

# Human Freedom from Pericles to Measurement

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## 1 Introduction

The idea of freedom is one of the most contested in political and philosophical discourse and one of the most vital. The contests run along several fronts, which can be transposed to the following questions: Q1) What is freedom? Q2) Who has freedom? Q3) Is freedom always good? Is more freedom always better? Q4) More generally, what are the consequences of freedom in different areas of human endeavor? Q5) How is freedom achieved? Q6) How is it made stable and secure? Q7) How is it defeated?

All subsequent questions depend upon the answer to the first question: What is freedom? Those who would argue that people are “free” in nations like the United States will have very different answers to this question than those who believe, for example, that Venezuela is on a path to socialist freedom, liberating people from the tyranny of markets. Such views are prevalent today, as they were in the past. John Somerville once argued that “in the Communist world, there is more freedom from the power of private money, from the influence of religious institutions, and from periodic unemployment” (Carter, 1999: 1).

A number of societies have spent and are spending much blood and treasure to export their version of freedom, most famously the Soviet and free market blocs during the Cold War. This contest continues, with various latter day versions of socialist freedom, theocratic freedom, and

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## Roadmap to the sections

1. Introduction
  - a. This section reviews the literature on human freedom
  - b. The opening sub-sections examine the conceptual tools that key 20<sup>th</sup> century philosophers developed to describe and analyze differing ideas of freedom. They anticipate later sections of the paper by describing what “type” of freedom would be most appropriately measured.
  - c. The latter part of the discussion uses these tools to analyze, back to the classical era, the historical depth of modern ideas of freedom; it traces later writers on freedom beginning with the enlightenment.
2. Section 3 then examines various ideas of “freedom” that have entered into popular consciousness and tests to see whether these are consistent with classical ideas of freedom and the rigorous definitions of freedom developed in the last century.
3. This section applies the same tests to the various charters and measures of freedom now available.
4. The final section looks forward to developing an index that is consistent with a rigorous definition of freedom.

others replacing the Soviet version. Yet the few existing freedom indexes are problematic or incomplete or both, as will be discussed later. In other words, leaders and societies, including those in the “free” world, don’t have clear definition of freedom or an operational measure of what they claim to be supporting.

This means it is difficult to answer Q2, at least in a comparative sense, regardless of the version of freedom chosen. This, in turn, means that Q3 and Q4 cannot be answered reliably, since there is no objective measure of freedom that could be used to test against outcomes. Although many would argue that freedom has intrinsic value, the task of determining whether it produces positive outcomes is also important.

Measurement is important for another reason. Since a number of versions of “freedom” are mutually exclusive, it means that if some produce positive results, others are likely to produce harms. Much debate rages over the question of which version of freedom benefits people (and which people, for that matter<sup>1</sup>). A reliable measure of any one of the various versions of freedom would help clarify the debate. Answers to these questions also would help determine whether those nations that spend blood

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1 For example, a socialist might claim that “negative freedom,” particularly in the economic realm, provides benefits for only the richest. An objective measure of this version of freedom could provide authoritative answers: i.e., are the poor worse off, or better off, in negative freedom nations? The work on economic freedom (Gwartney and Lawson, 2008) suggests the answer is better off, but more research is required on overall freedom.

and treasure to promote freedom see results that are worth the expenditures in increased freedom (or at least the version of freedom being measured) and improved outcomes.<sup>2</sup>

Measurement is also required for Q5, Q6, and Q7. Without an objective measure of freedom, it is impossible to determine in any quantitative way whether action X leads to increases or decreases in freedom; whether it lends stability to freedom or causes instability. Given a) that many nations have made great sacrifices to spread their versions of freedom and b) the possibility that some version(s) of freedom creates better lives for people than others, answering Q5, Q6, and Q7 becomes highly significant, in conjunction with Q3.

## 2 Concepts of freedom

This literature review will, by necessity, discuss broad themes. Hundreds of pages of densely-argued work have been written over the smallest details in the debate and cannot be dealt with in a review of this scope. The paper also will assume an informed readership that is already familiar with basic concepts, so these will not be discussed at length in this essay.

### Berlin

Isaiah Berlin's 1958 essay, "Two Concepts of Liberty," provides an important conceptual tool to examine notions of freedom, so we will begin there and then move backward to look at earlier views of freedom, before examining more current literature. Following Berlin, this paper will treat the terms "freedom" and "liberty" as being interchangeable, though it typically will speak of "freedom." Some thinkers have tried to distinguish between liberty and freedom, but such efforts appear forced and hinge on idiosyncratic definitions of the two—distinctions without differences. None have caught on.

Berlin's two concepts were "negative" and "positive" freedom. The negative concept of freedom concerns lack of humanly imposed barriers to action. "By being free in this sense I mean not being interfered with by others. The wider the area of non-interference, the wider my freedom" (Berlin, 1958: 170). Positive freedom, on the other hand, involves freeing oneself from whatever constraints one imposes on oneself. This enables the person to find his or her true self. It implies some sort of higher and lower plane of being with the higher plane freeing itself from constraints imposed by the lower plane. For example, class consciousness would have been perceived by many communists as part of a lower self, blocking the release and freedom one experiences under the higher form of socialist liberty.

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2 Granted, much international maneuvering is for geopolitical reasons, but, at least for some nations, the question of whether the lives of people are improved is important.

Berlin distinguishes between two manifestations of positive freedom. The first is benign, where individuals themselves choose a course they find liberating—for example, by voluntarily joining a religious order, which they can also voluntarily leave. The other is an attack on negative freedom. This is where positive freedom is imposed by some powerful group, for example communist re-education camps supposed to “liberate” people from class consciousness so they can find true Marxist freedom.

Berlin was not the first to discuss negative and positive freedom. However, his essay came at the right time, when increasing claims for positive freedom were contesting the essentially negative view of freedom that had emerged from most Enlightenment thinkers. Both the recently-defeated Nazis and the communists in the then-ongoing Cold War contained strong strains of non-benign positive freedom. Both opposed negative freedom in practice, if not in word.<sup>3</sup> Berlin brought clarity to the contest and, for that reason, his essay became highly influential.

### Jumping ahead

The concepts of negative and positive freedom will be developed more fully later in the paper. But to provide context for the reader of the discussion ahead and how it relates to developing a measure of freedom, here we will briefly anticipate the last section of the paper on what “type” of freedom should be measured.

Positive freedom cannot be measured outside of some ideology, one that has a version of true freedom. Positive freedom has very different meanings for an evangelist, an Islamist, a Marxist, a supporter of Robert Mugabe, and so on. Yet, we are looking for a measure of freedom that transcends particular ideologies and has a universal application.

Unlike positive freedom, negative freedom comes in only one flavor—lack of constraint imposed on the individual. Constraint investigation happily lends itself to empirical measurement based on third party data, and thus the creation of an objective measure. Negative freedom is also universal and prior to positive freedom in that it enables individuals to explore, without constraint, various versions of benign positive freedom. Thus, this paper argues that negative freedom is the appropriate “type” of freedom to measure for this project.

### MacCallum

Although less essential for reviewing early ideas on freedom, it also is worth jumping the gun a bit to bring in what is arguably the second most influential modern analysis of freedom, Gerald C. MacCallum’s 1967 *Negative and Positive Freedom*. He argues that there is only one concept of freedom,

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3 The wording of the constitutions of communist regimes was often quite liberal.

though it may have several “conceptions.”<sup>4</sup> MacCallum bases his argument on his triadic analysis of freedom<sup>5</sup>:  $x$ , an actor, who is free or not free to do  $z$  (a certain action, state of mind, etc.), depending on restraints created by  $y$ .

MacCallum put it this way: “ $x$  is (is not) free from  $y$  to do (not do, become, not become)  $z$ ,”  $x$  ranges over agents,  $y$  ranges over such ‘preventing conditions’ as constraints, restrictions, interferences, and barriers, and  $z$  ranges over actions or conditions of character or circumstance. When reference to one of these three terms is missing in such a discussion of freedom, it should be only because the reference is thought to be understood from the context of the discussion” (1967: 314).

Depending on the nature of  $x$ ,  $y$ , and  $z$ , this formulation can capture both positive and negative freedom, MacCallum argues. Thus, for him, positive and negative freedoms are different “conceptions” of the core concept of freedom, which is formally described by the triadic relationship. The various conceptions involve differing ideas of what  $x$ ,  $y$ , and  $z$  are. To give a simple example (considering the complex literature that has developed) focusing on  $y$ , negative freedom is denied when the blocking agent,  $y$ , is a human being; positive freedom is denied when, in effect, “ $x$ ” is divided into two— $x$  itself representing some true higher plane of self while  $y$ , the other part of self, is some lower plane of being (such as the addict,  $y$ , trapping  $x$  in desire and blocking a clean life; class consciousness, imposed by  $y$ , blocking  $x$  from joining the revolution) that is the blocking agent that prevents the higher plane of being,  $x$ , from something that would be desired by this higher plane of self freed from the restraints imposed by  $y$ . Positive freedom is the Jekyll-and-Hyde version of freedom.

Much debate has concerned the nature of each variable,  $x$ ,  $y$ , and  $z$ . For example, again focusing on  $y$  for consistency, does the blocking agent,  $y$ , in the negative version of freedom, have to limit  $x$ ’s options *intentionally*, as Hayek (1960/1978) claimed, for this relationship to count as a reduction of freedom for  $x$ ? Does  $y$  have to be human, as Hayek also claimed? (See, for example, Hayek, 1960/1978: 12-13.) These issues will be discussed later.

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- 4 See, for example, Gray, 1990, for the concept/conception distinction. MacCallum does not use the “concept/conception” terminology but it is consistent with his thought. MacCallum uses phrases like “the ranges of the term variables” (1967: 312), to capture the idea that varying “conceptions” of freedom are actually based on a single “concept” of freedom, with the “conceptions” differing based on what constitutes each of the variables in the triadic relationship.
- 5 Interestingly, just as Berlin did not originate the analytical tool he made famous in “Two Concepts,” MacCallum specifically refers to Oppenheim (and others) as being prior to him in developing the triadic concept, though with the proviso that Oppenheim “limits the ranges of the term variables so sharply as to cut one off from many issues I wish to reach” (1967: 314, fn. 2). In effect, Oppenheim’s limits on the terms restricted the relationship to one essentially of negative freedom (Oppenheim, 1961).

Now turning to history before coming back to Berlin and MacCallum, this review will argue that the idea of both negative and positive<sup>6</sup> freedom can be traced back at least to the classical world, though many argue that modern concepts of freedom did not exist in the ancient world (Constant (1816), for example). Such voices claim that a new understanding of at least negative freedom emerged only later in the Western world, reaching first maturity in the Enlightenment. However, this paper argues that the ideas of negative and positive freedoms that are very close Berlin's go back at least to the classical world, but will agree with those commentators who argue that neither the idea of freedom *for all* nor the connection between commerce (economic freedom) and other freedoms were found (or at least were prevalent) in the ancient world, but instead were only fully introduced during the Enlightenment.

Carrying forward the review into modern times, the paper will show that an early emphasis on economic freedom (in the negative sense) is now almost entirely absent from the current philosophical literature and, moreover, that economic freedom has been decoupled from overall freedom in existing measurements. Supposedly "broad" measures of freedom either exclude economic freedom or, perversely, define state economic coercion as economic freedom. Both the absence of economic freedom and the perversion of economic freedom in most freedom measures is an important gap and problem in our understanding of important issues.

In fact, a key goal of the project for which this review is being written is to develop a truly broad-based measure of freedom that appropriately deals with economic freedom.

