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Articles		
The Imprudence of Macroprudential Policy <i>Alexander William Salter</i>		5
Corporate Influence and Political Corruption: Lessons from Stock Market Reactions to Political Events <i>Jeffrey Milyo</i>		19
The Two Moralities of the Minimum Wage <i>Dwight R. Lee</i>		37
Sin Taxes and Sindustry: Revenue, Paternalism, and Political Interest <i>Adam J. Hoffer, William F. Shughart II, and Michael D. Thomas</i>		47
Human Freedom: From Pericles to Measurement <i>Fred McMahon, with Alan Dowd</i>		65
Jimmy Carter, Alfred Kahn, and Airline Deregulation: Anatomy of a Policy Success <i>John Howard Brown</i>		85
Ronald Coase: An Appreciation <i>John V. C. Nye</i>		101
Meet the Old Sweatshops: Same as the New <i>Benjamin Powell</i>		109
Book Reviews <i>U.S. Energy Policy and the Pursuit of Failure</i> By Peter Grossman <i>Lynne Kiesling</i>		123



FRONT COVER:
The Imprudence of Macroprudential Policy
(See article on page 5)

	<i>The Economics of Climate Change: Adaptations Past and Present</i>	
	Edited by Gary D. Libecap and Richard H. Steckel	
	Richard Stroup	126
	<i>The Ways of a King: Legal and Political Ideas in the Bible</i>	
	By Geoffrey P. Miller	
	Paul R. Abramson	129
	<i>Exploring Capitalist Fiction: Business through Literature and Film</i>	
	By Edward W. Younkins	
	Allen Mendenhall	133
	<i>The Bet: Paul Ehrlich, Julian Simon, and Our Gamble over Earth's Future</i>	
	By Paul Sabin	
	Robert Whaples	137
	<i>Free Our Markets: A Citizens' Guide to Essential Economics</i>	
	By Howard Baetjer Jr.	
	Joseph Connors	140
	<i>The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey</i>	
	By Michael Huemer	
	Aeon J. Skoble	144
	<i>Madmen, Intellectuals, and Academic Scribblers: The Economic Engine of Political Change</i>	
	By Wayne A. Leighton and Edward López	
	Lawrence W. Kenny	147
Etceteras . . .	The Fed's Immiseration of People Who Live on Interest Earnings	
	Robert Higgs	151

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Human Freedom

From Pericles to Measurement

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FRED MCMAHON, WITH ALAN DOWD

Although people have been seeking freedom for millennia, it has not been freedom for all—excluded were slaves, serfs, women, outsiders, the defeated, and so on. That changed in the past few centuries as the circle of those considered deserving of freedom expanded. Along the way, a rigorous debate on freedom and what it is took root, blossoming during the Enlightenment when the great freedom philosophers explored both the nature of freedom and what came to be viewed as a universal right to it. They also identified the relationship between economic freedom, including property rights, and other freedoms.

It seems undeniable that the circle of freedom has expanded, but the very concept is one of the most contested ideas in political and philosophical discourse as well as one of the most vital. The contests run along several fronts, which can be transposed to the following questions: What is freedom? Who has freedom? Is freedom always good? Is more freedom always better? What are the consequences of freedom in different areas of human endeavor? How is freedom achieved? How is it made stable and secure? How is it smothered and ultimately extinguished?

All subsequent questions depend on the answer to that first question: What is freedom? Without an objective measure, it is impossible to determine whether action X leads to increases or decreases in freedom, whether it lends stability to freedom or causes instability, or whether freedom leads to superior outcomes.

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Efforts to measure freedom have emerged only in the last quarter-century or so. Unfortunately, these efforts have been flawed, blurring various definitions of freedom, confusing “other good things” with freedom, using subjective rather than objective measures, and either failing to account for economic freedom or focusing exclusively on it. (See Sidebar 2.)

The Human Freedom Index (HFI) project—a joint venture of the Fraser Institute in Canada, the Liberales Institut in Germany, and the Cato Institute in the United States—aims to provide a durable, comprehensive, and objective measure of freedom. This article begins with Isaiah Berlin’s 1958 essay “Two Concepts of Liberty” and then examines earlier influential views of freedom—detailing the philosophical underpinnings of the HFI, which we hope will become an important contribution to the canon of liberty.

