Legal Theory, 7 (2001), 1–34. Printed in the United States of America

CHOICE AND VALUE

TIMOTHY MACKLEM
King's College London

INTRODUCTION

It's apples and oranges, we say. Chalk and cheese.[1] Or, somewhat more equivocally, six of one and half a dozen of the other.[2] What do we mean?

An evening lies before us, a career, a life. A quiet dinner in or a night on the town? The creativity, self-respect, and low income of an artist, or the power, status, and wealth of a banker? The strength and stability of a life based upon deep and lasting commitments, or the stimulation and challenge of a life based upon fluidity and change? Naturally, we want a successful evening, a worthwhile career, a good life. What should we do? Does it depend on who and what we are, or is that part of the question?

A court confronts a clash between constitutional values, or between legal values, or both at once. Neo-Nazis wish to express themselves in ways that diminish the dignity and status of Jews. The court can protect equality by limiting freedom of expression, or it can protect freedom of expression by limiting equality. In doing so it can lay down a rule that will provide clear guidance for future cases at the expense of justice in the case before it, or it can do justice in the case before it at the expense of clear guidance. How should the court decide? What sort of reasons can it give for its decision? Must those reasons defeat all other reasons, so as to show that the court's decision is rationally required, or is it enough that they themselves be undefeated, so as to show that the decision is rationally permitted?[3]

These are questions of incommensurability. They are said to arise, and to matter to us, because the values present in the world, those things that make our lives worth living, are plural in nature, and further, because the various options that confront us in life, be they significant or insignificant, personal or professional, are constituted by different values, so that those options can neither be reduced to one another nor be assessed in terms of a common

1. Apples and oranges is the North American term, implying incommensurability. Chalk and cheese is the British term, implying both incommensurability and incompatibility.

2. This may imply either the equality of the options before us (if emphasis is placed on the identity of six and half a dozen) or the incommensurability of options that are insignificant in our lives (if emphasis is placed on the difference between one option and the other).

3. I do not mean to suggest, as a general matter, that what is uniquely correct is required rather than permitted, or that what is commonly correct is permitted rather than required. In the judicial setting, however, where a decision must be made and where rival positions are incompatible, I take this to be true.

standard. If a valuable life is constituted by the pursuit of valuable activities, as we may assume, and if what makes activities valuable is plural and thus incommensurable, as is claimed, then it will frequently, perhaps typically, be impossible to choose the better, more valuable activity. It follows that believers in value pluralism are bound to explain what it means to choose between not merely different, but differently valuable options, and what role reason has to play in enabling us to do so. If reason cannot provide a definitive answer to the question of which evening, which career, or which life is better, which judicial decision is right, how are we to proceed? What does it mean to choose under such conditions?

Skeptics about value pluralism, on the other hand, who deny that values differ from one another in any fundamental way, are able to maintain that reason always provides an answer to the question of which option before us is more valuable and is thus the one that we should choose. In their view there is always some standard of value available, perhaps ungraduated, perhaps unarticulated, in terms of which the options before us can be ranked. Their challenge, then, is to explain how it is that apparently different values, and the options that express and embody those values, can be captured and ranked in terms of a single standard. What value can combine the merits of apples and oranges? Life as an artist and life as a banker? The expression of a Nazi and the equality of a Jew?

My aim here is to explore some of the issues that attend the questions of what incommensurability means, why it matters, and how it might be dealt with. I may say at the outset that although I am not a skeptic about value pluralism, it is the arguments of such skeptics that in my view raise the most interesting issues and that I will be largely concerned to address. In doing so I will draw upon some prominent examples of the recent and growing literature on the topic of incommensurability and its implications for law and politics, and principally upon the collection of essays entitled *Incommensurability, Incomparability and Practical Reason*, edited by Ruth Chang.[4]

INCOMMENSURABLE OR INCOMPARABLE?

Incommensurability, put simply, means that two options cannot be measured in terms of a common standard. That being the case, the options are neither better and worse than one another nor equal to one another. Suppose that I am offered an apple and an orange. Both are ripe and either would make a good finish to my lunch. Now suppose that I am offered a second, especially nice apple. If that second apple is superior to the first, so that I would rightly prefer it, yet is not superior to the orange, then the goodness of apples and the goodness of oranges are incommensurable. There is no standard of value that can capture and rank the goodness of both. I knew from the outset that the apple and orange before me were not

4. INCOMMENSURABILITY, INCOMPARABILITY AND PRACTICAL REASON (Ruth Chang ed., 1997) [hereinafter INCOMMENSURABILITY]. *See also* Symposium, *Law and Incommensurability*, 146 U. PA. L. REV. 1169 (1998).

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

better and worse than one another. What the presence of the third option has revealed is that they were not equal to one another either, for if they had been equal the second apple would have been superior to both.

Incomparability, on the other hand, simply means that options cannot be compared. This covers a number of different possibilities which it is important to distinguish. Most assertions of incomparability involve the *relative* description of two options. Yet where such options are incomparable it is only because they are incommensurable, and where they are not incommensurable they are not incomparable. It follows that incommensurability is the better term for what we are speaking of. Some assertions of incomparability, on the other hand, involve the *absolute* description of two options. Such assertions, however, are ultimately assertions of incommensurability, which is established through the separate description of allegedly commensurable options. In other words, a comparison through absolute descriptions reveals incomparability in terms of one or more relative descriptions. In this setting, then, a showing of incommensurability depends upon comparability. Let me expand upon this rather cryptic outline by way of example.

We often say that apples and oranges cannot be compared, so often that the image has become idiomatic. What we mean, however, in more precise terms, is that apples and oranges are incommensurable in the sense explained above. Their merits cannot be assessed in terms of a common standard. Second, we sometimes say that goods such as friendship and money cannot be compared. What we mean, however, is that friendship and money are not only incommensurable but that a person who would exchange one for the other is a person who does not understand friendship, for the refusal to countenance such an exchange is part of what it means to be a friend.[5] In both these cases, then, it is possible to speak in terms of incomparability, as everyday language makes clear, but it is more precise and hence philosophically preferable to speak in terms of incommensurability.

On the other hand, we often say that one performer is incomparably better than another. A comparison between Pavarotti and Elvis is offered to us and our response is (or may be) that there is just no comparison between them. What we mean, however, if we are not implying incommensurability, and again speaking more precisely, is that the two performers are in fact comparable (and commensurable) but that the difference in quality between them is so great that the comparison is not worth discussing. Second, we sometimes say that two houses are incomparable, while being well aware that they can be compared in terms of price, number of bedrooms, and other respects. What we mean here is that the properties are incommensurable in terms of the purpose that we have in mind (which is likely to involve an overall comparison between them) but that in saying this we do not wish to deny that they may be commensurable for other purposes. In both these cases, then, it is possible to speak in terms of incomparability but it is

5. Joseph Raz calls these constitutive incommensurabilities because incommensurability constitutes part of the good in question, here friendship. *See* Joseph Raz, THE MORALITY OF FREEDOM 345–53 (1986).

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

misleading to do so, for what we have in mind, explicitly or implicitly, directly or indirectly, is comparability.

These instances of alleged incomparability involve the relative description of two options. In each case a comparison is made between two options with respect to a particular purpose, and the options are either found to be incomparable (and incommensurable) in terms of that purpose or they are not. Every instance of alleged incomparability, however, involves absolute descriptions, that is, separate descriptions of each option in terms of which the two are compared. Here there is no such thing as incomparability. On the contrary, options can always be compared because they can always be described.

We may say, to borrow an example offered by Chang, that no comparison is possible between French toast and the city of Chicago. This is no more, however, than a way of saying that the two are incommensurable in the same sense as are apples and oranges, albeit more radically so. Strictly speaking, French toast and Chicago are not incomparable. On the contrary, it is a comparison of the qualities of each that reveals the comprehensive incommensurability of the two. Where French toast and Chicago differ from apples and oranges is in the plausibility of the suggestion that they could be commensured in any respect, that they are in any way susceptible to relative description. Apples and oranges are susceptible to many relative descriptions. One is sweeter than the other, has more Vitamin C, is harder to peel. For any purpose to which those qualities are relevant the two are commensurable. It is when apples and oranges are regarded comprehensively, in terms of their goodness, that they become incommensurable, for the goodness of an apple is constituted in part by its qualities as an apple, such as crispness, qualities that have no counterpart in an orange, while the goodness of an orange is similarly constituted in part by its distinctive qualities as an orange. French toast and Chicago, on the other hand, are susceptible to few if any relative descriptions, as a comparison of their absolute descriptions makes clear. What could one say about the two? That both are bad for your health?

I think two things emerge from this discussion. The first, and less important, is that incommensurability is the better term for the idea that two options cannot be assessed in terms of a common standard. As Brian Bix reminds us, labels are not crucial as long as we are clear about what we have in mind.[6] Yet the above discussion suggests that use of the term incomparability, with its manifold implications, is very likely to be misleading.[7] Not

6. Brian Bix, *Dealing with Incommensurability for Dessert and Desert: Comments on Chapman and Katz*, 146 U. PA. L. REV. 1651 (1998).

7. *See* Ruth Chang, *Introduction*, in INCOMMENSURABILITY, *supra* note 4, at 12, where comparisons based upon absolute descriptions are equated with comparisons based upon relative descriptions, with the result that the claim that justified choice depends upon a comparison of options in terms of their absolute descriptions is equated with the claim that justified choice depends upon a comparison of options in terms of some relative description, in other words, upon commensurability. See also Ruth Chang, *Comparison and the Justification of Choice*, 146 U. PA. L. REV. 1569, 1588–91 (1998) where the same argument and the same equation is made.

only is the term incommensurability more precise, therefore, but it also avoids placing us in the position of having to describe as incomparable certain goods, such as French toast and Chicago, that we can only know to be incomparable by comparing.