Finally, any paper, even a literature review, will by necessity be selective. This paper, for example, has chosen a broad sweep to put things into perspective. Unlike many reviews of the state of the freedom literature, such as Carter (1999) or Gray (1990), this paper will not focus on the minutiae of the debate over the precise meaning of negative or positive freedom, nor on the various possible meanings of MacCallum's x, y, and z and their possible relationships to each other. This is not to disparage either Carter or Gray, both of whom are quoted liberally, but instead to recognize the limits of a paper compared to books of many pages, and to gain a broader historical sweep than either of those books is able to provide.

Even given a broad sweep, choices not to everyone's liking have to be made. For instance, Hobbes, Locke, and Rousseau are discussed, but J.S. Mill is mentioned only in passing and Kant is largely ignored, even though his views on "universal" and fundamentally negative freedom along with his emphasis on property and contracting rights well fit the

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6 Albeit, given space considerations, the argument for positive freedom in history will be mostly by assertion since this proposition is little contested.

themes developed in the paper. Surprising for a paper that has a strong focus on economic freedom, Adam Smith is also not discussed, largely because his views on what we would now call economic freedom are well known and because he bases his discussion largely, though not exclusively, on utilitarian grounds, at least in *Wealth of Nations*. The only defense for this selectivity is that the key points for the purposes of this paper will already have been made with the thinkers selected and that piling on more thinkers would do little to advance the paper.

### **The ancients and their modern interpreters**

It is important in a literature review of this sort to go back to the early origins of the ideas being discussed. This sheds light on the following discussions and on whether the ideas are culture-based and non-universal, or have a wider draw. Aside from arguing that freedom, even in its modern form, is not merely a modern concept, this review will show that the idea of economic freedom has been intertwined with overall freedom and appears to be a necessary condition for other freedoms, an insight developed by Enlightenment thinkers and supported by modern empirical research, as will be discussed.

Many thinkers believe that the “Western” concept of freedom is not merely unique to the West, but is also of recent vintage. Illustrative thinkers here are Stark (2006) and Constant (1816). Both argue that the ancients (both Greek and Roman) had a fundamentally different version of freedom—either in concept or extent—than the one that evolved in the Enlightenment, though they disagree on why.

Constant allows that the ancients knew “collective freedom,” in effect the limited forms of democracy found in some Greek states. However, he argues that “you find among them [the ancients] almost none of the enjoyments which we have just seen form part of the liberty of the moderns. All private actions were submitted to a severe surveillance. No importance was given to individual independence, neither in relation to opinions, nor to labor, nor, above all, to religion.... Individual liberty, I repeat, is the true modern liberty” (Constant, 1816). I will argue that the ancients did have the concept of individual liberty, just not individual liberty for all.

Stark’s is the more interesting claim. He does not contest or much discuss whether the ancients’ concept(s) of freedom matched more modern concepts. Instead, he claims, correctly I think, that the ancients (both Greek and Roman) extended freedom, where it was available, only to elite members of society. He contrasts this with Christianity’s focus on the moral equality of the individual, regardless of background. “Jesus asserted a revolutionary conception of moral equality, not just in words but in deeds. Over and over again he ignored major status boundaries and associated with stigmatized people...” (2006: 76).

Although the early church clearly accepted slavery and some church members owned slaves, Stark argues that the moral weight of Christian beliefs, over the centuries, ultimately triumphed over older social patterns, just as, to switch times and authors, Martin Luther King (1983) would with some success call on Americans to “live out the true meaning of its creed: ‘We hold these truths to be self-evident, that all men are created equal ...’” which in turn had a theological origin.

Stark is focused on Christianity but his arguments would be better served if he referred to the Judeo-Christian tradition. The ideas Stark stresses, like respect for work, are all clearly present in both the Old and the New Testament, which is predominately a Jewish book, written by Jews, and reflective of the Jewish culture of the time, though there are obviously some differences between the two. But, it is the commonalities that lie at the heart of Stark’s arguments rather than the differences. To go a step further to broaden the argument beyond the Judeo-Christian tradition, MacNeill (1992) argues that major “new” religions, like Christianity, Islam, and Buddhism, initially grew because they offered some form of salvation to all—in other words, the same type of universality that Stark shows is found in Christianity.

Stark is clearly right that the extension of freedom was limited in the ancient world, but the core individual concept was not absent, as Constant claims. In his famous funeral oration as represented in Thucydides’ *Histories*, Pericles addresses Constant’s arguments so clearly it might seem to be a direct debate between the two. “[I]n our private business we are not suspicious of one another, nor angry with our neighbor if *he does what he likes*; we do not put on sour looks at him which, though harmless, are not pleasant. ... [W]e are thus unconstrained in our private business ...” (Hooker, 1996, emphasis added).

This is surely a statement of “negative” individual freedom, with neither the state nor social pressure constraining individuals, albeit for a limited set of free male citizens. It may be that in practice Athenians did not have the same level of negative freedom as residents of the freest nations today, but clearly the concept was alive. In fact, the concept of negative freedom was so alive that it repelled many of the philosophers of the time. Palmer quotes a question Socrates asks in *The Republic* to show this:

“In the first place, then, aren’t they free? And isn’t the city full of freedom and free speech? And isn’t there license in it to do whatever one wants?”

“That is what is said, certainly,” he said.

“And where there’s license, it’s plain, that each man would organize his life in it privately just as it pleases him.” (Plato, quoted in Palmer, 2008: 3)



Palmer then shows that, while Plato understood the concept of negative freedom, and thus it existed in Athenian culture, the idea of negative freedom created a “litany of horrors” for him. As will be briefly noted later, Plato’s idea of freedom was positive freedom.

To return to Pericles, Thucydides goes on to have Pericles say that despite this freedom, Athenians are “prevented from doing wrong by respect for the authorities and for the laws” (Hooker, 1996). This is no different than Hayek’s speculation that “it is probably true that a successful free society will always in large measure be a tradition-bound society” (1960: 61) where respect for law and custom is high and maintains social cohesion even as people go their own way (1960: 63 contains this extension of Hayek’s thinking).

Early in his essay, Constant allows that Athens might at least appear to be an exception to his supposition. Later he on, he writes, “Athens, whose example might be opposed to some of my assertions, but which will in fact confirm all of them.” Through a number of examples, he argues that “that the individual was much more subservient to the supremacy of the social body in Athens, than he is in any of the free states of Europe today.” Whether Constant was right or not is an empirical question that, short of time travel, we will never be able to resolve, but clearly the concept of individual negative freedom lives in the words Thucydides puts in Pericles’s mouth and in Plato’s horror at the concept.<sup>7</sup>

The classicist Victor Davis Hanson argues convincingly that negative freedom (he does not employ the word “negative” though that is effectively what he means) enjoyed by the Greek city states was crucial to their ability to defend themselves from the Persians. Free men, he claims, fight better and conduct wars better than unfree men. He also details many instances where Greek writers explicitly say the Greeks are fighting for their freedom. Hanson describes four types of freedom valued by the Greeks:

If one were to ask a Greek sailor at Salamis, “what is the freedom you row for?” he might have provided a four-part answer. First, freedom to speak what he pleased.... Second, the Greek rowers at Salamis also fought with the belief that their governments in Athens, Corinth, Aegina, Sparta and other states of the Panhellenic alliance were based on the consent of their citizenry.... Third, the Greeks at Salamis freely had the right to buy and sell property, pass it on, and improve or neglect it as they found fit.... Finally, the Greeks at Salamis

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7 Straumann (2009), also argues that Constant is wrong to believe the ancients lacked modern concepts of freedom. He claims that Groitius’ views of natural rights were based on Roman law.

entertained a freedom of action . . . Throughout the campaign refugees, soldiers, and onlookers came and went . . . as they saw fit. (Hanson, 2002: 51-53)

While it would be beyond the scope of this paper to recite in detail Hanson's arguments and evidence for these claims, they can be quickly alluded to: 1) he notes the well-recorded and unrestrained argument and debate not just in the Greek city forums of the time, but even on the battlefield between generals over tactics and strategy; 2) Hanson is right about proto forms of democracy in the Greek world, but he weakens his point by failing, by and large, to distinguish democracy from freedom (a distinction that will be discussed later in this paper); 3) he notes that the Greeks had the security of *property rights* to feel confident to leave their most valued possessions at home "trusting in the law to protect the private capital of the free citizen" (p. 52); and 4) along with the example of free action in the above quote, he notes that many free Athenians simply decided not to evacuate Attica despite the assembly's order to do so. It is worth noting this runs directly counter to Constant's arguments, since Athenians were clearly ready to disobey community authority, and this disobedience was not even strongly proscribed.

Hanson's claims about property rights should not be extended to commerce in general in the Greek world. Property rights may well have been respected even when commerce was considered an unseemly profession. Stark argues convincingly that commerce was despised by the elites in the Greco-Roman world. Constant provides now outdated statistics to argue that the commerce of the ancients was extremely limited compared to the commerce of his day, but he does not much explore why this is so, other than his claim that the culture of the ancients created a warlike (or confiscatory) concept of commerce, limiting its emergence, while new technology, such as the compass, encouraged it in his time.

Whatever the true data on ancient commerce, the Greeks, particularly the Athenians, were traders. Yet, while comments praising (or deploring) negative freedom are fairly common in ancient literature, there are few, if any, ancient quotes that praise what today we would call economic freedom. It is only in the debate of the last few centuries that economic freedom was seen as crucial to other freedoms, a connection that seems lost again in most modern freedom indexes, as will be argued later.

Although Hanson lists property rights as a central element of freedom, both Stark and Constant claim that private commerce is not just a freedom, but also the basis of other freedoms.<sup>8</sup> Constant, for example,

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8 Constant also claims that the size of the polity also affects freedom, with small polities exercising more social control over the citizens. He opposes direct democracy with freedom.

states, “[C]ommerce inspires in men a vivid love of individual independence. Commerce supplies their needs, satisfies their desires, without the intervention of the authorities.... [N]ot only does it emancipate individuals, but, by creating credit, it places authority itself in a position of dependence.” Despite the earlier quote, he credits the commerce of Athens for allowing a somewhat higher level of individual freedom than other Greek states.<sup>9</sup>

Constant, Stark, and Hanson are on to something that all too often has gotten lost in the recent philosophical literature on freedom, and that is the link between property rights and commerce, or economic freedom, and other freedoms. This will be discussed later.

It goes virtually without saying that the ancients did have versions of positive freedom, as is evidenced in Plato’s *Republic*, for example, or in sects like the Pythagoreans. As this is not contested, to my knowledge, nothing further will be added.

This section has suggested that the concepts of both negative and, less controversially, positive freedom were alive in the classical world, though it agrees with Stark about the lack of universality in the concept of freedom. One could go further and suggest that the much earlier *Epic of Gilgamesh* reveals a very human joy in being unconstrained in free action and even a version of positive freedom when Gilgamesh understands and accepts his mortality. It is beyond the scope of this review to explore other cultures, though this would be an important endeavor. Nonetheless, the evidence presented strongly suggests that the ideas of both negative and positive freedom are not simply modern constructs.

### The Enlightenment

The Enlightenment thinkers were not mere theorists: they had a world to remake. Thomas Hobbes, the first great English theorist of the Enlightenment, saw a continental European world that had virtually collapsed into flames and blood. Then the relatively calm England of his youth fell into civil war in as the Roundheads fought to remove Charles I, the bloodiest internal conflict since Henry VII seized the English throne almost 150 years earlier. This is important context to understanding not just Hobbes, but the political thinking of all early and perhaps all Enlightenment thinkers.