Berlin’s Concepts of “Positive” and “Negative” Freedom

Berlin’s essay examines two concepts: “negative” freedom and “positive” freedom. The concept of negative freedom, which Berlin favors, 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” ([1958] 2002, 170). In Berlin’s view, this concept of freedom, which he traces to the eighteenth-century Enlightenment, is the only one having empirically determinate meaning. By contrast, the concept of positive freedom is metaphysical. Positive freedom 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, Communists would have perceived class consciousness as part of a lower self, blocking the real freedom one experiences under the higher form of “socialist liberty.”

As Berlin explains, “positive freedom” is also called “autonomy,” meaning self-control or control by reason rather than control by one’s personal passions. In short, it is the freedom to govern oneself autonomously and is different from the freedom to do as one wishes because individuals may wish to do what their ideally rational self would disapprove of. The definition of positive freedom depends on a metaphysical theory of the self—conceived as divided into will, reason, and desire. Berlin distinguishes between two variations of positive freedom. He has no objection to “positive freedom” conceived as individual choice—for example, voluntarily joining a religious order, which a person can also voluntarily leave. He notes that this choice is in fact another side of negative freedom—an individual choosing what to do free of constraint.

However, he spends much more time discussing what he views as a malignant form of positive freedom, which he views as an attack on negative freedom. The danger of taking positive freedom as the paradigm of freedom, for Berlin, is

if people may be unfree in acting as they wish and freer in acting in some other—more rational, more moral, and so on—way, the state has the justification to treat people like children who need to be told what to do in the same manner that parents tell children they have to go to school because they really do want education even though they don't realize it. If people don't know what their higher, more rational selves would choose, it is possible for a tyrant to declare they would choose to submit to him if they knew their true selves and that therefore they can be coerced into submission now.

Berlin strongly objects to “positive freedom” in this context, when the idea is coupled with an attack on negative freedom and is imposed by some powerful group—for example, Communist reeducation camps supposed to “liberate” people from class consciousness so they can find true Marxist freedom.

Berlin's essay came at a time when increasing claims for positive freedom were contesting the essentially negative view of freedom that had emerged from Enlightenment thinkers. Both the recently defeated Nazis and the Communists in the then-ongoing Cold War contained strong strains of nonbenign positive freedom. Both opposed negative freedom in practice, if not in word. Berlin brought clarity to the contest, and for that reason his essay became highly influential.

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. The HFI project is instead seeking a measure of freedom that transcends particular ideologies and has a universal application. By contrast, because negative freedom comes in only one flavor and concerns observable constraints on observable behavior, it is amenable to empirical measurement.

Is there a “malign” version of negative freedom: when someone uses his or her negative freedom to impose barriers to the actions of others—in other words, to limit their negative freedom?

There are two possible responses to this question. The first is to say an individual's freedom stops at the point where he or she is imposing restraints on the freedom of others. This is the approach largely taken by the Economic Freedom of the World Index, as the italicized section of the following excerpt shows: “Individuals have economic freedom when property they acquire without the use of force, fraud, or theft is protected from physical invasions by others and they are free to use, exchange, or give their property *as long as their actions do not violate the identical rights of others*” (Gwartney, Lawson, and Block 1996, italics added).

As discussed later, this approach is similar to John Locke's view that freedom ends where one individual interferes with the freedom of another. The other approach is to say that such actions are a manifestation of negative freedom, albeit a malign one. This is similar to Thomas Hobbes's view on abuses of “negative” freedom, which led to his call for an absolutist state to limit what he saw as the chaos of unrestrained freedom. Here, the amount of freedom is a kind of maximizing

trade-off, where limits on “malign” negative freedom produce increases in “benign” negative freedom until the losses from one balance the gains from the other at a maximizing point. Hobbes, though, would not have viewed his priority as “freedom” maximizing because his concern was maximizing political stability and peace.

These differing interpretations of freedom constraints, however, do not change the single nature of negative freedom—lack of constraint—and do not create an intractable problem for the purposes of this HFI measurement project. As discussed later, our goal is to measure the barriers themselves, whether they are imposed by a “malign” use of negative freedom or not. First, however, let us look at some of the relevant history.