What is more, as Chang proposes and a number of her contributors accept, use of the term incomparability to describe the inability to assess two options in terms of a common standard entails that the term incommensurability be reserved for a narrow set of cases in which options cannot be *precisely* measured in terms of a common scale of *units* of value.[8] It would follow from that use of the term that two people measured back to back, or two weights placed in a balance scale, would have to be described as incommensurable, despite the fact that each pair could be assessed in terms of a common standard, namely, height and weight respectively. This is to insist, again confusingly, that what is clearly commensurable is incommensurable.

The second and more important conclusion to be drawn from the above discussion is that incommensurability only exists with respect to particular purposes. An apple may be better than an orange if one's purpose is to provide nourishing fruit for a very small child, for the child may find it difficult or impossible to peel the orange. An orange may be better than an apple if one's purpose is to provide seafarers with a rich source of Vitamin C that will protect them from scurvy. Apples and oranges are incommensurable if one is an adult on dry land and one's purpose is to finish off one's meal with a good piece of fruit. As Chang rightly observes, incommensurability does not exist in the air but with respect to some purpose.[9]

Now, as I have emphasized, options are incommensurable if they cannot be assessed in terms of a common standard. They are occasionally incommensurable if they cannot be assessed in terms of one or more particular standards (apples and oranges); they are comprehensively incommensurable if they cannot be assessed in terms of any standard (French toast and Chicago).[10] Standards, in turn, are reflective of human purposes, and human purposes, far from being arbitrary products of our will, are reflective of our rational quest for a good life, a life composed of valuable activities. It follows that incommensurability arises in ways that matter to us if and to the extent that the values that inspire and sustain human purposes are plural in nature, so as to prevent a choice between valuable activities from being assessed in terms of a common standard. In such a case reason can show that two options are valuable, but it cannot show which of them is the more valuable and so cannot show which of them should be chosen. It is

8. Chang, *Introduction*, in INCOMMENSURABILITY, *supra* note 4, at 2.

9. *Id.* at 6. As I have already indicated, Chang in fact speaks of incomparability rather than incommensurability. She also speaks in terms of a "covering value" rather than in terms of human purpose.

10. Joseph Raz, who generally prefers the term incommensurable but from time to time uses the term incomparable on stylistic grounds (*see* Joseph Raz, *Incommensurability and Agency*, in INCOMMENSURABILITY, *supra* note 4 at 110; Joseph Raz, ENGAGING REASON 46 (1999)), calls this radical incomparibility. *See* Raz, *supra* note 5, at 329.

this that concerns Chang and other writers on the subject, for it means that the choice between valuable options is governed but not necessarily determined by reason, so that there may often be no unique rational answer to the question of what one should do. Spike Lee once famously asked us to do the right thing; he does not appear to have contemplated the possibility that at any particular moment there might be many right things for us to do, and that some of them might well conflict with others. The issue here, then, is not so much incommensurability as value pluralism.

VALUE PLURALISM

Incommensurability arises commonly as a limit upon practical calculation. John Finnis has offered by way of illustration the predicament of an army recruiting officer told by his superior officer to select the tallest, heaviest candidate for induction into the army. Two potential recruits present themselves, one 6′2″ tall and weighing 190 pounds, the other 6′ tall and weighing 200 pounds. The recruiting officer can select the taller candidate or he can select the heavier candidate but he cannot select the tallest, heaviest candidate because the characteristics that fulfil those conditions are divided between the two candidates. Of course had there been a third candidate 6′3″ tall and weighing 210 pounds the problem would not have arisen, for both conditions would have been fulfilled by that one candidate. But as it turns out there is no third candidate, so that the problem of choosing between the two must be faced.[11]

The recruiting officer might attempt to escape his predicament by factoring height and weight together, so as to assess the two candidates in terms of their density. Density, however, is an entirely different matter and not what the superior officer has called for. Clearly that officer would not be satisfied if there were a fourth candidate 5′6″ tall and weighing 180 pounds and the recruiting officer selected that candidate as being the tallest and heaviest. The problem facing the recruiting officer, then, is a consequence of the fact that height and weight are independent concepts that cannot be reduced to some more fundamental common measure. Feet and inches cannot be turned into pounds, pounds cannot be turned into feet and inches, and neither can be turned into something that the two have in common. That being the case, the recruiting officer is bound to conclude that the candidates before him are incommensurable in terms of the rule laid down by his superior officer. What then should he do?

Now the obvious response to the sort of difficulty faced by Finnis's hypothetical recruiting officer is to question the rule laid down by the superior officer. Why should the recruiting process be focused upon height and weight? And even within those realms is the taller and heavier neces-

11. Finnis offered the example orally at a seminar. He did not pursue it to the point of contemplating the issue of density.

sarily the better? After all, would a 7 foot 400 pound recruit make a better soldier than his shorter, lighter rivals, as the rule suggests? It is tempting to think that either the recruiting officer or his superior should modify the rule so as to eliminate the problem of incommensurability. One might even think that if that were done the rule would be improved and the army would be likely to obtain a better recruit.

Chang appears to endorse something like this response to the problem, for she argues that when the consideration of two options reveals that their virtues cannot be assessed in terms of a common standard, the proper conclusion to draw is that the choice situation has been misconceived. To use her example, if one is contemplating a birthday present for a friend and one is confronted with a choice between *Pride and Prejudice* and a chiffon scarf, or between *War and Peace* and seersucker bell-bottoms, in other words, with a choice between goods whose intrinsic merits are incommensurable, one should conclude that one has misconceived the choice situation and should accordingly direct one's consideration to whatever values may exist that will allow the options to be commensured. Practical reason, she argues, cannot ask us to engage in deliberations to which no rational conclusion is possible.[12]

Tempting though such a response may be, there are two serious difficulties with it. First, a choice between options can only be reformulated in ways that preserve the focus of that choice upon what is genuinely valuable in the choice situation. A choice between options cannot be reformulated so as to avoid the problem of incommensurability if the consequence of doing so is to invoke considerations that are either not valuable or if valuable are not relevant to that situation. So, to return to the problem of the army recruits, the recruiting officer (or his superior) cannot modify the tallest / heaviest rule so as to favor the candidate with the longer neck, or the thicker waist, or the better singing voice. The focus of a rule that is to govern the selection of army recruits must be on the qualities of a good soldier, which I take it do not include a long neck, a thick waist, or a good singing voice.

Further to the same point, the question of what exactly constitutes the qualities of a good soldier is an objective one. Incommensurability is not a feature of relativism or subjectivism, as some have suggested.[13] Quite the contrary. If values were mere reflections of our will, individual or collective, past or present, directly or indirectly, they would be as commensurable or incommensurable as we wanted them to be. It is because values are independent of our will that their alleged plurality, and the incommensurability that plurality entails, are an issue for us. Incommensurability is a product of the fact that our choices are governed by values, not the other way round.

Second and more profoundly, any attempt to reformulate the choice situation in terms of different values is very likely to return us to the

12. Chang, *Introduction*, in INCOMMENSURABILITY, *supra* note 4, at 33.

13. *See* Larry Alexander, *Banishing the Bogey of Incommensurability*, 146 U. PA. L. REV. 1641, 1642 (1998).

problem of incommensurability, in one of two ways. Consider Chang's example of a choice between birthday presents for a friend. Assume, as she does and for the time being, that the question before us is what would make a good birthday present. Given that the intrinsic merits of *Pride and Prejudice* and a chiffon scarf are incommensurable, Chang suggests that we reformulate the choice situation so as to assess the book and the scarf in terms of our friend's tastes, or in terms of intrinsic beauty, or in terms of any other value with respect to which comparison between the two is formally possible. Leave aside for the moment the question of whether someone's taste can be treated as a value and focus instead upon the question of whether intrinsic beauty can serve as an alternative, noncontroversial basis for our choice of a present. If intrinsic beauty is a complex value that is constituted by other values, as a pluralist would contend, then the intrinsic beauty of a scarf and the intrinsic beauty of *Pride and Prejudice* are incommensurable, as incommensurable as their literary and sartorial merits. Reformulation here simply returns us to the same problem, albeit in a different setting.

There is a general lesson to be drawn from this. Any reformulation of a choice situation in terms of a value the understanding of which involves the assessment of more than one consideration will continue to present problems of incommensurability. In practice this will be the case in two situations. First, the governing value itself may be complex, so that the value of different options is constituted by different values in different degrees. For example, the intrinsic beauty of a chiffon scarf and the intrinsic beauty of *Pride and Prejudice* are constituted by different aspects of beauty in different degrees. The garment is beautiful in ways that the novel cannot be (and vice versa), and to the extent that the two share aspects of beauty, they are very likely to possess those aspects in different degrees, so that the novel is more beautiful than the garment in some ways and the garment more beautiful than the novel in others.[14] Second, more than one value may be applicable to the choice situation. In selecting a good birthday present, one may be rightly concerned not only with the goodness of the present from the point of view of the recipient but also with the goodness of the present from one's own point of view, and thus may be concerned with the need to find a present that is affordable, or that is a proper expression of who one is and what one feels about the recipient. If either of these situations exists, then reformulation merely returns us to the problem of incommensurability, unless of course all the relevant considerations are in favor of one option, as in the case of the potential recruit who is taller and heavier than any other. One birthday present may be more beautiful than any other in every way, and be cheaper to boot.

Yet even if that is the case, even if *Pride and Prejudice* is more beautiful than a chiffon scarf, implausible as that seems, something other than a pragmatic

14. Chang believes that this difficulty can be resolved by means of a device that she calls the nominal-notable test, which I will address in the next section.

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

desire to avoid the problem of incommensurability must animate the decision to choose a birthday present on the basis of intrinsic beauty rather than on the basis of some other value. To put it bluntly, to assume otherwise is to risk assuming one's conclusions.