This section focuses on three thinkers: Hobbes, Locke, and Rousseau. With the possible exception of Rousseau, these are not unusually vague thinkers. Yet, for each, there is considerable dispute over what they actually meant, how they tied their premises to their logic and then to their

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9 Constant is perhaps too optimistic about the stability and impact of commerce: “Hence it follows that an age must come in which commerce replaces war. We have reached this age.”

conclusions, and whether they actually succeeded in doing this for a number of their arguments. This review will tread the surface of these matters, rather than mining deeply. It will instead try to explore the meaning of their conclusions relevant to freedom, which are typically fairly clear, while only sketching the sometimes tortuous routes taken to reach these conclusions. (See Walker for one theory of the development of freedom.)

### *Hobbes*

After fleeing first to Holland during the English civil war, Thomas Hobbes huddled in Paris writing the *Leviathan*, published in 1651. This was just three years after the Peace of Westphalia in 1648 brought an official close to a much bloodier and vicious period of warfare on the continent than was found in England during the civil war.<sup>10</sup>

With the old political order destroyed by a tide of hate and violence, both the theorists and peacemakers at Westphalia (and later the English peacemakers) strove to find a new or revived order that would preserve the peace and bring stability. The *Leviathan* was a very conscious attempt to do just that.

Hobbes starts with the state of nature, which he interprets as a state of full (negative) freedom, which he elsewhere describes as “the absence of external impediments” (Hobbes, 1651: ch. XIV, 2.)<sup>11</sup> However, there are also no impediments on the ability of individuals or groups to suppress the freedom of others. This ends up not just destroying freedom, but creating brutal chaos, certainly reminiscent of, in Hobbes time, the recent state of affairs on continental Europe.

However, individuals are endowed with rationality, a law of nature. Hobbes theorized that such individuals would come together in a social contract to protect themselves, given that humans’ first priority is their survival, the right of nature. The most effective and appropriate “social contract” would be to construct an absolutist state, with a firm monopoly on violence, reflecting Hobbes’ abhorrence of the troubles that were so common prior to and during much of his own lifetime.

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- 10 Those who casually claim the problem with today’s Islam is that it has not undergone a “reformation” should remind themselves of the carnage the actual Reformation wreaked in Europe, which arguably was much bloodier than anything found in the Islamic world today.
- 11 Hobbes’ “state of nature” is a fictional state. Early humankind was extremely social and bound by tribal norms (Fukuyama, ch. 2). However, for an intellectual examination of individual freedom, it is an appropriate place to start—a status of full freedom—just as Rawls’ fictional “veil of ignorance” is an appropriate place for him to start his examination of the nature of justice.

Hobbes believed that a monarchy would best achieve this state of absolutism,<sup>12</sup> but he was willing to accept other forms of government, including some form of democracy, so long as the government was absolute. Thus, having begun at with a state of freedom, Hobbes moves to a state that has no *right* of individual liberty, except in one circumstance. Survival is a right of nature and individuals may rebel against the sovereign to protect their existence.<sup>13</sup>

Regardless of the laws, individuals should obey them with only that one exception. However, the sovereign has a motive for good rule: to maintain consent and the monopoly of power. Thus, individuals might be allowed a sphere of freedom: “The liberty of a subject, lies only in those things which the sovereign has praetermitted in regulating their actions. That is the liberty to buy and sell, and otherwise contract with one and another; to choose their own abode, their own diet, their own trade of life, and institute their children as they themselves think fit; and the like” (ch. 21, 146). Hobbes also gives a practical reason for allowing some liberty; he argues that creating rules to govern all aspects of individuals’ life: “To try to do this would be impossible” (ch. 21, 146).

Three things become apparent. Hobbes held a “negative” view of freedom: “[L]iberty refers to the man himself. This liberty consists in that he finds no stop to doing what has the will, desire or inclination to do” (ch. 21, 145), though he believed it should be largely constrained by the sovereign. Men have created the absolutist and “artificial” commonwealth through assent to the social contract: “they made artificial chains for themselves by mutual covenants, which are called civil laws. They are fastened the chains at one end, to the lips of the man, or assembly, to whom they have given sovereign power; and at the other end to their own ears” (ch. 21, 145).

Second, the freedom that Hobbes says could (and perhaps should) be allowed would now be defined primarily as economic freedom, something that will be picked up again in the discussion of current measures of freedom.

Third, Hobbes views all individuals as equal in the state of nature and in developing the social contract. His concern is focused on the individual’s relationship to Leviathan.

### *Locke*

There are many parallels between John Locke and Hobbes. As will be noted, both often begin at the same starting point, but then Locke moves in a different direction. Locke, like Hobbes, tries to develop a theory of

12 However, his dispensing with divine right did not make him popular with the monarchies of the time, including Charles II.

13 Hobbes in *Leviathan* writes a great deal about religion, but I do not review it. Most discussions argue that Hobbes’ religious commentary is not well connected to his overall argument.

government that will work. Although the two overlap, he is somewhat further away in time from the continental horrors, though he experienced England engaged in civil war in his youth. Nonetheless, perhaps because of the peaceful resolution of the civil war with the restoration of the Stuarts, he feared revolution less and valued liberty more than Hobbes.

Locke, again like Hobbes, brings together ideas on the state of nature and the social contract. Locke begins roughly where Hobbes does. Individuals find the state of nature unsatisfactory and to improve their situation they enter into a social contract, but he does not paint the state of nature as being as dismal as Hobbes.

He replaces the “Right of Nature,” the fundamental right to survival, with a “Law of Nature.” Nonetheless, like Hobbes, Locke bases natural law on the right to existence, a gift from God that cannot be violated except in opposition to the Law of Nature, but Locke does not stop there. Survival is the end; the means to the end are life, liberty, and property. Since these are the means for survival, individuals have a natural right to life, liberty, and property just as they have to survival. Thus, Locke is able to expand the idea of a right to survival into other rights and, importantly, expand the idea of individual freedom to a universal concept, since all are under the law of nature.

Since these rights are also present in the state of nature, Locke’s social contract is much different than Hobbes’s. The sole imperative of the contract is no longer survival, for which absolutism provides the best, though not certain, guarantee; instead, the other imperatives, the other natural rights, need to be taken into account. Thus, the goal of government is not mere stability; it extends to protecting these rights.

Perhaps surprisingly, Locke, once more like Hobbes, proclaims himself willing to accept a monarchy, oligopoly, or democracy. However, just as Hobbes places the same burden—absolutism—on government, whatever its nature, so does Locke, though of course the nature of the burden, protecting freedom, differs from Hobbes’s burden. For Locke, government actions must be consistent with the protection of the rights that Locke deduces. Moreover, since these are natural rights, if government violates them, citizens in turn have the natural right to overthrow that government.<sup>14</sup>

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14 Locke also wrote one of the crucial arguments on religious freedom, *Letter Concerning Tolerance*. He notes that there is no example in the Bible of Jesus or his followers using coercion to bring others to faith. He develops three philosophical arguments that reach beyond Christianity to universal application: neither God nor the social contract gives sovereignty over individuals’ souls to government since this would be a violation of liberty gained under natural law; since religion is an inward state, force is ineffective in imparting true belief; and since the magistrate is as prone to error as others, giving the state coercive power over religion would not reduce error.

Like Hobbes, Locke argues that everyone in the state of nature is equal and holds equal rights and freedoms. However, unlike Hobbes, he argues that these freedoms and rights should be preserved under a just magistrate. He thus, at least predominately, is a supporter of negative liberty and equality.

To understand political power right, and derive it from its original, we must consider what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions, and persons as they think fit, within the bounds of the law of nature, without asking leave, or depending on the will of any other man. (Locke, 1691, *The Second Treatise*: ch. II, 218, para 4)

His version of freedom, as noted, is also, at least predominately, negative, within a sphere of law with a stress on property ownership, quite similar to Hayek's later concepts of law and freedom:

[T]he end of law is not to abolish or restrain, but to preserve and enlarge freedom: for in all the states of created beings capable of laws, “where there is no law, there is no freedom;” for liberty is to be free from restraint and violence from others; which cannot be where there is not law: but freedom is not, as we are told, “a liberty for every man to do what he lists:” (for who could be free, when every other man's humour might domineer over him?) but a liberty to dispose, and order as he lists, his person, actions, possessions, and his whole property, within the allowance of those laws under which he is, and therein not to be subject to the arbitrary will of another, but freely follow his own. (Locke, 1691, *The Second Treatise*: ch. VI, 241-2, para 57)<sup>15</sup>

However, he also wrote: “But though this be a *State of Liberty*, yet it is not a *State of Licence*, though men in that state have an uncontrollable Liberty, to dispose of his Person or Possessions, yet he has not Liberty to destroy himself [given the prior natural law of survival] or so much as any Creature in his Possession...” (*The Second Treatise*: ch. II, 270-1, para 6). The significance of “the state of licence” will become clear later.

Locke's development of property rights is also worth emphasizing. In the above quote, Locke makes property an extension of the person. Without the fruit of one's labors, whether they be through manual work, investment, or invention, negative freedom becomes an impossibility.

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15 Interestingly, in the next paragraph, 58 (p. 242), Locke begins an argument that parents have a “... duty ... to take care of their offspring during the imperfect state of childhood.” The argument has similarities to Hayek's on parents' responsibility to children.

Not only is an individual's effort alienated from that individual, but material existence is threatened. If property is not secure, then neither is the ability to obtain, through property exchange, even the essentials of life. Therefore, the extension of the person to his or her property is appropriate since property is necessary for survival. Without property rights, the individual becomes dependent on whomever or whatever controls property.

Locke also provides a specific rationale for the extension of the person to property:

[E]very man has a property in his own person: this nobody has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his .... (Locke, 1691, *The Second Treatise*: ch. V, 270-1, paragraph 27).

Thus property rights, the foundation of negative economic freedom, are a necessary condition for overall negative freedom. This will also become important in the later discussion of "claim" freedoms and the distinction between opportunity and freedom.

#### *Rousseau*

Jean-Jacques Rousseau was born almost a decade after Locke's death. Though Rousseau overlaps the Enlightenment period, he is often considered more of a Romantic thinker. This well suits the purpose of this paper since it introduces concepts that have been influential (and, to some views, dangerous) ever since.

Like both Hobbes and Locke, Rousseau introduces the idea of a state of nature and a social contract leading out of this state of nature. However, he added on the fuzzy concept of "general will." How this arises or relates to the individual's will is far from clear. Moreover, while, according to Rousseau, the social contract reached by the free individuals in the state of nature must be in accord with the general will, it is unclear how this is to be accomplished or carried out.

Nonetheless, the general will (whatever it is, however it is articulated, wherever it comes from, etc.) is always for the public good and thus must not be violated. The individual is only free when in accord with the general will.

These clauses, properly understood, may be reduced to one – the total alienation of each associate together with rights to the whole community... Moreover the alienation is without reserve, the union is as perfect as it can be, and no associate has anything more to demand: for,



if the individuals retained certain rights, as there would be no common superior to decide between them and the public, each being on one point his own judge, would ask and so on all: the state of nature would thus continue... *'Each of us puts his person and all his power in common under the supreme direction of the general will, and, in our capacity, we receive each member as an indivisible part of the whole.'* (Rousseau, 1762, Book 1: ch. 6, 14-15. Italics and internal quote in the original.)

This is clearly a statement of positive freedom: the individual is liberated by conformity to and belief in the direction set by the “general will.” Then in Book IV, when Rousseau considers voting, he explains the state of those in the minority who lose a vote and must conform:

But, it is asked how can a man be both free and forced to conform to the wills that are not his own? How are the opponents both free and subject to laws they have not agreed to?