An Ancient Aspiration

Many thinkers, including Berlin, believe that the concept of freedom is not merely unique to the West, but also of relatively recent vintage, developed in post-Middle Ages Europe. Illustrative thinkers here are Benjamin Constant ([1816] n.d.) and Rodney Stark (2006). Both argue that the ancients (Greek and Roman) had a fundamentally different idea 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. Of course, they also knew “positive freedom” from Plato’s *Republic*, which gave an early statement of the idea. However, Constant 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” ([1816] n.d.).

But the ancients did have the concept of individual liberty, just not individual liberty for all. In his famous Funeral Oration as represented in Thucydides’s *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” (Thucydides 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 subset of free male citizens. Athenians may or may not have had the same degree of negative freedom as residents of the freest nations today, but clearly the concept was alive.

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” (1996). This is no different than Friedrich Hayek’s speculation that “it is probably

true that a successful free society will always in large measure be a tradition-bound society” ([1960] 1978, 61), where respect for law and custom is high and maintains social cohesion even as people go their own way (see Hayek [1960] 1978, 63, for this extension of his thinking).

The classicist Victor Davis Hanson (2002) argues convincingly that the negative freedom (he does not employ the word *negative*, although 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. Moreover, he includes what is clearly a description of economic 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 entertained a freedom of action. . . . Throughout the campaign refugees, soldiers, and onlookers came and went . . . as they saw fit. (2002, 51–53)

All four points, except the second, are clearly about negative freedom, and his third point emphasizes economic freedom and the commerce it makes possible.

Both Stark and Constant claim that private commerce is not just a freedom, but also the basis of other freedoms. Constant, for example, 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” ([1816] n.d.). Despite the earlier quote, here he credits the commerce of Athens with allowing a somewhat higher level of individual freedom than in other Greek states.

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

Stark does not contest or much discuss whether the ancients’ concept (or concepts) of freedom matches more modern concepts. Instead, he claims that the ancients (both Greek and Roman) granted freedom only to elite members of society. He contrasts this with Christianity’s focus on the moral equality of the individual, saying, “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 Christian Church 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. His arguments would be better served if he referred to the Judeo-Christian tradition. The ideas Stark stresses, such as respect for work, are all clearly present in both the Old and New Testaments. But his central point is well taken: that the ancients’ freedom was limited to a privileged few.

In short, the concepts of negative and, less controversially, positive freedom—which can be found in Plato’s *Republic*—were alive in the classical world but not extended universally.

Influential Modern Thinkers: Hobbes, Locke, Rousseau, and Mill

Hobbes

Thomas Hobbes (1588–1679), the first great English theorist of what has come to be called the Enlightenment, saw a continental Europe that had collapsed into violence. Then the relatively calm England of his youth fell into civil war. These facts are important to understanding not just Hobbes, but also the political thinking of perhaps all Enlightenment thinkers.

After fleeing first to Holland during the English Civil War, Hobbes then huddled in Paris, writing *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.

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

Hobbes starts with the state of nature, which he defines as a state of full (negative) freedom, which he elsewhere describes as “the absence of external impediments” ([1651] 1996, 2). However, there are also no impediments on individuals’ or groups’ ability to suppress the freedom of others—in other words, to practice “malign” negative freedom. This suppression ends up not just destroying freedom, but creating brutal chaos, certainly reminiscent of, in Hobbes’s time, the recent state of affairs on continental Europe.

However, individuals are endowed with rationality, a law of nature. Hobbes theorizes 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’s abhorrence of the troubles that were so common prior to and during much of his own lifetime.

Hobbes believes that a monarchy would serve best, but he is willing to accept other forms of government, including some form of democracy, so long as the government was absolute. Thus, having begun with a state of absolute unrestrained 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.

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 pretermitted 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” ([1651] 1996, 146). Hobbes also gives a practical reason for allowing some liberty; he argues against creating rules to govern all aspects of an individual’s life: “To try to do this would be impossible” (146).

Three things become apparent. Hobbes holds a “negative” view of freedom: “[L]iberty refers to the man himself. This liberty consists in that he finds no stop to doing what he has the will, desire or inclination to do” ([1651] 1996, 145), though he believes it should be largely constrained by the sovereign. Second, the freedom that Hobbes says could (and perhaps should) be allowed is primarily what we now call economic freedom. Third, Hobbes views all individuals as equal in the state of nature and in developing the social contract. His concern is the individual’s relationship to Leviathan.

Locke

John Locke (1632–1704), like Hobbes, tries to develop a practical theory of government. 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 did.