If values are singular and thus commensurable, then there can be no question of choosing among the values that are to govern choice: One set of considerations will be better than any other and thus will be the proper set to apply. Perhaps one should choose the birthday present that will do the most to promote one's friend's happiness. Perhaps that means choosing the most intrinsically beautiful present. If so, one is bound to choose on the basis of intrinsic beauty and would be wrong to contemplate choice on any other basis. In such circumstances avoidance of incommensurability is not an issue, for there is no incommensurability to avoid. If, on the other hand, values are plural and thus incommensurable, then several values may be relevant to the choice of a good birthday present. While it is possible to believe that a choice between those values is not entirely arbitrary, since it may be subject to certain constraints on the process of decision, it is not possible to believe that the choice is determined by those constraints; for if it were, the relevant values would not in fact be incommensurable. In such circumstances there is no reason to choose the choice value that avoids incommensurability. Absent a belief in commensurability, to do so is just another way of being arbitrary.[15]

The same points can be made from the perspective of choice rather than from the perspective of value. What is at issue here is the choice of a choice value. To assume that the choice is governed by a value is to assume commensurability. To assume that the choice is arbitrary is to assume incommensurability. Neither assumption is justifiable in the setting of a debate on the plurality of values. The argument over incommensurability must be faced, not won by assuming one's conclusions.[16]

A final point. Chang believes that the search for commensurable options, far from being conclusory, is a requirement of practical reason. Practical reason requires that we choose the best birthday present for our friend, which, in the example that she gives, means choosing the better of *Pride and Prejudice* and the chiffon scarf. Yet if our choice is formulated in terms of the intrinsic merits of those two goods, or in terms of any other value in respect of which the goods are incommensurable, practical reason appears

15. These comments also apply to Bruce Chapman's suggestion, in *Law, Incommensurability and Conceptually Sequenced Argument*, 146 U PA. L. REV. 1487 (1998), that where several relevant considerations are incommensurable, they can be applied sequentially so as to yield a reasoned conclusion to the question of, for example, who should receive a scholarship, where financial need, scholastic ability, and community service are relevant considerations and the available candidates manifest those considerations in different degrees. It is certainly possible to proceed in this manner, but if reason requires us to do so, the candidates are not incommensurable; and if the candidates are incommensurable, then reason does not require us to do so.

16. A similar point has been made by Ronald Dworkin in *Objectivity and Truth: You'd Better Believe It*, 25 PHIL. & PUB. AFF. 87, 129ff. (1996).

to require us to do what we cannot do; for we cannot choose the better of two incommensurable options. It follows that practical reason must require us to reformulate the choice situation, so that we direct our consideration to whatever values exist that will allow the scarf and the novel to be commensured. Practical reason, she maintains, cannot ask us to engage in deliberations to which no rational conclusion is possible.

Now, as I have said already, practical reason commits us to the quest for a good life, a life composed of valuable activities. If and to the extent that what makes activities valuable is plural and thus incommensurable, the general requirement of practical reason that we choose the better of two options simply has no application. Perhaps it would be better to say that the general requirement no longer has application, for it may already have been satisfied by a review of possible options, in Chang's example by a review of possible birthday presents, a review that has rejected a number of possible presents, including other scarves and other novels, but that in doing so has yielded more than one answer to the question of what would be a good present for our friend. In other words, it is a question, a question raised by the possibility of value pluralism and the incommensurability that value pluralism entails, whether practical reason requires that choice, here the choice of a birthday present, be determined by reason or merely governed by reason.

The position that Chang takes is beguiling, it seems to me, because of her focus on incomparability, with its attendant confusions, rather than upon incommensurability. Practical reason certainly requires the comparison of options in terms of their absolute descriptions. We must always ask whether one option is better than another. To the extent that options are commensurable, practical reason will yield an answer to the question that it asks by identifying the better option. The more fundamental question that remains, however, the fundamental question that Chang seeks to answer, is to what extent options are commensurable and to what extent, if any, they are incommensurable and so incomparable in terms of any relative description. We may assume, because it is not in dispute, that practical reason asks us to compare options in terms of their absolute descriptions. We cannot assume, without assuming our conclusion, that practical reason asks us to compare options in terms of some relative description. Therefore, when Chang maintains that practical reason cannot require us to engage in a form of deliberation to which no rational conclusion is possible, and so cannot ask us to compare the incomparable, she conflates two forms of comparability and in doing so assumes commensurability.

HIDDEN STANDARDS

One way in which goods are thought to be incommensurable, and perhaps the most common case of incommensurability in practice, is when the value

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

of which those goods are examples is itself constituted by a number of different values, values that may be present in different degrees in different instances of the good. When goods and values are complex in this way, different instances of them are likely to be incommensurable. It goes without saying, for example, that *War and Peace* and *Pride and Prejudice* are both great novels. Yet it is also true that the two are incommensurable in terms of their greatness; for the greatness of a novel is a function of success in many different dimensions of literary achievement, and each of those novels represents an achievement of a very different kind. In other words, both novels are great but each is great in a different way, for the common criterion of literary greatness is established by reference to different considerations in each case. Or so the value pluralist maintains.

On this account of the matter, then, pluralism lies hidden in the common ground of complex values such as literary greatness, making the goods that bear those values typically incommensurable. We may think that in comparing two novels with respect to literary greatness, we are comparing two apples or two oranges; but what we are more likely to be comparing is an apple and an orange. Chang, however, denies this account by simply inverting it. She acknowledges that values such as literary greatness have diverse contributory elements, but contends that hidden within that diversity is a higher-order commonality, a commonality that can be exposed through a device that she calls the nominal-notable comparison.

Suppose, to use Chang's example, that we are tempted to think that Mozart and Michelangelo are incommensurable in terms of their creativity, on the ground that the value of creativity is constituted by a number of different contributory values, and, as it so happens, is established with reference to different considerations in the case of Mozart and in the case of Michelangelo. Chang then asks us to imagine the existence of a very bad painter called Talentlessi, who is creative in the same respects as Michelangelo, but in a nominal rather than a notable way. Being a notable bearer of creativity, Michelangelo is by definition better than Talentlessi with respect to creativity. Crucially, however, Chang asserts that Mozart, whom we can assume is also a notable bearer of creativity, is for that reason better than Talentlessi with respect to creativity. We know that Mozart is notably creative, and we have been asked to assume that Talentlessi is nominally so. Since any notable bearer of a value is by definition better than a nominal bearer of the same value, Mozart is better than Talentlessi with respect to creativity.

Two conclusions follow from this, according to Chang, one negative and the other positive. First, if Mozart and Michelangelo are incommensurable with respect to creativity, as the value pluralist maintains, it cannot be because their creativity is the product of different contributory values; for we know that Talentlessi is creative in the same respects as Michelangelo (and so exhibits the same contributory values), and we know further that Talentlessi is commensurable with Mozart with respect to creativity despite the different

character of their achievements. This reveals, according to Chang, that it is possible to commensure two instances of creativity even where that creativity is the product of different contributory values. Second, since it is possible to describe a continuum of creativity linking the achievement of Talentlessi and that of Michelangelo (both creative in the same respects) through a series of small improvements, the fact that Mozart's creativity is commensurable with that of Talentlessi entails that Mozart's creativity is commensurable with the creativity of every other artist on the continuum, and ultimately with that of Michelangelo.[17]

As I have already indicated, the key move in Chang's argument lies in her assertion that Mozart is better than Talentlessi with respect to creativity. I think we may take this to be correct as a conclusion, since we know that Mozart is an outstanding composer and since we have been told by Chang that Talentlessi is a very bad painter. The question is what that conclusion means, for it is its meaning that determines its implications for the possibility of commensuring two very great but very different artists such as Mozart and Michelangelo with respect to their creativity. How do we know that Mozart is better than Talentlessi with respect to creativity? What makes him so?

It seems to me that broadly speaking there are three possible answers to that question, at least one of which can be quickly dismissed. First, it is possible that Mozart is creative and Talentlessi is not (as indeed the word nominal implies), in which case it would be vacuously true that Mozart is more creative than Talentlessi. Clearly, however, this is not what Chang has in mind; for in that case contributory values would have no role to play in the comparison of the two, and it is the role played by contributory values in making comparisons that she is seeking to clarify. To show that Mozart and Michelangelo are both more creative than a noncreative person is not to show that they themselves can be compared in terms of creativity despite the different nature of their creative achievements.

That being the case, we can go further and set aside all understandings of creativity that are not based on contributory values, for example, understandings that first, equate creativity with some other artistic value, such as originality, and second, assess that other artistic value without reference to contributory values. To show that Mozart is more creative than Talentlessi on the basis that he is more original than Talentlessi, and thus to show that Mozart and Michelangelo can be compared to one another in terms of creativity where creativity means originality and originality is the product of nonvaluable components, is not to establish the possibility of commensurability in the face of diverse contributory values. For the value of creativity is here understood without reference to contributory values and so without reference to the differences between musical and artistic creativity that Chang is claiming to commensure.

17. Chang, *Introduction*, in INCOMMENSURABILITY, *supra* note 4, at 14–16.

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

Second, and similarly, in analyzing what makes Mozart better than Talentlessi with respect to creativity, one can further set aside all understandings of creativity that, while based on contributory values, are not based on *diverse* contributory values and so do not give rise to the possibility that different people can be understood as creative on different bases. It is entirely possible that Mozart's achievements display an aspect of creativity that is also present (in lesser degree) in the achievements of Talentlessi, and, by extension, is present (in similar degree) in the achievements of Michelangelo; but that possibility is compatible with the possibility that Mozart's achievements display other aspects of creativity that are absent from the achievements of Talentlessi, and, by extension, are absent from the achievements of Michelangelo. To show that the musical achievements of Mozart and the painterly achievements of Talentlessi can be commensured in terms of one or more independent elements of creativity, and so to show that Mozart is more creative than Talentlessi in respect of those elements of creativity, is not to show that the creative achievements of the two can be commensured overall, in terms of their different contributory values, and so is not to show that Mozart and Michelangelo, whose creativity is formed from different contributory values, can be commensured in respect of creativity.