I retort that the question is wrongly put. The citizen gives his consent to all the laws including those which are passed in spite of his opposition... [T]he general will is found by counting votes. When therefore the opinion that is contrary to my own prevails, this proves neither more nor less than that I was mistaken, and that what I thought to be the general will was not so. If my particular opinion had carried the day I should have achieved the opposite of what was my will; and it is in that case that I should not have been free. (Book IV, ch. 2, 106)

This might appear at first glance to be benign. After all, all democracies require the minority to accept the will of the majority. But, there are three important differences. First, those who support a liberal version of democracy argue that the constitution of liberty (to borrow Hayek's title) creates a sphere into which the state cannot intrude. This seems absent from Rousseau's formulation. Second, liberal democracies do not require the losers to change their mind; citizens of the United States were not all required to become supporters of the Democratic Party after the 2008 elections. Third, no liberal democracy claims that its citizens can only be free when they have seen the error of their ways and accept the majority opinion as their own, reflecting a higher self, in this case, the one embodied in the general will.

The last point again moves Rousseau's thinking into positive liberty territory, but with the malign twists discussed by Berlin. Positive liberty does not, in Berlin's view, become a dangerous concept until it is wedded with the idea that society or government has the right to force you to accept positive freedom for your own benefit and that of the larger society. This idea emerges in Rousseau's thought.

Rousseau may be the first influential example of a coercive *political* version of positive freedom versus coercive religious, semi-religious, or philosophical schools of positive freedom. In the ancient world, positive freedom was limited to these categories.<sup>16</sup> Obedience to secular power was typically just that, obedience in the visible world. No claim was made, for example, that obedience to the emperor liberated you to do what some higher self would freely want to do, as obedience to the “general will” did in Rousseau’s thought.

Although the New Testament talks of positive liberty in Christ, people were not forced to this liberty by other Christians. That changed as Christianity developed, particularly in the centuries following the official adoption of Christianity by the Roman empire, and reached horrific levels during the wars of the Reformation. Early Muslim states, at least for the time, practiced high levels of tolerance, but that too changed over time for some sects of Islam (Lewis, 2003; and Jenkins, 2010.)<sup>17</sup>

Nonetheless, Rousseau was the first influential thinker to develop the idea of, and justification for, coercive positive liberty in the political sphere. It is a small step from liberty in conformity to the common will to, for example, Marxist liberty in communism, where the “general will” is replaced by the dictates of the science of history revealed by an infallible seer. “Rousseau’s formulations, twisted and modified, have been used to justify everything from the despotisms of Marx, Lenin, Hitler, Mussolini, and Castro, who are on record as repeatedly and sincerely insisting their movements were ‘democratic’ in a much higher sense than our own” (Gardner, 1999).

### *Mills*

One more thinker will be briefly considered before moving on. Arguments for freedom had been based largely on either natural rights or a social contract. Neither was entirely satisfactory. None of the theorists were able to

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16 There is a lively debate over whether someone who voluntarily submits to a constrained order remains free. Although the subject will not be pursued here, the consensus answer is “yes,” so long as that person retains the ability to leave the order.

17 The distinguished historian of Christianity, Philip Jenkins, argues that intolerance leading to sectarian violence in Roman Christianity and particularly the church’s condemnation of monophysitism (that Christ was totally divine with no human component) and related beliefs, highly popular in the Christian Middle Eastern heartland, led to alienation of Christians. This reduced resistance to Muslim invaders, who were tolerant of Christianity and did not differentiate between various Christians beliefs, and thus to the easy conquest of the old heartland. According to Jenkins, the “Muslim ... invaders promised (and practiced) tolerance for diverse Christian sects ... [Alienated Christians saw them] as a clean break from the historic cycle of violence and persecution that had so disfigured late-antique Christianity” (Jenkins, 2010, ch. 1: 1-33).

develop a comprehensive theory of natural law from first principles. Nor were the theorists entirely clear as to whether they believed the social contract an actual thing, or some sort of logical metaphor to explain and justify a particular construct.

John Stuart Mill, using ideas developed by Jeremy Bentham, produced a utilitarian justification for freedom (Mill, 1863/2002). Although Mill explored empiricism deeply, his freedom views were based largely on argument: best to allow free debate since no one knows *a priori* what the most successful ideas will be and, since the individual knows best his or her capacities, potentials, and desires, each person is in the best position to determine what is best for him- or herself and should be free to follow this self-determined course to find the greatest happiness and thus utility.

Utilitarianism will pose an interesting test for negative and positive freedom. Supporters of various forms of *positive* freedom claim they know better than the individual how the best life is to be lived, and that the greatest utility is thus to be found in their version of positive freedom, imposed, if necessary, to create the greatest level of utility. Supporters of negative freedom may argue the reverse—either that negative freedom in itself is a value that trumps utility and/or that negative liberty also produces the most utilitarian results. In the end, utilitarian arguments are ultimately empirical arguments—what does, in reality, produce the greatest happiness?—and for this an empirical index is required, as was discussed in the introduction and as will be discussed later.

The other interesting idea to note is that Mill appears to have initially supported what here is called economic freedom. However, he moved to a version of socialism that was based on something similar to A. Sen's capacity approach to freedom (Sen, 1999). Mill came to argue that freedom and happiness were limited by a person's capacity to take advantage of freedom and follow their chosen path to happiness. To more equally share resources, he proposed a variety of socialist ideas in his later writings.

### *Conclusion*

Through representative thinkers, this section has attempted to examine the rise of the concept of freedom “for all” and its ties to economic freedom (and particularly property rights) which were either absent or uncommon in writings on freedom prior to the Enlightenment.

### **Recent writings on freedom**

Before returning to the debates engendered by Berlin and MacCallum, we shall look at another great thinker on freedom, or rather negative freedom, since his thoughts on this are more systematic than Berlin's, and his views also shed light on measurement questions.

*Hayek*

Hayek (1960) does not explicitly refer to negative or positive freedom but he is clearly on the negative side. While Hayek's complex and insightful writings cannot be fully explored here, it is worth looking briefly at his views on the nature of "negative" freedom, how they fit in with the ideas of Berlin and other thinkers, and, in particular, how freedom is essentially a social concept.

He sums up his overall point on freedom, and makes clear he has a "negative" view of freedom, while not using that word. "The task of a policy of freedom must therefore be to minimize coercion or its harmful effects, even if it cannot eliminate it completely... [Liberty] describes the absence of a particular property—coercion by other men" (Hayek, 1960/1978: 12 and 19). It is interesting to note that Hayek's description in effect describes the triadic relationship—the implied sentence is: x suffers "coercion by other men" (y) not to do/become z.

According to Hayek, freedom is a social concept and can only be limited by a human agency, again in a description that follows the triadic relationship:

[F]reedom refers solely to the relation of men to other men, and the only infringement on it is coercion by men. This means, in particular, that the range of physical possibilities from which a person can choose at a given moment has no direct relevance to freedom. The rock climber on a difficult pitch who sees only one way out to save his life is unquestionably free, though we would hardly say he has any choice.... Whether [x] is free or not does not depend on the range of choice but on whether he can expect to shape his course of action [to do/become z] in accordance with his present intentions, or whether someone else has power so to manipulate the conditions [y, preventative conditions] as to make him act according to that person's will rather than his own. (1960/1978: 12-13)<sup>18</sup>

The restriction that "y" must be caused by an intentional human agency for a restriction on freedom to occur is in accord with what other thinkers on freedom, including Berlin, conclude. "If I say that I am unable to jump more than ten feet in the air, or cannot read because I am blind, or cannot understand the darker passages of Hegel, it would be eccentric to say that I am to that degree enslaved or coerced. Coercion implies the deliberate interference of other human beings within the area that I would otherwise act" (Berlin, 1958: 169). The word "deliberate" indicates

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18 Interestingly, this passage also anticipates and responds to what would become Amartya Sen's version of capacity-freedom.

intention and moral responsibility. Carter says much the same thing: “Freedom is a social *concept*—that is, ‘freedom’ expresses a relationship between *persons*—so that mere natural obstacles as such do not constrain a person’s freedom” (1999: 173).

That “freedom is a social concept” is an important point for the idea of measuring freedom, or at least negative freedom. It not only clarifies what is needed; it simplifies the task.

*Unresolved questions: Berlin and MacCallum*

Two key 20<sup>th</sup> century treatises on freedom, by Berlin and MacCallum, have already been introduced. Interestingly, both were relatively brief essays, though they have spawned many books. Alfred North Whitehead may not have been quite right when he remarked that “The safest general characterization of the European philosophical tradition is that it consists of a series of footnotes to Plato,”<sup>19</sup> but it is fairly safe to say that the vast majority of writings on freedom since the appearance of these essays have been footnotes to Berlin and MacCallum.

Gray (1990) carries out an in-depth analysis of MacCallum’s triad, which he believes captures the central concept of freedom, and the seven “conceptions” of freedom that arise depending on how *x*, *y*, or *z* are defined. He claims that the variations of *x*, *y*, and *z* he examines are all conceptions of freedom because they share the formal triadic relationship. The book is genuinely interesting and often insightful, but its central contention on the definition of freedom fails. Gray makes freedom a formula concept defined by the triad relationship.

However, while the triadic relationship may be a necessary condition for the description of a freedom, it is clearly not a sufficient condition. For example, as discussed above, it is generally accepted that *y*, the blocking agent, must be human and must intend the consequences of the blocking action for freedom to be reduced under negative “conceptions” of freedom. The triadic relationship remains in place when the blocking agent is not human, but according to most thinkers it no longer concerns an issue of freedom. What about J.S. Mill’s argument that if you physically stop a person from walking on an unsafe bridge, you are not limiting that person’s freedom? Here again, the triadic relationship is in place, but questions arise about *x*’s intentions (does he really want to walk on a bridge about to collapse?) and the unintended consequences of those actions. But in many cases, our actions create unpleasant, unintended consequences, and yet it

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19 It all depends on where you start. Elizabeth Anscombe characterized Plato as “Parmenides’s footnote” ([http://philosophysother.blogspot.com/2007\\_12\\_01\\_archive.html](http://philosophysother.blogspot.com/2007_12_01_archive.html)). For the Whitehead quote, see [http://thinkexist.com/quotes/alfred\\_north\\_whitehead/4.html](http://thinkexist.com/quotes/alfred_north_whitehead/4.html), both accessed on November 28, 2011.

would clearly be an infringement of freedom for y to stop those actions. So why would the triadic relationship describe freedom in one instance and something else in another instance, even when the formal relationship is the same? This weakens the formal power of the triadic relationship since extra machinery has to be bolted onto the concept to determine where the relationship describes an issue relating to freedom and where it does not.

Thus, the triadic relationship does not appear to be a “sufficient” condition for the suppression of freedom, but it does appear to be a “necessary” condition. Like MacCallum, I cannot imagine any suppression of freedom happening outside the triadic relationship, with the above discussion of Hayek designed to show how the relationship is present even when it is not explicit.

Nonetheless, such difficulties with the triadic formula may be why, as Carter (2007) notes, “Despite the utility of MacCallum’s triadic formula and its strong influence on analytic philosophers, however, Berlin’s distinction continues to dominate mainstream discussions about the meaning of political and social freedom.”

Whichever thinker is dominant, virtually all subsequent thinkers base arguments on Berlin’s positive/negative dichotomy and/or MacCallum’s recasting of the dichotomy as two versions or conceptions of the same thing. These fundamental distinctions have not been altered by the debate of the last 50 years since Berlin’s essay first appeared, or the last 40 years since MacCallum’s essay.