Locke, again like Hobbes, brings together ideas on the state of nature and the social contract. He begins roughly where Hobbes does. Individuals find the state of nature “inconvenient,” and to improve their situation they enter into a social contract, but Locke’s conclusions are very different from Hobbes’s.

He replaces Hobbes’s “Right of Nature,” the fundamental right to survival, with a “Law of Nature,” a gift from God that cannot be violated. However, although

survival is still the end, the means to the end are life, liberty, and property. Thus, Locke is able to expand the idea of a right to survival into other rights and, importantly, to a broad concept of individual freedom as part of the “law of nature.”

Locke’s social contract is much more “liberal” 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. The goal of government is not mere stability; for Locke, it extends to protecting these natural rights.

Perhaps surprisingly, Locke, once more like Hobbes, proclaims himself willing to accept a monarchy, oligarchy, or democracy. However, for Locke, government actions must be consistent with the protection of the rights that he deduces. Like Hobbes, Locke argues that everyone in the state of nature 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” ([1690] 1960, 218).

His version of freedom is also, at least predominately, negative, within a sphere of law and with a stress on property ownership. Locke, in another contrast with Hobbes, also qualifies the nature of freedom, arguing that negative freedom, to use modern terminology, stops where it interferes with another’s negative 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. ([1690] 1960, 241–42)

Locke’s development of property rights is also worth emphasizing. He makes property an extension of the person. Without the fruit of one’s labors, negative freedom becomes an impossibility. 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. Without property rights, the individual becomes dependent on whomever or whatever controls property. Locke also counts the person as part of his 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” ([1690] 1960, 270–71).

Thus, to Locke, property rights are the foundation of negative economic freedom and a necessary condition for overall negative freedom.

Rousseau

Jean-Jacques Rousseau (1712–78) was born almost a decade after Locke’s death. Though Rousseau overlaps the Enlightenment period, he is often considered more of a romantic thinker.

Like both Hobbes and Locke, Rousseau starts with a state of nature and a social contract leading out of it. However, he adds the fuzzy concept of “general will.” A person can deliberate as an individual or as a citizen. The latter will seek policies that serve the common good and are thus in line with the “general will.” How the general will arises or relates to the individual’s will is far from clear. Nor is it clear that the common good exists, given the multitude of individuals’ goals and desires, because what benefits one individual or group may disadvantage another, implying that there can be no “common” good. Moreover, although, according to Rousseau, the social contract reached by free individuals in the state of nature must be in accord with the general will, it is unclear how this accord is to be accomplished or carried out.

Nevertheless, the general will is always for the public good and thus must not be violated. The individual is free only when in accord with the general will, a notion that clashes with Locke’s concept of freedom because, as the following quote from *The Social Contract* makes clear, the general will erases *negative* freedom:

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] 1950, 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 of *The Social Contract*, 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. ([1762] 1950, 106)

Rousseau’s requirement of conforming to the general will might appear at first glance to be benign. After all, all democracies require the minority to accept the will of the majority. However, there are three important differences between accepting the will of the majority, as is a given in all democratic states, and transferring the general will into one’s own will by subsuming the latter to the former, as Rousseau’s construct would require. 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 sphere seems absent from Rousseau’s formulation. Second, liberal democracies do not require the losers—those who compose the political minority—to change their minds. Third, no liberal democracy claims that its citizens can be free only when they have seen the error of their ways and accept the majority opinion as their own.

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 was the first influential modern 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.

Mill

John Stuart Mill (1806–73), using ideas developed by Jeremy Bentham, produced a utilitarian justification for freedom (Mill [1863] 2002). He argues that it is best to allow free debate because no one knows a priori what the most successful ideas will be. Also, he claims that because the individual knows best his or her capacities, potentials, and desires, each person is in the best position to determine what is best for himself or herself and should be free to follow this self-determined course to find the greatest happiness and thus utility.

Supporters of *positive* freedom often claim that because they know best how the best life is to be lived, the greatest utility is to be found in 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 or that negative liberty also produces the most utilitarian results. In the end, utilitarian arguments are ultimately empirical arguments addressed to the question “What does, in reality, produce the greatest happiness?” For this question, an empirical index of freedom is required, as was argued in the introduction and as discussed later.