Third and most promisingly then, it is possible that Mozart is better than Talentlessi with respect to creativity because the musical achievements of the former and the painterly achievements of the latter, although not strictly speaking commensurable, are each components of a distinct value of creativity, "a new independent good which is constituted by the constituent goods being present in the right way and the right proportions."[18] On this view creativity is but one of a class of goods the nature of which is not only to be constituted by other goods but also to be constituted by those other goods in certain specified proportions. One may believe (with Raz) that such mixed-value goods are dependent upon social practices, or one may not. That difference of opinion, while significant elsewhere, is irrelevant here. Whichever of those views is correct, the question remains whether the existence of mixed-value goods, which can be revealed through the use of a nominal-notable comparison, offers a resolution to the problems of incommensurability that arise whenever we are confronted with a choice between valuable options that are constituted by different contributory values.

The answer, it seems to me, is that it does not. While the existence of mixed-value goods may possibly enable us to give a rational response to the question of whether Mozart is better with respect to creativity than Talentlessi (depending on the relationship of each to the ideal), it does not enable us to give a rational response to the more general problem of choice

18. Joseph Raz, *Mixing Values*, 65 PROC. ARIST. SOC. (SUPP) 83, 88 (1991); *see also* Raz, ENGAGING REASON, *supra* note 10, at 186.

in the face of value pluralism and the issue of incommensurability that value pluralism gives rise to. My reasons for thinking this are twofold.

First, the existence of mixed-value goods does not establish that values are commensurable. On the contrary, mixed-value goods are like recipes: They specify a formula by means of which one can compose a valuable blend of valuable elements. In doing so they do not establish a general method for deriving the value of a blend from the value of its elements. They do not establish, for example, which of two blends, both of which fall short of the ideal specification but in different ways, is the more valuable, whether in terms of the ideal or otherwise. That being the case, they will not necessarily establish which of two great artists, Mozart or Michelangelo, is the more creative.

Second, given that the existence of mixed-value goods fails to establish that values are commensurable, proof that mixed-value goods exist falls short of proof that there is a rational resolution to the problem of choosing between incommensurable goods. To establish, through the use of nominal-notable comparisons, that certain resolutions of diverse contributory values exist in the form of mixed-value goods (of which creativity may be one) is not to establish the much stronger claim that a skeptic about value pluralism must establish in the absence of commensurability, namely, that for every combination of values that we have reason to be interested in, there exists a mixed value that specifies an ideal synthesis of those values, and further, that for every combination of *mixed* values that we have reason to be interested in, there exists some other mixed value that specifies an ideal synthesis of those mixed values, and so on.[19] That would only be true if all values were ultimately commensurable. Proof of the existence of mixed-value goods, even of their ubiquitousness, simply does not establish this.

It follows from this that while it may be possible to conclude that Mozart is more creative than Talentlessi on the basis that creativity is a mixed-value good that specifies not only the values that go to make it up but also the manner and proportions in which they are to do so, and while it may even be possible to conclude that Mozart is more or less creative than Michelangelo on the same basis (although this is unlikely in practice), the fact that such comparisons can be made does not establish that values are generally commensurable. In comparing Mozart and Michelangelo we may have reason to be interested in other forms of creativity than that which constitutes a mixed value; we may have reasons other than creativity to be interested in the creative achievements of the two. In all such cases we are likely to face problems of incommensurability, problems that the existence of mixed-value goods will not help us to resolve.

Of course, if it is indeed true that Talentlessi is creative in all the same respects as Michelangelo but in a nominal rather than a notable way, as

19. This would exclude the possibility that mixed-value goods are *ever* sustained by social practices. On the relationship of mixed-value goods to social practices, *see* Raz, *Mixing Values*, *supra* note 18.

Chang actually maintains, then it is not in fact possible to know that Mozart is more creative than Talentlessi without assuming one's conclusions. For as Chang herself subsequently points out, to know that Mozart and Talentlessi are commensurable in terms of their creativity is to know that Mozart and Michelangelo are commensurable in terms of their creativity, which is the issue before us. In other words, if the difference between Talentlessi and Michelangelo is a matter of degree rather than a matter of kind (implausible as that may seem given the breadth of Michelangelo's achievements as a painter, not to mention his achievements as a sculptor and an architect), then Mozart cannot be assumed to be more creative than Talentlessi, or any other artist on the continuum linking Talentlessi and Michelangelo, without assuming his commensurability with Michelangelo. If, on the other hand, the difference between Talentlessi and Michelangelo is a matter of kind rather than a matter of degree, then the commensurability of Mozart and Michelangelo with respect to creativity is not established by proof of the commensurability of Mozart and Talentlessi.

In truth I suspect that the very real temptation to conclude otherwise, and to treat Mozart as more creative than Talentlessi despite the different nature of their achievements, stems not from the existence of mixed-value goods but from the fact that Talentlessi's status as creative is here defined in terms that render it virtually empty, devoid of genuine creativity, in which case his creative achievements would necessarily be inferior in terms of creativity to any creative achievement, of whatever kind. Once one dignifies the description of Talentlessi with certain genuine creative achievements as a painter, it becomes far from clear that he is less creative than Mozart; for his creativity, however weak, would then be of a different, incommensurable kind.

It follows from all this that the device of a nominal-notable comparison does not enable us to conclude that hidden within every combination of different values that we have reason to be interested in, there is a standard of value that will allow options that display different combinations of those different values to be commensured. That cannot quite be the end of the discussion, however, for Chang offers another argument from hidden standards, which centers on the possibility of what she calls emphatic comparability. In analyzing (in the previous section) the possible meanings of incomparability, I drew a distinction between comparisons of goods such as friendship and money, which are incomparable because they are constitutively incommensurable, and comparisons of goods such as the singing of Pavarotti and the singing of Elvis, artists who are likely to be described as incomparable, yet whose singing, different as it is, can in fact be compared in a number of ways, albeit that its comparability may not be worth discussing given the difference in quality between the two.

Chang calls the latter form of comparison a case of emphatic comparability, and more to the point, contends that the distinction that I have drawn between these two forms of incomparability does not exist, so that what I

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

have described as cases of constitutive incommensurability are in fact cases of emphatic comparability in disguise. According to her, friendship and money are like Pavarotti and Elvis. We may say that the two cannot be compared but what we mean is that one is immeasurably more valuable than the other. It is simply not true to maintain, as Raz does, that friendship and money are incommensurable and that recognition of that fact is part of what it means to be a friend. On the contrary, friendship is worth more than any amount of money.[20] Or so Chang contends.

Can this be so? It seems to me that it cannot; for if friendship and money were indeed commensurable, then surely friendship would not be worth much money. Leave to one side the logical problem of whether it is possible for anything to be worth more money than any amount of money. Concentrate instead on the monetary evaluation of particular friendships. Suppose that a young, attractive person is asked to sell his or her best friend. Suppose further that the best friend is also a lover. The truth is that lovers are replaceable, particularly if one is young and attractive. There are costs to doing so, of course, both short-term and long-term; but if we assume that the process of finding a new lover and the ramifications of having sold the old one take a year out of one's working life, then we know that in monetary terms a lover is worth a year's salary. Make it two years', tops. And even if one is no longer young and attractive, but old and facing death, so that one's lover is irreplaceable, the sad fact is that the monetary value of that lover can be no greater than the value of a life interest in their company for their life, a value that is far from immeasurable.[21] It would follow, depending on other elements of one's moral outlook, that one is at least permitted, perhaps bound, to sell one's friends as and when the right price is offered, more for a lover, rather less for a colleague. If we reject that conclusion, as we should, and treat friendship and money as incomparable, it must be because friendship and money are incommensurable, perhaps constitutively so; it cannot be because friendship is worth more than any amount of money, for that is simply not the case.

A last, brief point. Even were it true that goods that we think of as constitutively incommensurable, goods such as friendship and money, are properly understood as instances of emphatic comparability, it remains the case that such goods represent but one category of value pluralism. To show that the value of those goods is not in fact plural would merely eliminate that category of value pluralism. It would not establish what the skeptic about value pluralism needs to establish in order to show that all choice is

20. Chang, *Introduction*, in INCOMMENSURABILITY, *supra* note 4, at 21.

21. Chang writes in terms of particular friendships rather than in terms of friendship as a general good in life, yet even the general good cannot be thought to be worth more than any amount of money. For we know that many valuable forms of life are based on solitude, so that in certain lives at least, the lives of those whose search for the good, physical or mental, alienates them from the company of others, the opportunity for friendship is not worth much money.

determined by reason, namely that all allegedly incommensurable goods are in fact commensurable.

