern for opportunity and process freedom might in fact be psychologically more stable than a narrow concern for opportunities. Institutions based on a joint concern for opportunity and process freedom may well, when put into operation, command continuing general support – more so than ones based on a concern for opportunities alone – for two main reasons. First, following Sen, agency has intrinsic value – people want to be in control of their choices – and, second, a neglect of agency can have negative consequences for individual well-being. An exclusive concern for opportunities can lead to choice paralysis, a feeling of being overwhelmed, and the sense that the context determines one's choices. In short, it can leave us feeling that we are not the authors of our own lives. This is why we believe, to adapt Sugden's words (2018: 84), that citizens will 'be able to recognize [claims about the need for agentic capabilities] as a representation of their interests'.

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