Nor have they successfully clarified a paradox both Berlin and MacCallum noted: that many thinkers hold views on freedom that encompass both positive and negative versions. “The trouble is not merely that some writers do not fit too well where they have been placed; it is rather that writers who are purportedly the very models of membership in one camp or the other (for example, Locke, the Marxists) do not fit very well where they have been placed—thus suggesting that the whole system of dichotomous classification is futile and, even worse, conducive to distortion of important views on freedom” (MacCallum, 1967: 322).

In a footnote, MacCallum draws out this idea referring to John Locke and a quote we considered above: “Locke said: ‘liberty . . . is the power a man has to do or forbear doing any particular action according . . . as he himself wills it’ (*Essay Concerning Human Understanding*, Bk. II, ch. xxi, sec. 15). He also said, of law, ‘that ill deserves the name of confinement which hedges us in only from bogs and precipices,’ and ‘the end of law is, not to abolish or restrain, but to preserve and enlarge freedom’ (*Second Treatise of Government*, sec. 57). He also sometimes spoke of a man’s consent as though it were the same as the consent of the majority. Why doesn’t all this put him in the camp of ‘positive’ freedom vis-à-vis at least points (2) and (3) above?” (1967: fn. 9).

This is, of course, an argument that the paradox can be solved by acknowledging that there is only one form of freedom, defined by the triadic formula, as MacCallum would have it, but that there are various “conceptions” of it. Surely, this just begs the question. How can the same writer hold two differing “conceptions” of freedom when these conceptions themselves produce very different analysis, as Gray acknowledges.

The literature contains very little, if any discussion, of an important link between negative and positive freedom that appears to exist despite the sometimes fuzzy boundary between the two: it can be argued that negative freedom is a necessary condition for any true form of benign—i.e., unforced—positive freedom.

As noted earlier, Berlin draws a distinction between benign positive freedom and malignant forms of positive freedom. The first involves individuals voluntarily finding freedom in, say, religion. The second involves being forced to find freedom in, say, communism. The second of these in effect allows freedom only for those who first and voluntarily accept their version of positive freedom and then force it on others, some of whom will be converted, others of whom will fake conversion and thus will have neither positive nor negative freedom.

On the other hand, negative freedom allows individuals to seek their own version of positive freedom if they so wish. In a society marked by negative freedom, all are able to avail themselves of their version of positive freedom.

*Where are we? The need for a proximate measure*

An empirical measure, or at least a first proximate empirical measure, could help define the fuzzy boundary between negative and positive freedom. Similarly, Carter (1999) rightly argues that empirical input is required to further clarify the debate. His recommended method is “reflective equilibrium” reached by a back-and-forth process between theory and evidence. Insights empirically derived feed back into theoretical discussions which are then developed into new insights which feed back into the empirical investigation. This makes sense. It is an aspect of scientific investigation. A useful comparison is the process by which, for example, biological families are classified. Yet, this method first requires a proximate empirical measure.

### **3 “False” freedoms and the distinction between rights and freedoms**

Having examined the historical roots of the idea of freedom and the conceptual tools developed to analyze it, we now turn to examine what might be called “false freedoms”: that is definitions of “freedom” that fall outside the classical tradition of freedom and fail the analytical tests that define freedom.

These “false” freedoms are motivated by a number of confusions:

1. A confusion between freedom and “other good things,” to use Hayek’s phrase (quoted at greater length later in this section).
2. A confusion between things that “enhance” freedom and freedom itself—this largely overlaps the first confusion since things that enhance freedom are usually thought of as “good.”
3. A confusion between things that help develop, support, or maintain freedom and freedom itself.

### **Claim-freedom**

First we will look at a “third” concept of freedom, one that is often confused with positive freedom. These are the “claim” rights or freedoms, to use Hardy Bouillon’s (2004) insightful phraseology. These are material claims, such as “freedom to have a job” or “freedom from want.” Even when they appear not to describe material things, they lead back to material things. For example, “freedom from disease” actually means access to health care, clean water, and so on. As will be discussed below, various forms of claims involve the confusion of “other good things” with freedom and/or the enhancement of freedom with freedom.

We need to glance briefly here at the differences between rights and freedoms. Freedoms may be considered rights, but all human rights may not be freedoms. In other words, freedom is a subset of rights. Humans may have a right to democratic governance, but democratic governance is not a freedom, something that will be discussed below. Because this paper is concerned about freedom, it has not, and will not below, discuss whether humans have rights outside of freedom, but rather whether a number of “claims” represent freedom using the analytical tools described earlier.

This is relevant because many such claims are no longer merely labeled as “rights”; they have been recast as freedoms. Instead of the claim that people have a “right” to work, the claim becomes that people have a “freedom” to work, in other words, a “claim-freedom”. Democracy is no longer a “right,” according to Freedom House, it is a freedom. To clarify succinctly: things which may or may not be human rights have been with little logic defined as freedoms.

This raises several questions. Hayek (1960/1978), like Berlin, McCallum, and Carter, argues convincingly that for freedom to be limited, there must be an “intention” to limit it. The free market allocates goods and services according to the freely made choices of a number of individuals. It creates “spontaneous order” that does not involve the



intention of depriving one person of *x* in favour of another person.<sup>20</sup> This means that because an individual may not have the resources to buy *x*, his freedom is not being reduced since no intention to reduce freedom is involved. Under this analysis, “claim-freedoms” do not exist, at least as negative freedoms.

Moreover, claim-freedoms involve something by *necessity* that other freedoms do not—violating another person’s freedom by violating property rights. It is true that for virtually all freedoms, in some cases my exercise of freedom may violate yours. Most accept that the limit of individual freedom is where the exercise of freedom by one person limits the identical freedoms of others, and this constrains some sub-set of actions. But, for claim-freedom, a violation of freedom is necessary in every case and not simply to protect someone else’s freedom, but rather to limit others’ freedom—to coerce *A* to undertake actions that favor *B*, typically to the disadvantage of *A*. To successfully make a claim on something that normally would not be provided, it is necessary to force its provision. Thus, individuals, through the tax code for example, may in effect be forced to work for a portion of each year without pay, something they would not freely do. Once again, this analysis suggests that “claim” freedoms cannot be classified as freedoms, at least in the classical sense described earlier in this chapter.

Still, many of the “claim” freedoms involve “good” things that might enhance freedom—by expanding choice or opportunity—and this relationship to freedom has been used by some to try to blur the distinction between what enhances freedom and what actually is freedom. A metaphor might help: that, say, cosmetics enhance beauty, does not create an identity between cosmetics and beauty. Both have their own distinct meanings. In other words, that more choice or capacity, for example, enhances freedom does not create an identity between freedom and capacity, as Sen’s “capacity” version of freedom, discussed below, for example, would have it.

Somewhat remarkably, one of the most influential recent philosophers, John Rawls, whose “Theory of Justice” stands clearly on the left of the political spectrum, and who supports redistributive efforts, rejects such identities between freedom and various claims, as in effect a confusion between freedom and “other good things.” He gets at this by arguing that what is being considered is not freedom itself, but the value or worth of freedom. “The inability to take advantage of one’s rights and responsibilities as a result of poverty and ignorance, and a lack of means generally, is

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20 Of course, collusion among market participants or the aims of a specific participant may be intended to deprive *x* of some good or service, and this would be a violation of freedom. But this does not counter Hayek’s larger point.

sometimes counted among the constraints definitive of liberty. I shall not, however, say this but rather I shall think of these things as affecting the worth of liberty, the value to individuals of the rights that the first principle defines.... Thus liberty and the worth of liberty are distinguished as follows: liberty is represented by the complete system of the liberties of equal citizenship, while the worth of liberty to persons and groups is proportional to their *capacity* to advance their ends within the framework the system defines” (1971: 204, italics added).

Thus, according to Rawls, “claim-freedoms” are not in fact freedoms, though they may enhance freedom. While Rawls doesn’t fall into the trap of equating other good things with freedom, his theory of justice nonetheless requires a redistributive effort. “[T]he basic structure is to be arranged to maximize the worth [of freedom] to the least advantaged of the complete scheme of equal liberty shared by all” (1971: 205). For example, in discussing the political realm, he favours distribution of wealth to individuals, so they can more effectively make their voices heard and thus obtain an equal value of freedom. “[I]nequalities will enable those better situated to exercise an ever larger influence... [I]n a society allowing private ownership of the means of production, property and wealth must be widely distributed and government monies provided on a regular basis to encourage free public discussion” (1971: 225).

Perhaps the best known of the claim-freedoms is Amartya Sen’s capacity version of freedom—roughly speaking, the idea that the greater the individual’s capacity, choices, opportunity, education, health care, etc., the greater the freedom. This is very close to the concerns that motivated Mill in his later career as discussed above. Hayek and Berlin get right to the point of the confusion that muddles analysis like Sen’s. As Hayek says, interestingly in an argument that is very close to Rawls’ argument, “These two words [liberty and freedom] have been also used to describe many other good things in life” (1960/1978: 11). Sen is actually talking about capacity and calling it freedom. This can be clearly seen when he talks about “the freedom to live long” (Sen, 1999: 291). Interestingly, in the quote above, Rawls explicitly distinguishes “capacity” from freedom.

Berlin goes further than Hayek and acknowledges that in some cases he might accept limits of freedom for “other good things,” but argues that calling these things freedom is a confusion of terms.

[N]othing is gained by a confusion in terms. To avoid glaring inequality or widespread misery I am ready to sacrifice some or all of my freedom: I may do so willingly and freely; but it is freedom I am giving up for the sake of justice or equality or the love of my fellow man.... Everything is what it is: liberty is liberty, not equality or fairness of justice or culture, or human happiness or a quite conscience. (Berlin, 1958: 172)

Berlin also talks of “the natural tendency of all but a very few thinkers to believe that all the things they hold good must be intimately connected, or at least compatible, with one and other” (1958: 175, fn). This is increasingly seen in writings on freedom, with Sen as the most prominent example.

The reader will have noticed that “claim” freedoms are expressed in a number of terms: opportunity, capacity, and redistribution, among others. As “claim” freedoms, what they all have in common is that they reduce someone else’s freedom to increase “the worth of liberty,”<sup>21</sup> but not liberty itself.

Having described “claim” freedoms, we now turn to seeing whether they meet definitions of freedom. They fail the negative concept of freedom in that they do not involve lifting humanly imposed, intentional barriers to some action. In fact, to supply the claims, other individuals are forced to do and supply things they would not otherwise do.

As noted, “claim” freedoms are often expressed in terms of opportunity, choice, and capacity. In an important way, as in a Venn diagram, these concepts overlap with negative freedom, even though they are conceptually distinct. When a blocking agent—say, a government—prevents one taking advantage of an opportunity, choice, or capacity that is otherwise within an individual’s reach, then negative freedom has been violated. However, when an opportunity, choice, or capacity is outside an individual’s reach, because of physical or material limitations, then no violation of negative liberty has occurred.

To remind the reader of Berlin’s quote a few pages earlier: “If I say that I am unable to jump more than ten feet in the air... it would be eccentric to say that I am to that degree enslaved or coerced” (Berlin, 1958: 169). It would be equally “eccentric to say that I am... enslaved or coerced” if I am unable to generate the material resources to buy a new car, given that, as argued earlier, the ability to acquire and securely own material possessions is an extension of the individual. As Rawls notes above, “The inability to take advantage of one’s rights and responsibilities as a result of poverty and ignorance” is separate from freedom.

“Claim” freedoms might be conceived of as positive freedom in a very narrow sense. Since the claim freedoms involve material acquisitions, some version of positive freedom would have to be described in an equally material manner for the two to be equated. Whether or not positive freedom is subject to such a narrow interpretation, and it likely is not, claim freedom can, at best, define a very limited idea of positive freedom.