ROUGH EVALUATIONS

In distinguishing earlier between incommensurability and incomparability, I suggested that incommensurability, put simply, means that two options cannot be measured in terms of a common standard. In more precise terms, I claimed, this means that if two options are neither better and worse than one another nor equal to one another, they are incommensurable. Chang, here following Derek Parfit, disputes this. In her view there are not three but four value relations present in the world: better, worse, equal and roughly equal (or on a par). That being the case, to show that one option is not better than, worse than, or equal to another is not to show that the two options are incommensurable; for the possibility remains that they are roughly equal to one another and so commensurable. According to Chang, many supposed cases of incommensurability are in fact cases of rough equality. If one apple is better than another and neither apple is better than an orange, the proper conclusion to draw is not that apples and oranges are incommensurable but that they are roughly equal.[22]

What does it mean to say that options are roughly equal? It is a common enough phrase, to be sure. Does it imply something more than it appears to, something more, that is, than roughness of equality? Imagine a comparison of incomes in a particular workplace, the purpose of which, let us say, is to establish a link between pay and performance. Suppose that it is determined that through a combination of salary, overtime pay, and bonuses A earns 10,000, B earns 30,000, C earns 32,000, and D earns 50,000. One might well conclude, in such circumstances and for the purpose of establishing a link between pay and performance, that the incomes of B and C were roughly equal despite the difference between them. What one would mean is that at the level of detail required by the purpose for which the comparison was being made, the two incomes were equal, but that more generally and for other purposes the incomes were not in fact the same and so were not equal. The description roughly equal here implies a recognition that incomes that are equal for one purpose may be unequal for other purposes, purposes that are more typical or even more important.[23] It is hard to say that an income of 30,000 is equal to an income of 32,000 when one knows that for most people, whose primary concern is to meet their basic needs from the resources of a modest salary, the difference between those two incomes may well be of great significance. Hard though it is to say, however, it remains the case that for certain purposes including, let us assume, establishing a connection between pay and performance, the two incomes are in fact equal. To describe the incomes as *roughly* equal enables

22. Chang, *Introduction*, in INCOMMENSURABILITY, *supra* note 4, at 23–27.

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

us to recognize and acknowledge the existence of the former, more typical purpose (which distinguishes the incomes) while preserving the dominance of the purpose that we have in mind (which does not). There is no fourth value relation here. Rather, two admittedly different incomes are equal for one purpose and different for another.

Chang, however, proposes another understanding of the meaning of rough equality, one that trades upon a distinction that she seeks to draw between biased and unbiased differences of value. Biased differences favor one option over another, unbiased differences do not.[24] Given that both biased and unbiased differences are differences of value, options that are strictly speaking neither better and worse than one another nor equal to one another (because each displays a value that the other either lacks or possesses in different degree) are not necessarily incommensurable, as I assumed in my explanation of incommensurability. On the contrary, the absence of any of the three conventional value relations (better, worse, equal) means that there is no biased difference between the options, but the presence in each option of a value that the other either lacks or possesses in different degree means that there is an unbiased difference between them, a difference in terms of which they are commensurable.[25]

According to Chang, unbiased differences constitute a fourth value relation, that of rough equality, in terms of which options can be said to be on a par. In order to capture this value relation she invites us to imagine a diamond, its top point labelled A, its left and right points labelled B_1 and B_2, its bottom point labelled C[26]. The vertical axis of the diamond represents a biased difference, the horizontal axis an unbiased difference. As Chang sees it, B_1 and B_2 are not better and worse than one another, since they do not differ on the vertical axis, are not equal to one another, since they do differ on the horizontal axis, yet are not incommensurable, since

23. In fact the term rough equality implies that other purposes not only may be but are more typical or more important, for two items that are equal for one purpose are necessarily unequal for some other purpose, not merely possibly so. See the discussion below. Rough equality can also be used to the opposite effect, to describe options that are equal within the limits of our knowledge but that may in fact be either equal, or superior and inferior to one another. In that sense we employ the term rough equality, not because the level of detail that might reveal a difference between options is irrelevant, but because it is inaccessible. If we were to speak more precisely, we would describe the relationship between the options as indeterminate rather than roughly equal. Yet when faced with an inaccessible understanding, it may be best to treat options as equal. For as David Miller points out, doing so reduces the scope for error as far as possible, and in certain moral settings degree of error may matter. *See* David Miller, *Equality and Justice*, in IDEALS OF LIBERTY 21 (A. Mason ed., 1998). According to John Broome, the indeterminacy that we sometimes describe as rough equality is what value pluralists actually have in mind when they maintain that valuable options are incommensurable. *See* John Broome, *Is Incommensurability Vagueness?*, in INCOMMENSURABILITY, *supra* note 4, at 67. I consider his claim below.

24. One might more naturally describe these as relevant and irrelevant differences of value. I have adhered to Chang's terminology out of courtesy and in order to avoid being tendentious.

25. Chang, *Introduction*, in INCOMMENSURABILITY, *supra* note 4, at 26.

26. Chang gives credit to Adam Morton for this image, which she modifies for her purpose. *Id.* at 27.

they can be commensured on both the vertical and the horizontal axes. They are on a par.

As I see it, however, to look at matters in this way is to seriously misunderstand both the point of comparisons and the meaning of equality. For one evaluative purpose, that represented by the vertical axis, B_1 and B_2 are equal. For another evaluative purpose, that represented by the horizontal axis, one of them is superior to the other. As Chang herself emphasizes, commensurability and incommensurability do not exist in the air but only with respect to particular evaluative purposes.[27] This means, first, that commensurability in terms of one purpose is compatible with incommensurability in terms of another purpose. Apples and oranges, for example, are commensurable in terms of their Vitamin C content but not in terms of their goodness as fruit. There is no inconsistency in these two conclusions, because there is no inconsistency in attending to more than one evaluative purpose. Second, and more relevant to the understanding of Chang's imaginary diamond, where goods are commensurable in terms of more than one evaluative purpose they may well be superior and inferior in terms of one purpose and equal in terms of another. Indeed, equality with respect to one evaluative purpose necessarily implies inequality with respect to at least one other evaluative purpose. Let me explain what I mean.

When we say that goods are incommensurable, we do not necessarily mean that they are incommensurable for any evaluative purpose, although that may in fact be true, as in the case of French toast and Chicago. Our claim is normally less extravagant. It is simply a claim that the goods before us are incommensurable in terms of the particular evaluative purpose that we have in mind. As such, a claim of incommensurability with respect to one evaluative purpose has no implications for the possibility of commensuring the goods for other evaluative purposes. Indeed, as the above discussion will have made clear, perhaps the most common case of the incommensurability of goods occurs when the value of which those goods are examples is itself constituted by a number of different values in terms of which the goods are commensurable, values that are present in different degrees in different instances of the good.

So, to return to an earlier example, *War and Peace* and *Pride and Prejudice* are both great novels; but their greatness as novels is established with reference to different considerations in each case, so that it becomes impossible to say which is the greater. One novel may be wittier, the other more profound; but different degrees of literary wit and literary profundity cannot be analyzed or commensured in terms of greatness as a novel. In cases like this it is the commensurability of different instances of the good in certain respects (wit and profundity) that gives rise to their incommensurability in other respects (greatness as a novel). Chang's discussion, which

27. *Id.* at 6.

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

is directed to showing that goods that seem incommensurable when regarded in terms of one value (because they differ in ways not captured by that value) are commensurable in terms of some other value and so are not necessarily incommensurable in all respects, refutes an argument that the value pluralist does not and need never make.

The truth is that the existence of evaluative differences in more than one dimension of comparison may leave the assessment of two options intact (if further dimensions of comparison are irrelevant to that assessment or, in Chang's terms, are unbiased with respect to it), or may make one option superior to the other (if difference in a further dimension of comparison is relevant to the choice between options and the options are otherwise equal),[28] or may make the options incommensurable (as in the case of *War and Peace* and *Pride and Prejudice*). What the existence of such a difference does not do is leave the options on a par. Not only is there no reason to suspect a fourth value relation here, but there is no reason to suspect that if such a relation did exist, it would be one of parity. What basis is there for concluding that points B_1 and B_2 on Chang's diamond are on a par overall, that is, in respect of both axes of comparison? Is there a presumption in favour of some form of equality at work here?

Second, and briefly because it is not entirely germane to the subject of value pluralism and incommensurability, Chang's image of the diamond containing two axes of value is a straightforward illustration of the nature of equality. The points on the diamond that she asks us to imagine are commensurable on *both* the vertical and the horizontal axes, for that is what it means for them to be placed on those axes. In terms of the vertical axis of the diamond B_1 and B_2 are equal. In terms of the horizontal axis they are unequal. Whether they are equal or unequal, therefore, depends on which way up one puts the diamond, which in turn depends on whether one's purpose is that represented by the vertical axis or that represented by the horizontal axis.

It is simply not true to say that B_1 and B_2 are not equally good because there is a difference between them on the horizontal axis, not merely because equality on one axis, as an aspect of commensurability, is compatible with difference on another axis, but because equality, by its nature, requires that difference. The reason is straightforward. To begin by repeating, it is in the nature of comparison that goods that are commensurable for one purpose may be incommensurable for another purpose. Second, it is in the nature of commensurability that goods that are superior and inferior for one purpose may be equal for another purpose. Third, and to the present point, it is in the nature of equality that goods that are equal

28. Suppose there are two ways of putting sugar in one's tea, by teaspoon or by sugar dispenser. Assume that the two are equal as far as the sweetness of one's tea is concerned. If the sugar dispenser is more convenient, then it is to be preferred overall, since there is no reason to prefer either with respect to the only other consideration relevant to the choice between them.

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

for one purpose must be unequal for some other purpose, for otherwise the goods would not be equal but identical.[29]

This suggests, then, that rough equality is not a fourth value relation, but simply one way of establishing equality, namely, through the use of a coarse standard of measurement that ignores differences that most people are interested in, differences that are downplayed by the description of options as equal, yet simultaneously acknowledged by the description of that equality as rough. So understood, rough equality is neither a distinct value relation, like better, worse, and equal, nor unique in its equivocation; for it has an evaluative shadow in what are sometimes referred to as pedantic distinctions, said to be drawn by people with the minds of accountants, who use fine standards of measurement to attend to differences of detail that most people are uninterested in.[30] If it were true that rough equality is a value relation, then it would also be true that pedantic distinctions are. This would leave us with not four but six value relations. In fact neither of these forms of evaluative description can be regarded as an independent value relation, for the simple reason that the meaning and implications of these descriptions do not differ evaluatively from those of the value relations whose names they share.

Goods that are equal, roughly or otherwise, are indistinguishable in the relevant respect, making one properly indifferent to the choice between them. Goods that are superior and inferior, pedantically or otherwise, are better and worse in the relevant respect, making one properly sensitive to the choice between them, preferring the better and avoiding the worse. There is no evaluative difference between rough equality and equality, between pedantic and nonpedantic superiority and inferiority.[31] Commensurability is exhausted by the three recognized value relations of better, worse, and equal. Goods that are incommensurable, on the other hand, belong to different evaluative realms; for they are distinguishable in the relevant respect without being better or worse, and they may leave one either properly indifferent or properly sensitive to the choice between them, depending on the impact that they are likely to have on the course of one's life.[32]

Now, as I have been at pains to emphasize, whether options are commen-

29. *See* Peter Westen, SPEAKING OF EQUALITY: AN ANALYSIS OF THE RHETORICAL FORCE OF 'EQUALITY' IN MORAL AND LEGAL DISCOURSE 19ff. (1990) Given that physical differences do not entail evaluative differences, goods that are indistinguishable in all evaluative respects need not be physically identical, but they are evaluatively identical, not evaluatively equal.

30. There can be no rough superiority or inferiority, for what is roughly superior or inferior must also be precisely superior or inferior. A difference on a coarse scale is necessarily a difference on a fine scale. Similarly, there can be no pedantic equality, for what is equal on a fine scale must also be equal on a coarse scale.

31. Although there is clearly a dispute about the proper criterion for evaluation between those who believe that options are (roughly) equal and those who believe they are different, between those who believe that options are (pedantically) different and those who believe they are equal.

32. *See* Raz, *supra* note 5, at 328–35.

surable[33] or incommensurable depends on the purpose for which those options are assessed. Furthermore, the proper choice of purpose for the assessment of options, in any person's life, depends on the particular values that govern that person's life, values that are in turn a reflection of the general quest to make one's life a good one. If and to the extent that the values that govern a life are plural and incommensurable, and so cannot in and of themselves provide full rational direction to the quest for a good life in the face of multiple options as to how that life might be well led, then it becomes an issue how the quest for a good life is to be directed, and in particular, what role character and culture may properly play in providing that direction. Before going on to consider that issue, however, I need to address one last aspect of what I have here called rough evaluations, that of vagueness.

John Broome, in perhaps the most difficult piece in Chang's collection, asserts that what is thought of as incommensurability is in fact nothing more than vagueness.[34] He offers as an example in support of this claim a variation on the everyday challenge of matching a color sample to a color chart. Suppose that a fragment of paint from a wall, or a fragment of material from a dress, is reddish purple in color. Broome asks us to suppose further that we have reason to try to place that sample *in terms of its redness* on the portion of the color spectrum that ranges from red to yellow.[35] This will necessarily involve comparing a purplish sample from the red-blue portion of the spectrum to a set of orange points on the red-yellow portion of the spectrum. Being tinged with blue, the purplish sample is less red than the red end of the red-yellow continuum (or so we are asked to assume); being tinged with red, it is more red than the yellow end of that continuum. Yet when compared to any one of a range of points in the middle of the continuum, it may be difficult to say whether the sample is redder than that particular point or not. Broome believes that this zone of difficulty, which he describes as hard indeterminacy, is what value pluralists have in mind when they speak of the challenge posed by the incommensurability of values, values that are here colored red-purple and red-yellow.

So when we face a choice between options whose values are said to be incommensurable, between a life of adventure and a life of security, between a commitment to the environment and a commitment to profit, our difficulty, Broome argues, is the same kind of difficulty that arises when a sample color is compared to an (apparently) alien portion of the color spectrum. The life or the commitment that we are contemplating (the sample), which embodies a value of one kind, can be compared to a range of alternative lives and commitments that form a continuum (the spectrum), which embodies value of another (apparently alien) kind. In this way

33. And if so, whether they are equal, roughly or otherwise, or superior and inferior, pedantically or otherwise.

34. Broome, *Is Incommensurability Vagueness?*, in INCOMMENSURABILITY, *supra* note 4, at 67.

35. *Id.* at 67–69.

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

the adventurous life can be compared to a range of alternative lives, all of them unadventurous, running from the secure and well paid to the insecure and ill paid, and similarly, an environmental commitment can be compared to a range of alternative commitments, all of them nonenvironmental, running from the highly profitable to the unprofitable. At each end of these continuums, we know which option to prefer, the secure, well-paid life to the life of adventure, the life of adventure to the insecure, ill-paid life, and similarly for choices between the environment and profit. Yet in a large range of cases between the ends of these continuums, we find it difficult to balance the two considerations. According to Broome, this putative zone of incommensurability or, in his terms, hard indeterminacy, is simply an instance of vagueness, not incommensurability at all.

Broome's argument for this conclusion is complex, and its details need not concern us here; for the argument depends upon treating incommensurability as a form of indeterminacy, so as to see the challenge of value pluralism as a challenge akin to that of placing a reddish purple color sample on a particular point on the red-yellow portion of the color spectrum. In my view, Broome is correct to see the color sample problem as a problem of indeterminacy. He is also correct to see it as a problem of incommensurability. He is wrong, however, to equate those two views, for the truth is that the color sample problem can be read in several different ways. Whether it is properly regarded as a problem of indeterminacy or as a problem of incommensurability depends entirely on the reading it is given. Indeed, it is only by equivocating between different readings of the problem that it is possible to equate indeterminacy and incommensurability, for the problem is in fact an apt illustration of the difference between the two concepts.

On one reading, that emphasized by Broome, we have reason to place a reddish purple sample *in terms of its redness* on the portion of the color spectrum that ranges from red to yellow. Clearly, this may give rise to problems of measurement. It may be difficult, for example, to assess just how red the reddish purple sample is, at least with the degree of precision that is reflected in the arrangement of points on the red-yellow continuum, if one does not have access to the spectrometer or other device used to establish the red-yellow continuum by arranging points upon it in terms of their redness. That being the case, Broome is correct to conclude that it may be neither true nor false to say that the reddish purple sample is redder than a given point on the red-yellow continuum. Yet this problem of placement, though real enough, is not a problem of incommensurability. For there is only one value at stake in it, if value it be, that of redness, in terms of which both the sample and the point on the continuum are being assessed. There is no question of an inability to assess two options in terms of a common standard, and so there is no question of incommensurability. What is at issue here is indeed vagueness.

On another reading of the color sample problem, however, we have

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

reason to choose between (reddish) purple and (reddish) orange in terms of their intrinsic merits, merits that are aesthetic in character, as a color for a wall perhaps, or as fabric for a new dress. Assume that both colors are eligible wall or dress colors, and that the choice between them is a free-standing one, so that neither color is to be conclusively preferred to the other in terms of external considerations, such as how much it costs, or how well it goes with a third color, considerations that would preclude the possibility of incommensurability. Put simply, we have reason to choose between purple and orange in their own terms. In order to do this we must evaluate, first, the distinctive merits of purple as a wall or a dress color, an exercise that requires us to take into account not merely red but blue, indeed not merely red and blue but purple itself, the independent hue that arises from the combination of red and blue, and second, and similarly, to engage in the same form of analysis with regard to orange, red, and yellow.

We could not choose between purple and orange in this setting by taking account of redness alone; for to do so would be to neglect dimensions of the colors before us that were critical to their value, and to focus instead upon a dimension of those colors that was at best a mere contributory element in their value, at worst an irrelevant consideration or even a source of disvalue. To wear a red dress, for example, is a very different thing from wearing one that is violet or egg-yolk yellow, so that we would not be assisted in our choice between violet and egg-yolk yellow dresses by focusing on the merits of a red one.

A choice of this kind, a choice between purple and orange in terms of their aesthetic merits, gives rise to a problem of incommensurability for the simple reason that there are distinct values at stake in the choice, be they purple and orange (if one attends to final colors alone), or be they red, blue, and yellow (if one attends to the contributory elements of those final colors). The difference between those distinct color values is fundamental: There is no common measure in terms of which the aesthetic merits of purple and orange can be ranked as candidates for a wall or a dress color. Both are eligible candidates for choice, but they are eligible for different reasons, reasons that may have little or nothing to do with redness. The same is true, and more evidently so, of the choices between a life of adventure and a life of security and prosperity, between a commitment to the environment and a commitment to profit, where those choices are based on the inherent virtues of such lives and such commitments. In the absence of a hidden standard that would enable us to assess the relative merits of differently valuable options (a hidden standard of the kind that Chang claims to be able to discover), and in the absence of the possibility that such options are roughly equal or on a par (as Chang claims in the alternative), then the intrinsic merits of dresses of purple and orange, of lives of adventure and security, of commitments to the environment and to profit, must all be incommensurable, not indeterminately commensurable as Broome maintains.

Broome's equation of incommensurability and vagueness depends upon equating the first reading of the color sample problem, which focuses on a single value, with the second reading, which focuses on several values, and then concluding, correctly, that according to the first reading the problem is simply an instance of vagueness. Yet this is to say, in effect, that there is only one valid reading of the problem, namely, that which takes it to be a matter of vagueness; for otherwise it is to ignore the possibility of reading it as a problem of incommensurability. Is this true? What might make it so? After all, it takes an argument, not an assumption, to eliminate the possibility of incommensurability.

Broome's justification for treating incommensurability as a case of indeterminacy seems to lie in the idea of revealed preferences. He believes that we know that a very secure and prosperous life is better than a life of adventure because we would prefer it, and by the same token we know that an insecure, ill-paid life is worse than a life of adventure because we would avoid it. If we have difficulty choosing between an adventurous life and a reasonably secure and prosperous life, as we do, it must be because we find it difficult to assign the adventurous life a precise position on a continuum of increasingly secure and prosperous lives, not because lives of adventure and lives of security are incommensurable overall.