Finally to the triadic relationship, as discussed, claim freedoms involve no humanly intended blocking, so claim freedoms fail this test too.

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21 To use Rawls’ previously quoted phrase, but, while it is beyond the scope of this paper, many of these efforts in fact decrease both liberty and the worth of what liberty remains, even for the supposed beneficiary.

### Democracy as freedom

Democracy, itself, is not a freedom, at least from negative rights point of view, as both Hayek and Berlin argue. As Berlin notes, “Just as a democracy may, in fact, deprive the individual citizen of a great many liberties which he might have in some other form of society, so it is perfectly conceivable that a liberal-minded despot would allow his subjects a large measure of personal freedom.... [T]here is no necessary connection between individual liberty and democratic rule. The answer to the question ‘Who governs me?’ is logically distinct from the question ‘How far does government interfere with me?’” (1958: 176-7).

However, certain political systems and aspects of systems are likely to be conducive to the development and maintenance of freedom while other systems are not. As Berlin says, “Self-government may, on the whole, provide a better guarantee of civil liberties than other regimes” (1958: 177). This may also apply to finer structures of government. For example, limits on the chief executive’s power, even in a democracy, may be more conducive to the development and maintenance of freedom than unchecked executive power. However, as noted above, we need to avoid the common confusion that equates freedom definitionally with something that promotes freedom. Democracy may promote freedom, but it is separate from freedom and is represented by its own word.

Thus, while the equation (democracy = political freedom) does not hold, it is probable that some systems are more conducive to the development and maintenance of freedom. In other words, democracy  $\longleftrightarrow$  freedom, where the double arrow indicates causality running in both directions. This argument has relationship to the claims freedom argument. By that argument, something that may enhance freedom is confused with freedom itself and a false identity is established. In the case of democracy, the argument is similar. Democracy enhances the development of freedom, and this is then turned into a false identity. The vast majority of thinkers on freedom, including some on the left (Rawls), the right (Hayek), or the middle (Berlin), do not confuse democracy, a power relationship, with freedom.

The argument that democracy enhances freedom (and the wide acceptance of this argument) provides yet another important motivation for finding a successful measure of freedom. Once freedom is measured it will be possible to test such propositions rigorously and empirically.

However, there a sidelight to this discussion on democracy and freedom. An interesting argument has been developed by the “republican” or “neo-Roman” school of thought to include a measure of democracy into a measure of freedom. But we will see this breaks down again to something similar to the “enhancement” argument.

The innovative part of the argument is that proponents do not confuse democracy with freedom but they argue that known threats to freedom in the future reduce freedom today by constraining actions for fear of future retribution. Therefore, to be free, one must be sure of “resiliently realized” non-interference in the future. Only democratic forms provide this, the argument goes. It is worth emphasizing again that republican philosophers are not claiming democracy is freedom; only that democracy “ensures” today’s freedom by lifting the threat of retribution in the future for things said or done today which in turn acts as a coercive agent which causes us to curtail our freedom today.

The “neo-Roman’s” two key assumptions also need examining. First, it is true that if my actions today may cause retribution in the future, I will constrain my actions, but if threats to future freedom do not necessarily involve retribution, they therefore would not reduce today’s freedom. Thus, for the argument to hold, one needs to make assumptions about future retribution in both democratic and non-democratic societies.

Second, the assumption that freedom is best protected by democracy is not theoretical a question but an empirical one. Certainly, one could argue the future of freedom is more in danger in Hugo Chavez’s Venezuela, even though democratic forms are being maintained, than it was in Hong Kong under British rule, at least for the period that British rule endured. This simply shows that there is clearly no one-to-one relationship between democracy and “resiliently realized” non-interference.

Moreover, empirical research suggests that democracies that lack institutions and, even more importantly, public attitudes supportive of “liberal” democracy, have proved unstable and a threat to freedom. (The key empirical research can be found in Inglehart and Welzel, 2005. See also Collier, 2009; Zakaria, 2003; and Chua, 2004.) In other words, if one accepts neo-Roman arguments about resilience, then democracy, under circumstances where supportive institutions and attitudes are lacking, reduces freedom if the investigations cited prove correct. This in turn means that the neo-Roman argument cannot be applied to democracy in general, but only to a subset of democracies.

One of the key advantages of producing a measure of freedom is that it will allow testing of the neo-Roman hypothesis and related hypotheses, such as those that point to institutions and attitudes as providing a stable, socio-political platform for freedom. An empirical measure may provide (or reject) the empirical argument for including some measures of democracy and/or institutional structure and/or attitudes into a measure of freedom not on the grounds that democracy is freedom, since even the neo-Romans reject this, but on the grounds that future threats

to freedom reduce freedom today—another hypothesis that can be tested once empirical measures are developed.<sup>22</sup> In this case, democracy becomes a proxy for freedom rather than freedom itself.

We now turn to whether or not democracy meets definitions of freedom. In a negative sense, clearly not. My actions, as Berlin and Hayek both note, can be blocked in a democracy as well as under other forms of government. That this blocking may be less likely in democracy does not itself create an identity between democracy and the lack of blocking since, again, it may well occur under a democracy. This also means democracy fails the triadic test.

As with claim freedoms, democracy might be conceived of as positive freedom in a very narrow sense: for individuals who consider themselves only truly liberated when they live in a democracy and can vote—i.e., when their sense of liberation is democracy. Whether or not positive freedom is subject to such a narrow interpretation, and it likely is not, democracy, like claim freedom, can at best define a very limited idea of positive freedom.

### Conclusion

The strong conclusion is that “claim-freedoms” are not freedoms; instead, they are an excuse to limit freedom. The argument for claim-freedom is nothing other than “confusing other good things with freedom,” a point, as noted, made from the right by Hayek, for instance, and from the left by Rawls, for example, and more-or-less from the middle by Berlin, for one. The argument that democracy is a freedom suffers from similar flaws, though at least one line of thought has found a way to associate democracy directly with freedom.

So the philosophical debate over the last 40 to 50 years has not only failed to clarify issues surrounding negative and positive freedom, it has seen the increasing introduction of claim-freedom and other confusions. These thoughts will be picked up again in the conclusion, but first, it is worthwhile to look at how the differing “flavors” of freedom have been addressed in various freedom charters in order to supplement the philosophic debate with some insight on how these arguments have been translated into the political realm.

## 4 Freedom, charters and indexes

So far we have examined the history of the concept of freedom and the rise of “false” freedoms. Now we turn to the charters and indexes of freedom available today. We will use the tools developed earlier in this paper to see what “types” of freedom are found in indexes and charters.

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22 For example, through Ian Carter’s reflective equilibrium.

The development of freedom discussed in this paper, from the predominately negative views found in the early Enlightenment thinkers to the emergence of claim-freedoms can be seen in the charters that have been written to protect rights and freedoms.

The United States *Bill of Rights* and France's *Declaration of the Rights of Man* are the best known of the early freedom charters. Nine of the 10 amendments of the Bill of Rights are "rights" that do not fit clearly into any of the freedom types discussed. However, the first amendment clearly reflects "negative" freedom. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances" (United States Constitution).

Most clauses of France's *Declaration of the Rights of Man* also discuss rights other than freedom. However, Articles 10 and 11 reflect the negative view of freedom, at least for the most part, though the latter parts of both paragraphs might raise some concerns.

10. No one shall be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law.

11. The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law. (Avalon Project)

However, many of the paragraphs of the *Declaration of the Rights of Man* directly or indirectly reflect Rousseau's view on the general will, opening the door to positive freedom. Articles 1 and 6 are particularly interesting.

1. Men are born and remain free and equal in rights. Social distinctions may be founded only upon the *general good*....

6. Law is the expression of the *general will*. Every citizen has a right to participate personally, or through his representative, in its foundation. It must be the same for all, whether it protects or punishes. All citizens, being equal in the eyes of the law, are equally eligible to all dignities and to all public positions and occupations, according to their abilities, and without distinction except that of their virtues and talents. (Avalon Project, italics added)

Both "general good" in 1 and "general will" in 6 involve potential sources of imperatives that could and would be misused in the Republic.

Interestingly, some of the first appearances of claim-freedoms come from unexpected sources in the United States. Franklin Roosevelt's famous four freedoms of 1941 involved a combination of negative and claim-freedoms: "freedom of speech and of religion; freedom from fear and from want" (Amnesty International, 2007: 1).

Skipping ahead, in July 1953, President Dwight Eisenhower "signed a Declaration of Freedom drawn up by the National Association of Evangelicals and based on 'seven divine freedoms' found in the 23<sup>rd</sup> Psalm" (*Time*, 1953). As the reader can determine, these turn out to be a mix of positive and claim-freedoms, showing just how confused the idea of freedom was becoming. They are:

- ☞ Freedom from Want: "The Lord is my shepherd; I shall not want."
- ☞ Freedom from Hunger: "He maketh me to lie down in green pastures."
- ☞ Freedom from Thirst: "He leadeth me beside the still waters."
- ☞ Freedom from Sin: "He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake."
- ☞ Freedom from Fear: "Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me."
- ☞ Freedom from Enemies: "Thou preparest a table before me in the presence of mine enemies." (*Time*, 1953)

The United Nations *Universal Declaration of Human Rights* dates from 1948. It has a number of clauses to protect negative freedom, perhaps the most notable being articles 18 to 20, though for brevity I will quote only the first of these. "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance" (United Nations, 1948).

Starting with Article 23, a number of claims are listed as *rights*, not freedoms, with the partial exception of 23.1: "Everyone has the right to work, to *free choice of employment*, to just and favorable conditions of work and to protection against unemployment" (United Nations, 1948, emphasis added). "Free choice of employment" is ambiguous; it could mean free choice of what is on offer, but the phrase "protection against unemployment" implies that the state is obliged to offer work. Later articles appear to veer into positive freedom territory, especially 29.1: "Everyone has duties to the community in which alone the free and full development of his personality is possible" (United Nations, 1948).



I will not review other similar charters, such as the Organization of American States' *Declaration of the Rights and Duties of Man*, *African Charter on Human and Peoples' Rights*, or the Council of Europe's *Convention for the Protection of Human Rights and Fundamental Freedoms*. They have about the same mix as the *UN Declaration*.

Despite the absence of claim-freedoms from these charters, today such claim-freedoms seem increasingly common. The United Nations' (2000) *Human Development Report: Human Rights and Human Development* is a prime example. This report comes up with the remarkable discovery of seven essential freedoms, printed on the cover page, the inside cover page, and described inside:

Today, with impressive achievements and a significant unfinished agenda in human rights and human development, the struggle continues for realizing and securing human freedoms in seven areas:

- Freedom from discrimination—for equality
- Freedom from want—for a decent standard of living
- Freedom for the realization of one's human potential
- Freedom from fear—with no threats to personal security
- Freedom from injustice
- Freedom of participation, expression and association
- Freedom for decent work—without exploitation  
(United Nations, 2000)

The first, fifth, and the sixth areas are related to negative freedom, or at least the conditions required for negative freedom,<sup>23</sup> the third appears to reflect a positive freedom, and the rest are claim-freedoms. Many of the classic examples of negative freedom—assembly, for example—are missing.

This leaves public discourse, as represented by the world's most important charters of rights and freedoms, with a mish-mash of negative, positive, and claim-freedoms, mixed together as if they were all birds of a feather. This creates real confusion and enables just about any interest group to declare that the key points of its ideology represent freedom, and to be able to take that message to the public.

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23 Hayek (1960) throughout his work emphasizes the need for an impartial justice system, or "freedom from injustice," as a necessary support for freedom. The problem with the United Nations formulation is that justice is, in fact, justice, not freedom, though it may be a necessary condition for freedom.