The problem with such a position, if it is indeed the position that Broome holds, is that the fact of choice cannot be taken as providing the justification for choice, at least cannot be so taken if one accepts two premises: first, that choice is justified by reason to value the option chosen; and second, that reasons to value an option are objective, not subjective, in character. These premises are foundational to any discussion of incommensurability. Revealed preferences are consistent with what is irrational in choice, with what is rationally required, and with what is rationally permitted. They imply three possibilities, not one. It is true, for example, that many of us would choose a secure and prosperous life over a life of adventure (though not all of us would do so, as numerous rich adventurers have made clear); but it does not follow that such a choice is rationally required rather than rationally permitted, and in particular it does not follow that such a choice is predicated upon ranking the value of adventure in terms of the value of wealth and security. Value pluralists are as bound to choose as anyone else, and the record of their choices can be said, somewhat misleadingly, to describe a preference; but preference, so understood, does not reveal that the choice represented in the preference was rationally determined, so as to be rationally required of like people in like circumstances. Yet once reliance upon revealed preferences is set aside, there is no reason to believe that an instance of one value has a place, albeit an indeterminate place, on a continuum of instances of another kind of value arranged by degree.

There is no reason, for example, to believe that a reddish purple sample has a place on a red-yellow continuum where that continuum is a continuum of aesthetic merit with regard to wall or dress color. It is not in question

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

that red is a common element in purple and orange, so that instances of purple and orange can be placed on a continuum of redness, making them commensurable in terms of redness where there is reason to value redness. What is in question is whether the aesthetic merits of purple and of orange can be captured and assessed in terms of redness or any other common element; for to believe that would be to regard the aesthetic merits of purple and orange as no more than degrees of the aesthetic merit of red, or of some other common element. That way of regarding the two colors is legitimate for some evaluative purposes, as indeed I have emphasized: Perhaps we need to decide what color we should paint a fire engine if owing to some crisis, fire engine red is unavailable. But there is no reason to believe that it is legitimate for all evaluative purposes, including the purpose of assessing the aesthetic merits of the colors as candidates for a dress or a wall under the conditions that I have described, and Broome does not suggest one. That being the case there is no reason to believe that incommensurability is vagueness, as he contends.

CHARACTER AND CULTURE

One common recourse for those who wish to escape the challenge of value pluralism and incommensurability is to treat the facts of character and culture as bases for the commensuration of options.[36] On this view, the fact that an option suits a particular chooser, either because it is consistent with his or her character, or more generally, because it is consistent with his or her culture, makes that option better for that chooser. So, for example, if it is true that the intrinsic merits of *Pride and Prejudice* and a chiffon scarf are incommensurable, and if it is also true that one's friend is interested in English literature (albeit not very well read in it) and uninterested in fashion, then the novel is a better present than the scarf for that friend because his or her interests make it so. What is incommensurable in the abstract (the intrinsic merits of novel and scarf) becomes commensurable when embodied in a concrete option (a possible present for a particular friend); for the value of any option consists in its capacity to bring value to the life of some person, which in turn depends, at least in part, on the consonance of that option with the character and culture of the person for whom it is an option. Accordingly, when seeking a present for such a friend, one should go to a bookstore, not a boutique.

As a conclusion on these particular facts, this may well be true, for reasons that I will explore in a moment; but if so, it offers no *general* basis for treating character (or culture) as aspects of value capable of making one choice

36. Issues of this kind are considered, albeit to different effect and in ways that do not track the discussion here, by Charles Taylor in *Leading a Life*, Elijah Millgram in *Incommensurability and Practical Reasoning*, John Finnis in *Commensuration and Public Reason*, Joseph Raz in *Incommensurability and Agency*, and David Wiggins in *Incommensurability: Four Proposals*, all in INCOMMENSURABILITY, *supra* note 4.

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

better than another; for in that bald, general form the escape from value pluralism is an escape into subjectivism and relativism. One cannot confine one's search for value in life to that which is suggested by the facts of character or culture, for character may be corrupt or crabbed, as may culture. Perhaps one's friend has neglected fashion, to his or her cost, or perhaps one's culture is aesthetically Philistine; if so, the scarf may be as good a present as the novel, perhaps better. We are all familiar with people and cultures, or aspects of culture, that are narrow minded, doctrinaire, illiberal or bigoted. Choices derived from such characters and such cultures are to be avoided, not pursued. It follows that character and culture, far from being premises for choice among options, are subjects of choice themselves, so that the question before one when confronting a choice between options is not merely what one should *do* but further, and only to some extent consequently, what one should *be* and how one should become it (and conversely, what one should not be and how one should cease to be it or avoid becoming it). It follows further that assertions of incommensurability cannot be overcome, or be shown to be false, by the tendency to use personal or social commitments as bases for the ranking of options. For the question of ranking, and the capacity to engage in ranking, far from being dependent upon such commitments, precedes and governs them, so as to ensure their value.

That said, however, there is more to the story; for while it is true that character and culture cannot be regarded as premises for choice among options, since they cannot be relied upon to distinguish valuable from nonvaluable options, it is also true that character and culture have a genuine, albeit subordinate, role to play in addressing the consequences of value pluralism and incommensurability, given that value pluralism frequently, perhaps typically, confronts particular people with the problem of choosing among valuable options that reason does not enable them to distinguish. To overlook that role would be to overlook the existence of a vital resource in the project of giving shape to the course of a valuable life. To appreciate that role fully, on the other hand, it is necessary to distinguish between moral and nonmoral qualities of character, or in other words, between virtues and bare capacities.

Moral qualities of character, such as truthfulness or courage, mendacity or cowardice, are subjects, not premises, of moral deliberation, for the reasons just given. One does not become virtuous by developing the qualities of character that one happens to possess; rather one becomes virtuous by ensuring that one possesses, or comes to possess, qualities of character that constitute virtues. Yet even in this setting, once one has eliminated from consideration all those options that would diminish, or at least that would fail to augment, one's moral character, it remains a question which options and which virtues one should pursue; and character and culture may offer reasons to choose one way rather than another. No person can display all virtues, not only because the virtues are too numerous to embody

in a single life, but also because they are (or may be) incompatible with one another. No person can combine, for example, other than episodically, the values of solitude and companionship, and the qualities of character that sustain each. In pursuing a valuable life, then, and in developing a character that simultaneously embodies value and makes its further realization possible, we must choose between virtues; and character and culture sometimes provide reasons to choose one virtue over another (by making that virtue accessible, for example), and sometimes determine the implications of separate reasons to choose one virtue over another (by making the chooser either conformist or nonconformist with his or her culture, for example, consistent or inconsistent with his or her character), implications that give rise to further reasons affecting and shaping the choice between options and virtues.

Nonmoral qualities of character, on the other hand, qualities such as strength or suppleness, intelligence or emotion, are not good or bad in themselves but rather may be used, with equal facility, for either good or bad ends. Strength can be used to injure others or to sustain them; intelligence can be used to foster others or to destroy them. Qualities such as these are neither virtues nor vices, but vehicles for both.[37] What is more, the valuable options that these qualities make accessible, the good ends to which they may be put, are both manifold and incommensurable, so that the life of the strong may, but need not, be less valuable than the life of the supple, and similarly for the lives of the intelligent and the emotional. That being the case, nonmoral qualities of character, unlike their moral counterparts, may legitimately function as premises for choice, and indeed in some cases must do so.

Once one has eliminated from consideration all nonvaluable options, it remains a question which valuable options one should pursue, not only because valuable options, like virtues, are too numerous to embody in a single life, and not only because valuable options, like virtues, are often incompatible with one another, but because certain valuable options are readily accessible to certain people in certain cultures, while being either accessible with difficulty or entirely inaccessible to other people in other cultures, and because certain valuable options have particular implications for particular lives, providing narrative unity to some lives, while making others fragmentary.

So, for example, one can flourish as a baseball player only in America or Japan, just as one can flourish as a cricket player only in Britain and parts of the Commonwealth; for sports such as these are profoundly linked to the societies that gave birth to them or subsequently adopted them. What is true of sports such as baseball and cricket is true, in varying degree, of most aspects of artistic, cultural, intellectual, and social life, particular forms of

37. It follows that there is no reason to be proud of characters and types of character that are based upon qualities such as these, as identity politics often assumes.

which flourish in certain cultures while being marginal or absent in others. In general, cultural forms are supportive of, and so helpful to, the pursuit of some valuable activities, and critical to the pursuit of others. Much the same is true of character, however that character may have been arrived at. In this setting, then, character and culture may legitimately function as premises for choice, for the valuable options sustained by one culture (such as baseball) are incommensurable with the valuable options sustained by another culture (such as cricket), just as the valuable options sustained by certain (nonmoral) characteristics are incommensurable with the valuable options sustained by other (nonmoral) characteristics.

So the fact that a person is athletic and impatient may be a reason for that person to take up a sport rather than stamp collecting, assuming that both are valuable activities; for there is reason to do what one is good at and can flourish in, rather than the opposite.[38] And if such a person lives in Britain or Pakistan rather than in America or Japan, then the fact that he or she is athletic may be reason for that person to take up cricket rather than baseball; for there is reason to pursue activities that enjoy social recognition and support rather than incomprehension and neglect, the reason being that activities that are rooted in social forms are dependent upon the presence of those forms for their flourishing. In other words, while it is possible to play baseball in Britain, it is not possible to flourish as a baseball player there.

These reasons are not conclusive, of course, for they do not in any sense require that one be a cricket player rather than a baseball player. Nevertheless they establish certain important implications of choice. Baseball remains a valuable activity even in Britain, but if one chooses to play baseball there one must do so as an eccentric, or an expatriate, or something of the kind, just as one would if one chose to play cricket in America. Much the same is true of the role of character. Pursuit of certain options will lend narrative unity to a life; pursuit of other options will make that life fragmentary. In itself this is not a reason to pursue one option rather than another, for a unified life is no better than a fragmentary one. Rather the two kinds of life are incommensurable, each being better than the other in some ways, worse in others. Nevertheless in choosing between options one must be aware of the tendency of those options to unify or fragment one's life, and thus of the consequences of one's choice for choices among options in the future. For some options are accessible only to those whose lives are unified, while others are accessible only to those whose lives are fragmentary. In short, character and culture, first, offer reasons to engage in certain valuable activities, and second, lend particular significance to the choice to engage in such activities on the basis of those or other reasons.

38. Other things being equal. Being athletic, in and of itself, is not reason to take up sport, or to avoid stamp collecting. I should also note that since the relationship between value and reasons for action is not direct, it does not follow from the fact that one option is more valuable than another that there is more reason to pursue it (or vice versa).

The role of character and culture in shaping a choice among options may be summarized, then, as follows. Character and culture are constraints upon action, fostering activities that lie within their margins and discouraging activities that lie beyond their margins. Given that they are constraints upon action, they may be constraints upon good actions, and for that reason cannot be taken as premises for choice. While a valuable life does not depend upon access to all valuable options, it does depend upon access to a range of valuable options extensive enough to prevent recourse to options that would diminish the value of one's life and the virtue of one's character. To the extent that character and culture either direct us to bad options or unacceptably limit our access to good ones, they must be reformed, not respected.[39]

Paradoxically, however, what constrains may also enable, by making some things possible and by providing the perspective from which other things are imaginable. That being the case, character and culture have a legitimate role to play in determining the *viability* of a goal, given our limited capacity to change either our character or our culture; in determining the *intelligibility* of a goal, given that any change we may make in our character or culture must necessarily proceed from the character and culture that we now have to some other that is better; and most important, in determining the *rationality* of a goal, given first, that certain goods are only possible or imaginable within the setting of certain characters and cultures, second, that there is no reason to exchange a character or culture that is capable of one set of goods for a character or culture that is capable of another, incommensurable set of goods, and third, that being or becoming anything, if and to the extent that anything is possible, whether by changing or by remaining the same, requires reasons that are capable of showing that what it is possible to be or become is also desirable to be or become.

How are we to lead good lives then, in the face of a host of valuable yet incommensurable options, and what role do character and culture play in enabling us to do so? The answer, it seems to me, is that we must enter into a kind of exchange between what we are and what is good, beginning with what we are and know ourselves to be, as individual characters and as members of certain cultures; for knowledge of what we are is the necessary starting point for any inquiry into the kinds of matters that we might rationally, intelligibly, and viably seek value in (and hence the kinds of lives that we might lead), and the kinds of virtues that we might similarly develop (and hence the kinds of people that we might become). A valuable life is not something to be planned from the sidelines, but something to be

39. Furthermore, any reliance upon character is dependent upon the capacity to distinguish between genuine and presumed characteristics, between what it really means to be a person of a certain kind and prevailing conceptions of what that means. For while character itself may sometimes be crabbed and thus bar access to a valuable life, conceptions of character are commonly, perhaps typically, so crabbed; for their usefulness, which is the reason for their existence, tends to be a function of their reductiveness.

explored and considered, imagined and created, from within. At the same time, and just because it is to be explored and considered, imagined and created, a valuable life is not something to be led within set boundaries of character or culture, but something that is capable of transcending those boundaries where necessary, so as to accommodate new goods and new implications for existing goods.

A final point. In contrast to what I have just claimed, Chang is highly pessimistic about the patterns of choice that value pluralism might give rise to and their implications for the challenge of leading a good life. She suggests that if it were true that options are incommensurable (as she believes it is not), then people would be bound to vacillate in the face of them: Unable to prefer tea to coffee, they might (justifiably) choose coffee; unable to prefer coffee to tea, they might then (justifiably) choose tea; and so on through a disastrous cycle of unfulfilled yet justified choices, the consequence of which would be to pump the merit out of their tea or coffee break, and more generally, out of their lives as a whole, making those lives barely worth living. That being the case, she maintains, it is incumbent upon a value pluralist to show how choice can be stabilized in the face of incommensurable options, so as to prevent people from turning into what she calls merit pumps.[40] Yet as I see it, the problem that Chang raises simply does not follow from the incommensurability of tea and coffee in this setting; for the course of action that she imagines neglects the reasons to have a hot drink in the first place, reasons that tea and coffee both satisfy, albeit in different, incommensurable ways. There may be no reason to prefer tea to coffee, or coffee to tea (in this setting at least), but the choice of which of them to drink cannot be exercised in such a way as to frustrate the fulfillment of the reasons to have a hot drink in the first place, the reasons that made tea and coffee eligible as options.

A different example might make the point clearer. Suppose that one was faced with a choice between movies at a multiplex, two of which, a thriller and a romance, were worth seeing. One might decide to go to the thriller but then decide, three minutes into it, that one did not feel like a thriller after all, and so make a quick dash into the romance; but the more of the thriller that one had seen and the more of the romance that one had missed, the less possible it would be to change one's mind without missing both movies. At that point the reason to go to a movie at all would become reason to stick with the movie that one had chosen, or failing that, to leave the theater altogether. Notice that this is not a new kind of reason, born of the fact of value pluralism, a reason such as Chang demands. On the contrary, it is the same reason that one would have to stick with a movie if it was the only movie in the multiplex worth watching, rather than buy popcorn, or talk to one's companion. Notice too that it is not a reason to choose one movie rather than another in the first place, for it is not possible to conclude from

40. *See* Chang, *Introduction*, in INCOMMENSURABILITY, *supra*, note 4, at 11.

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press

the fact that there is reason to stick with a choice, that there was reason to make that choice rather than some other.

CONCLUSION

So when we say that it's apples and oranges, what we mean is that the choice before us, like the choice between apples and oranges, is a choice between options that are good in different, incommensurable ways. In any setting where we have reason to be interested in the intrinsic merits of those options rather than in their aptness in the service of some separate good, our reason to be interested in each option is not reason to prefer one to the other. In such a situation, there are reasons to regard both options as eligible; there are (exclusionary) reasons not to choose between eligible options on certain bases; but there is no reason that will make the choice between options for us. This is part of what it means to choose rather than to have choices made for us, part of why it matters to be free. If choice were always determined by reason, there would be no reason to choose for oneself, unless and to the extent that one could show that one was better informed or more rational than any other possible chooser. For there would be no value in being the author of one's own life if life were such that there was nothing to be the author of, other than negatively, nothing to decide apart from the decision, if one can call it that, to be rational.[41]

It is true, as Chang emphasizes, that this feature of choice places us in what might be regarded as a rational quandary; but the experience of such quandaries, far from being mysterious or profoundly debilitating, is entirely familiar to anyone who has ever debated, with themselves or with others, the question of how to direct the course of their life at a particular crossroads, be that crossroads small or large, and is almost always negotiated, if not always comfortably or successfully negotiated. We commonly agonize over which road to take, when there seems to be reason to take either. For young people such agonies are typically large scale and dramatic, involving decisions about careers and life partners. For older people, whose histories of choice have normally settled such large issues, opening certain doors at the cost of closing others, the agonies tend to be smaller in scale, though no less real or painful.

So if we seek a successful evening, a worthwhile career, a good life, as we should, we may have no reason to prefer the dinner in to the night on the town, the career as an artist to the career as a banker, the life of stability to the life of change. In each of these settings the options before us express and embody different values, values that are incommensurable. Under

41. There is value in acting rationally, of course, but that value could be satisfied by an (ongoing) rational decision to defer to the authority over one's life of some other who was better informed or more rational than oneself.

certain conditions our character and our commitments may help us to choose between those options; but character (and by extension culture) is not a moral compass, an arbiter of value, capable of determining the choice for us. It is true that if we want excitement, we should go out on the town; if we want wealth, we should pursue a career in banking; and so on. To say this, however, is merely to raise the problem to a higher level of abstraction, a level at which the question becomes one of what we should want.[42] After all, we may be mistaken in thinking that excitement makes a good evening, or wealth a good career. If not, we may be mistaken in thinking that wealth and excitement are preferable to tranquillity and creative achievement. That being the case, and subject to the comments made above on the qualified role played by character and commitments, our choice of an option must be inspired by the value of that option, so that when the value of one option is incommensurable with the value of another, we must simply decide what to do, just as if we were deciding between apples and oranges, albeit with a degree of reflection that is concomitant with the significance of that choice in our lives.

So, to turn from the personal to the professional, when a court confronts a clash between constitutional values, or between legal values, or both at once, there may well be no single right answer to the problem before it. This is hardly surprising. Judges are not, by virtue of their office or otherwise, better informed or more rational than the people who appear before them, as an overly rationalist picture of choice and value might suggest. On the contrary, they are, by the nature of their jurisdiction (which is typically general) usually less well informed, and by the nature of their institutional role (which is insulated from any connection with a number of important dimensions of most problems before them) usually less rational than those whom their decisions are to govern. They are, however, people who have been given the power to render an authoritative decision on the merits of the case of which they are seized. Sometimes that decision will be determined by reason, so that there is nothing, strictly speaking, for the court to decide. More often the decision will be left open by reason, so that the court is obliged to make a choice between incommensurable options. In such a case the court is free to choose either option (which may mean deciding in favor of either party), provided that in doing so it abides by certain procedural requirements inherent in the judicial role, some of which are positive (such as the requirement to give reasons for judgment) and some of which are exclusionary (such as the requirement of impartiality). In practice, of course, what a court will do in such a situation is to set out the reasons that support the decision that it has made, together with the reasons that tell against the decision that it has not made, without attempting to do what cannot be done, namely, to commensurate the two sets of reasons, so as to

42. *See* Raz, *Incommensurability and Agency*, in INCOMMENSURABILITY, *supra* note 4, at 110; *see* also Raz, ENGAGING REASON, *supra* note 10, at 46.

show, for example, that equality is better than freedom of expression, or that certainty is better than justice.

In these ways, choice, be it significant or insignificant, personal or professional, is driven by value without being determined by value. For the plural nature of value, in many settings at least, deprives it of the capacity to be determinative of choice.

https://doi.org/10.1017/S1352325201071014 Published online by Cambridge University Press