### Measures of freedom

This confused situation found in charters and indexes calls out for a measure of freedom, clearly defined. The debate and understanding on the part of the public and policymakers would be improved, regardless of which version of freedom a measure represented, so long as the measure provided clarity and consistency as to what was being measured. This would enable the testing of at least that version of freedom against other variables of interest and allow researchers to work toward a reflective equilibrium on the definition and measure of that flavour of freedom. Unfortunately, no such measure is now available.

In the philosophical literature, Carter has done the most exploration of measurement issues, as reflected in the title of his book, *A Measure of Freedom*. In the realm of negative freedom, he considers what counts as a constraint on freedom, even after one accepts that only human beings can constrain freedom. He helps clarify a challenge from Hillel Steiner, who argues that only physical impossibility counts as a constraint on freedom (Carter, 1999: ch. 8). Thus, according to Steiner, if you are physically able to demonstrate against the regime but will be shot afterwards, you are free to demonstrate. Only if you are shot before you demonstrate are you unfree to demonstrate.

Carter agrees that you maintain your *specific* freedom to demonstrate in the first case, but that your overall freedom—to demonstrate and then do other things—has been limited. Thus, any measurement of freedom could accept Steiner’s central argument and still calculate reductions in overall freedom. In the same chapter, Carter also presents a neat solution to the idea of costs: you can demonstrate, but you will have to pay the police, cleaners, etc. Again, there is no physical impossibility, but the payments increase the probability that you will not be free (or have the resources) to undertake some activities in the future.

Nonetheless, Carter is frank in saying that he sees “the practical problems involved in measuring freedom as lying outside the scope of this book.... This book is... a book on political philosophy.... Is it not the job of the social scientist to tell us... what practical steps can be taken in order to estimate the actual extents of overall freedom?” (1999: 270). In fact, it is very difficult to understand how Carter’s measure, regardless of how philosophically correct, could be operationalized, at least as a first approximation of a freedom measure.

So we turn now to see what “social scientists” have been doing to create a measure of freedom.

#### *Freedom House*

The best of the guides, Freedom House’s *Freedom in the World*, suffers from including things it shouldn’t and omitting things it should include, and its subjective manner of measurement.

Its Civil Liberties index reflects a negative concept of freedom. Like its Political Rights index, it is based on the subjective judgments of Freedom House's experts. This of course means that no one can duplicate the measurements and it also opens the possibility of political manipulation and bias, though it should be emphasized that Freedom House is well respected and to my knowledge such a charge has never convincingly been made.

The Political Rights index is confusingly named since it seems to claim to be a freedom index and scores countries as unfree to free. It is actually a democracy index. Freedom House simply seems to assume the identity between freedom and democracy. It does not, for example, make the neo-Roman argument or any other argument supporting the identity of freedom and democracy, which is not to say that a democracy index is without value. In fact, it is extremely important and a genuine contribution by Freedom House, but it is not a freedom index.

Freedom House's omission of any measure of "negative" economic freedom is even more glaring. The stress that early thinkers and more recent ones like Hayek put on economic freedom has already been discussed. In fact, a strong argument can be made that economic freedom is prior to other freedoms. Without economic freedom, when a government has the power to determine the ability of individuals to feed, clothe, house, and educate their families, hold a job and get a promotion, and restrict their ability to move ahead in other ways, government has all the tools it needs to suppress other freedoms, at least until life becomes unbearable and recourse is made to violence. When economic freedom is lacking, individuals and families must depend on the kindness of government to get ahead. Economic freedom gives people economic independence and lessens dependence on government, opening the way for increases in other freedoms. Empirical studies support the connection between economic freedom, other freedoms, and democracy (see, for example, Griswold, 2004; and Dawson, 1998). No nation that lacks economic freedom has ever supported stable political and civil freedoms. (Here, political freedoms are not defined as democracy, but rather the freedom to express political views, write or broadcast them, assemble for political reasons, and so on.) On the other hand, no nation that has adopted economic freedom has ever failed to evolve towards civil and political freedoms, with only two possible exceptions: Singapore and Hong Kong. But even here, while democracy is limited or non-existent, relatively good levels of others freedoms exist compared to jurisdictions that lack economic freedom. (See Gwartney and Lawson (various editions), and Freedom House (various editions), to examine relationships between economic freedom what Freedom House labels "civil liberties," and "political rights.") Of course, the great question for the future is whether this pattern will be maintained

in China; will market reforms ultimately lead to other freedoms in China, as they did in South Korea and Taiwan, though with a considerable lag?

Measurements matter and may even affect policy decisions. The US democracy push by President George Bush following 9/11 seemed to mix up the ideas of freedom and democracy, and failed to understand that while freedom can and should be advanced in virtually any set of conditions, democracy is unlikely to be stable or even desirable until the appropriate set of institutions are in place. These include not just building economic freedom, as noted above with references, but also building other freedoms. Only when these are in place at an acceptable level can democracy thrive (see also Zakaria, 2003; and Inglehart and Welzel, 2009). It can be unhelpful if a key index confuses the issues, depriving policymakers of appropriate information on sequencing and results among other matters.

*Charles Humana*

Charles Humana produced editions of his *World Human Rights Guide* in 1983, 1986, and 1992.<sup>24</sup> A version of the report was also included in the United Nations *Human Development Report* for 1991. This index, like Freedom House's, is troubled by subjective judgment. It also excludes economic freedom. Finally, its 40 variables contain a mix of various sorts of freedom, such as free legal aid, freedom from execution or even corporal punishment, and differing variables on democracy.

The discussion of the index in the UN development report, not apparently written by Humana, though surely he approved the text, has a very muddy idea of freedom; it contains an element of negative freedom but it is mostly about "claim-freedom." It goes on to say, "These are freedoms to do something—to take part in the community's life, to organize opposition parties or trade union groups, or go about without being 'ashamed to appear in Publick,' as Adam Smith expressed it some 200 years ago" (United Nations, 1991: 18-19). This appears to be a reference to a quote on customs and needs from the *Wealth of Nations*. Adam Smith, the United Nations to the contrary, did not define a freedom as the "ability to appear in socially acceptable clothes"—a "claim" freedom and perhaps an enhancement of freedom in Rawls' sense, but not a freedom itself.

The Humana index was discontinued after 1992 and was not particularly useful in any event for the reasons discussed above: subjective judgments and a muddy definition that conflates "claim freedom" with negative freedoms.

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24 It is also often referred to as a "freedom index," another example of the common confusion of the ideas of rights and freedoms. For example: "It is a *human freedom index*" (United Nations, 1991: 19, italics in the original).

*Fraser Institute*

First, a disclaimer: I am not an unbiased observer and am directly involved in the *Economic Freedom of the World*, the annual report prepared by the Fraser Institute and co-published by institutes in nearly 90 nations and territories. It takes a “negative” view of economic freedom.

The Fraser Institute's report on economic freedom is obviously incomplete as a full measure of human freedom. However, it arguably takes the appropriate approach to measurement. It uses only third party data for its 40-plus variables. Thus, the subjective opinions of the authors and publishers cannot affect the scores, which can be reproduced by anyone with the same data. Reproducibility is a key requirement in science and should be in social science as well, because it allows scientific scrutiny.

There are also a number of indexes on various other aspects of freedom, such as freedom of the press and religious freedom, but these also suffer from incompleteness and typically use subjective judgments.

*Conclusion*

Thus the various measures of freedom today are an odd mix of “negative,” “positive,” and “claim” freedoms, along with “other good things.” None provide an appropriate empirical measure of freedom that is internally consistent and consistent with a rigorous definition of freedom.

## 5 Going forward

The ideas of negative and positive freedom go back at least to the classical world. They are separated from modern notions less by definitional issues than by questions as to who holds a right to freedom: that is, how broadly freedom is spread within a society.

The modern *broad-based* idea of freedom, shared across the full population, emerged most forcefully in the early Enlightenment, inspired at least in part to find a new political order that would avoid the disasters which had recently befallen Europe. The early Enlightenment writers held a predominately “negative” view of freedom, but with positive elements mixed in. Rousseau shifted the focus to positive views of freedom and was the first major writer to push positive views of freedom into the political realm.

Isaiah Berlin brought clarity to the ideas of positive and negative freedom, considering both to be legitimate—but opposing—ideas of freedom. Gerald MacCallum further illuminated the debate with his triadic concept of freedom. However, his analysis has not been fully successful in clarifying the issues, and debate still rages over whether positive or negative or both versions of freedom are real freedom. More recently, the issue of freedom has been confused further by the emergence of claim-freedoms in a number of guises. Perhaps more problematic, the question of economic freedom has been detached from other freedoms.

Research on freedom would be greatly facilitated by a measure of freedom, as Ian Carter argues (1999: ch. 10). This would allow for a process of “reflective equilibrium,” where theory and empirical evidence inform each other in a back-and-forth process that ultimately reaches an equilibrium close to the correct answer, as discussed earlier.

### **What would a measure of freedom look like?**

Unfortunately, no acceptable empirical measure of human freedom is now available for this process. What would such a measure look like and what type of freedom should it attempt to measure? That is the purpose of the project for which this review is being written.

### **Consistency**

The measure should choose one definition of freedom and consistently stick to it. Fifty years after Berlin’s article, no argument is going to convince an advocate of some version of, say, positive freedom, that it is not THE real freedom. But clarity in measurement at least allows other researchers and the public to understand what is being measured, even if some disagree with the label. After that, a process of reflective equilibrium can be put in place to work towards a stronger definition of the particular version of freedom involved.<sup>25</sup>

This also has the advantage of providing a measurement of that version of freedom to determine whether it is correlated with positive outcomes, the utilitarian version of freedom developed by John Stuart Mill.

### **What type of freedom should be measured?**

#### *Positive freedom*

Positive freedom involves freeing oneself from whatever constraints some lower form of self imposes on one’s higher self. This freedom enables the person to find his or her true self. For example, class consciousness would have been perceived by many communists as part of a lower self, blocking the release and freedom one experiences under the higher form of socialist liberty. Positive freedom can be benign (where, for example, people are urged non-coercively to find “freedom in God.”) It can be dangerous (for example, Communist re-education concentration camps to help free people from class consciousness).

It goes virtually without saying that positive freedom cannot be measured outside of some ideology, one that has a version of true freedom. Positive freedom has very different meanings for an evangelist, an Islamist, a Marxist, a supporter of Robert Mugabe, and so on. Yet, we are looking

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25 As in most matters of human endeavor, definitions likely fade into each other at the margins. That is all the more reason to begin measurement to clarify such ambiguities.

for a measure of freedom that transcends particular ideologies and has a universal application. It may be that others will develop an index of one of the many (infinite?) versions of positive freedom.

#### *Claim-freedoms*

“Claim-freedoms” are mislabeled as freedom and at best seem to represent redistributive welfare functions. Claim-freedoms are such things as “freedom to have a job,” or, most prominently today, Amartya Sen’s “capacity” version of freedom. Many of the “claim” freedoms involve things that would enhance freedom, but enhancement does not create an identity. Interestingly, even a strong redistributionist like John Rawls has been able to see through the linguistic sleight-of-hand that confuses redistributionist claims with freedom.<sup>26</sup>

Like positive freedom, “claim-freedom” comes in many forms, but all involve some sort of large-scale redistribution or economic control (i.e., limits on economic freedom) to provide the “claims.” In short, a measure of claim-freedom is not a measure of freedom, though others might want to develop an index based on their version of the ideal welfare function.

#### *Negative freedom*

Isaiah Berlin argued that both negative and positive freedom were legitimate forms of freedom that had long intellectual histories. Berlin, with qualifications, favored negative freedom. This is also the appropriate type of freedom to measure for several reasons.

Unlike positive and claim freedom, negative freedom comes in only one flavor—lack of constraint imposed on the individual. Constraint investigation happily lends itself to empirical measurement based on third party data, the model followed by the *Economic Freedom of the World Annual Report*. For that reason, it is also consistent with building a comprehensive measurement of freedom that includes economic and non-economic freedoms.

Despite the fact that our measure should focus on negative freedom, it has implications for benign forms of positive freedom in that it enables individuals to explore, without constraint, various versions of positive freedom.

#### *Empirically based on third-party data*

For reasons already discussed, the measure should be based on objective third party data to separate the researcher’s subjective judgment from

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26 Rawls, however, would support redistribution and other “capacity-enhancing” type measures, not to increase freedom itself but to increase the “worth” of freedom to the most disadvantaged. While I would disagree with Rawls on this, I applaud the clarity of thought that sees through false identities.

the results and to allow replicability. The measure should also cover all important aspects of freedom, including economic freedom, and exclude non-freedoms, such as democracy and “claim-freedoms.”

### **Final thoughts**

As noted, a measure of negative freedom will not be to everyone’s taste, but it will enable empirical investigation of the consequences for human well-being of negative freedom and those factors that promote the establishment and stability of negative freedom. It creates a consistent answer to Q1, which began this paper: “What is freedom?” Focusing on a consistent version of freedom, then allows us to move on to objective, measurement criterion to answer Q2) “Who has freedom?” (See Vásquez and Štumberger, this volume.)

The measurement in turn will ultimately provide for negative freedom the tools needed to answer the other questions that began this essay: Q3) Is freedom always good? Is more freedom always better? Q4) More generally, what are the consequences of freedom in different areas of human endeavor? Q5) How is freedom achieved? Q6) How is it made stable and secure? Q7) How is it defeated?

Others may well attempt to establish a measure of positive freedom based on their particular ideology or claim-freedom based on their view of optimal welfare functions. This would provide the empirical means of testing the consequences for human well-being of negative freedom versus these differing concepts of claims and freedoms.

Overall human freedom presents a tougher measurement challenge than economic freedom. However, a huge number of data sources are now available, giving some prospect of success, or at least moving towards ever better measures if this approach is taken. Appendix A explores some of the challenges.



## Appendix A: Developing a Measurement Taxonomy and Other Puzzles

This appendix has a limited goal: simply to lay out some of the challenges faced in developing a freedom measure. It makes no claim to being a full menu of these challenges. It merely aims to develop a partial menu of some important items.

### Taxonomy

An important step in developing a taxonomy of freedom is to clear up a confusion found almost everywhere in discussing freedom. Policy papers, leaders, and even thinkers talk about freedom of the press, freedom of religion, political freedom, freedom of speech, and so on, as if they are talking similar about similar things.

These are not similar things. There are two distinct, logical dimensions of freedom being confused here, labeled, arbitrarily, “spheres” and “actions” of freedom. By sphere, I mean differing aspects of behavior; for example, political versus religious versus civic or personal activities. By actions, I simply mean actions in these spheres. Here I have in mind things like freedom of speech, freedom of assembly, freedom of the press, and so on. These are the traditional negative freedoms.

A simple matrix for ‘Country X’ makes clear why these are separate:

		Freedom Actions			
		<i>Speech</i>	<i>Assembly</i>	<i>Press</i>	<i>Etc.</i>
Spheres of Freedom	<i>Personal</i>	4.7	3.6	2.1	...
	<i>Political</i>	4	1	4.5	...
	<i>Religious</i>	1	3.5	0.9	...
	<i>Etc.</i>	...	...	...	...

In the above matrix, Country X allows moderately good freedom of speech in religion, but suppresses religious assemblies and press discussions of religion. X’s security forces are much more tolerant of political discussions than they are of politically-oriented assembly or journalism.

Thus, for example, it does not make sense to talk about religious freedom and freedom of the media as if they were similar creatures. A free media can explore political, social, religious issues, etc. However, religious freedom can be expressed in the media, association, speech, etc.

Once the link between democracy and political freedom is broken, the question arises as to whether political freedom is a specific sphere of

freedom or whether it falls under personal freedom. The former would appear to be the most appropriate. For example, it is easily possible to imagine a regime that does not restrict assembly for personal or religious activities—for example, marriage or religious festivals—but does restrict assembly for political purposes.

The above table is meant to be simply illustrative and not comprehensive. Other freedom actions would include, for example, association and movement. Another sphere could be scientific investigation. Moreover, not all cells in the matrix will be relevant. For example, “freedom to worship” may be a component of freedom, but may be relevant only to religious freedom.

### Coercion

This section, following Hayek, will suggest that we are seeking to measure coercion (or restraints) as limits on freedom applied by human beings. This immediately raises the question: which set of human beings doing the blocking are of interest—those running the state, the religion, the setters of social conventions?

Initially, any freedom index would have to be limited to restrictions applied by government. This is where the data and where most thinking on freedom has concentrated. Moving beyond government restriction initially would probably prove too ambitious a task.

But the question remains: what human agencies can limit freedom? First, we can eliminate voluntary organizations. Virtually every religion limits some freedoms, but so long as the individual voluntarily gives these up on joining the religion, and can leave the religion at will, there is no restriction on freedom since such decisions themselves are freely made.

What about society? Can it impose restrictions on freedom? Hayek (1960/1978) makes a number of important comments on this, with several brought together below.

Paradoxical as it may appear, it is probably true that a successful free society will always in large measure be a tradition-bound society (p. 61)... It is this flexibility of voluntary rule which in the field of morals makes gradual evolution and spontaneous growth possible. Such an evolution is possible only with rules which are neither coercive more deliberately imposed—rules which, though observing them is regarded as merit and though they will be observed by the majority, can be broken by individuals who feel that they have strong enough reasons to brave the censure of their fellows (p. 63)... Liberty is an opportunity for doing good, but it is only so when it is also an opportunity for doing wrong. The fact [is] that a free society will function successfully only if the individuals are in some measure guided by common values (p. 79)... On the whole, these conventions and

norms of social intercourse and individual conduct do not constitute a serious infringement of individual liberty but secure a certain minimum uniformity of conduct that assists individual efforts more than it impedes them (p. 147).

This would argue against trying to measure societal limits on freedom. But surely society can be coercive. In the 1950s, in many parts of the United States, there were no legal restrictions on serving Negroes, but a black person would have difficulty getting a room in a “white” hotel. Hayek discusses this in a general sense: “We should be very dependent on the beliefs of our fellows if they were prepared to sell their products to us only when they approved of our end and not for their own advantage” (1960/1978: 144).

When the civil rights law passed, federal officials worried about massive disobedience through the south. Instead, thousands of businesses quietly opened their doors to black customers. The speedy, quiet acceptance suggests that many business owners would have voluntarily accepted black customers earlier were it not for social constraints—and that these social restraints limited their economic freedom to accept black customers.<sup>27</sup>

Despite—and because of—these complications, the tentative recommendation is to set aside social restrictions on freedom. There are intense conceptual and measurement problems here. It seems reasonable to first tackle government-imposed restrictions on freedom. This was clearly the central concern of the enlightenment writers on freedom and remains the central concern in most current commentary on freedom. However, devising such a measure will ultimately help in clarifying whether social restrictions are enduring without government support and whether such restrictions can ultimately be measured.

### **Official versus unofficial limits on freedom**

The annual report, *Economic Freedom of the World*, focuses on official limits on freedom and this seems appropriate for a broader freedom index at first blush, particularly if the index limits itself to government restrictions on freedom, but the index does have a weakness.

First, even if we limit our measure of freedom to government coercion, it is important to note that unofficial limits may be sanctioned by government. Thus, a newspaper may be bombed or a journalist killed without the perpetrators facing any legal threat, and perhaps with the encouragement of government officials. The perpetrators may even be security officials.

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<sup>27</sup> This is a debatable point since owners were coerced by the new law to accept black patrons, and maybe would not have done so if they had been economically free.

Such unofficial limits on freedom would cover a broad spectrum, from active government involvement to backroom sanctioning. Where on this spectrum would the line be drawn between “official” freedom limits and “unofficial” ones? This demarcation would be particularly difficult for limits on the freedom of women and minorities. Recall that most nations now have laws that officially support freedom and equality even if the government unofficially suppresses women and/or minorities.

My sense is that governments are more open about official restrictions on economic freedom than non-economic freedom, making it easier to use official measures for restrictions on economic freedom than for restrictions on non-economic freedoms. Socialism and publicly acknowledged limits on economic freedom remain fashionable, at least in some quarters. On the other hand, non-economic freedoms are “officially” supported across a broad spectrum, even in nations actively involved in “unofficially” suppressing such freedom.

For example, could female literacy serve as one indication of whether freedom extends equally to females? Proxy measures will pick up both official and unofficial limits on freedom, and problematically, given the above, societal restrictions on freedom.

In fact, if appropriate proxy measures could be found, then, despite the recommendation above, a measure of freedom could incorporate societal restrictions on freedom, though this would raise some difficult conceptual issues: i.e., the idea, only briefly explored above, that societal pressures cannot really be considered limits on freedom.

### **Possible proxy measures: law and responsibility**

Hayek argues that “general and equal laws” are a necessary and, he seems to indicate, a sufficient condition for freedom. His comments speak for themselves: “It is often not recognized that general and equal laws provide the most effective protection against the infringement of liberty...” (1960/1978: 210). “The conception of freedom under the law... rests on the contention that when we obey laws, in the sense of general abstract rules laid down irrespective their application to us, we are not subject to another man’s will and are therefore free.... This, however, is only true if by ‘law’ we mean the general rules that apply equally to everybody” (1960/1978: 153). “Under a reign of freedom the free sphere of any individual includes all actions not explicitly restricted by general law” (1960/1978: 216).

This, of course, does not equate “general and equal laws” with freedom, but it suggests a possible source of proxy measures.

Hayek also argues that freedom is impossible without responsibility. This is in some ways related to the law, which forces people to take

responsibility for at least a subset of their actions. We are not attempting to measure personal responsibility, but if we found such measures, they may be potential proxies for freedom.

### **Weighting schemes**

Many weighting schemes are possible, and not simply weighted addition. It may be that freedoms are more than their sum. For instance, having both freedom of speech and freedom of assembly in religion may create more (or less) than twice the value of having only one of the freedoms. Freedoms may be multiplicative and/or they may be non-linear, so that one freedom is worth “1,” two are worth “2,” and three are worth “4,” and so on. We need a better understanding of what freedom is, how it should be measured, and what measures are available before this issue can be addressed.

### **Scale**

We have not addressed the question of scale: can A be *slightly* freer to do X than B? Franco’s Spain was not free, but it was freer than Stalin’s Russia. Can such gradations be captured? Carter (1999: 220) notes constraint variables: physical impossibility, threats, and difficulty, though the list could easily be made longer. He also argues that at a conceptual level, a measure of freedom should consider only “physical impossibility” supplemented by knowledge of the probability of future restraints on freedom, like being sent to a concentration camp for certain speech. That speech is not physically impossible, but has a high probability of reducing freedom in the future. Whether one accepts this or not, developing a freedom scale will be difficult.

It is also unclear whether a cardinal or only an ordinal measuring system will be possible.

### **Race, etc.**

Governments can restrict freedom based on race, gender, ethnicity, etc. However, this can also involve a complicated interplay between government coercion and society. Measuring this will be a great challenge. This also complicates weighting. If a minority of, say, 20 percent of the population lacks a certain freedom, does this mean that the measure is weighted by 20 percent?

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