Mill appears initially to have supported what here is called economic freedom. He came to argue that freedom and happiness are limited by a person’s capacity to take advantage of freedom and follow his or her chosen path to happiness. To share resources more equally, he proposed a variety of socialist ideas in his later writings.

Recent Confusion in Thinking and Measures of Freedom

The relative lucidity of thinking about freedom by Hobbes, Locke, and Mill—indeed the evolution advanced by them in how freedom was understood—is in danger of being muddled again by Rousseau’s successors, who confuse freedom with “other good things.”

To illustrate this problem, consider “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.

“Claim” rights confuse rights with freedoms. Freedom is a subset of rights. Humans may have a right to democratic governance, but democratic governance is not a freedom, as discussed later. This freedom–rights distinction is blurred by recasting rights as freedoms—for example, by saying that people have a freedom to work when what is meant is that they have a right to paid employment. (Even after resolving the confusion between freedoms and rights, however, calling paid employment “a right” remains problematic.)

Many “claim freedoms” involve “good” things that might enhance freedom—by expanding choice or opportunity—and some have used this connection to blur the distinction between what enhances freedom and what actually is freedom. An analogy would be that although cosmetics enhance beauty, they are not identical with beauty. Similarly, although capacity enhances freedom, it is not identical with freedom, as Nobel laureate Amartya Sen’s (1999) “capacity” version of freedom would have it.

Sen’s capacity version of freedom holds, roughly speaking, that the greater the individual’s capacity, choices, opportunity, education, health care, and so on, the greater the freedom. This is very close to the concerns that motivated Mill in his later career, as discussed earlier. Hayek and Berlin get right to the point of the confusion that muddles analyses such as Sen’s. As Hayek says, “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” when, for example, he talks about “the freedom to live long” (1999, 291).

Berlin makes the necessary point when he states that calling good 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 quiet conscience” ([1958] 2002, 172). Berlin traces the confusion to “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” (175 fn.). This is increasingly seen in writings on freedom, with Sen as the most prominent example.

Sidebar 1: Freedom Charters and Constitutions

The U.S. Bill of Rights and France’s Declaration of the Rights of Man are the best known of the early freedom charters. Nine of the ten amendments of the Bill of Rights are “rights” that do not fit clearly into any of the freedom types discussed in this article. 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.”

Although most clauses of France’s Declaration of the Rights of Man also discuss rights rather than freedom, Articles 10 and 11 reflect the negative view of freedom, 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. (Declaration 1789)

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 freedoms that trump negative freedoms. 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. (italics added)

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

One of the most famous calls for "claim freedoms" comes from the United States. Franklin Roosevelt's four freedoms of 1941 involved a confusing mixture of negative freedom and claim freedoms: "freedom of speech and of religion; freedom from fear and from want" (qtd. in Amnesty International 2007, 1).

The 1948 Universal Declaration of Human Rights has a number of clauses to protect negative freedom, perhaps the most notable being Article 18: "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 in this declaration 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."

The United Nations' *Human Development Report: Human Rights and Human Development* (United Nations Development Program 2000) mixes a variety of "freedoms"—some positive, some negative, some claim.

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 Development Program 2000)

However, these charters and many others modeled on them leave 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. Such a mish-mash 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.

Does Democracy Equal Freedom?

Democracy is another "good thing" that does not equal freedom. 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] 2002, 176–77).

For Berlin, the advantage of democracy is that it is conducive to the development and maintenance of freedom, whereas other systems are not. As Berlin says, "Self-government may, on the whole, provide a better guarantee of civil liberties than other regimes" ([1958] 2002, 177). This advantage 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

earlier, 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.

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.

In a negative sense, democracy clearly does not meet definitions of freedom. Our actions, as both Berlin and Hayek 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 because, again, the latter may well occur under a democracy.

Sidebar 2: Measures of Freedom

The confused modern understanding of freedom cries out for a clearly defined, consistent measure of freedom. The debate and understanding on the part of the public and policymakers would be improved by clarity and consistency about what is being discussed and measured. Several measures currently available have achieved varying degrees of success.

Freedom House

The best of available guide to freedoms other than economic freedom, Freedom House's *Freedom in the World Report* (2008), nevertheless suffers from including things that aren't freedoms and omitting freedoms it should include as well as from the subjective basis of its measurement.

Its Civil Liberties Index reflects a negative concept of freedom. However, the Political Rights Index is confusingly named: Although it calls itself a "rights" index, it scores countries as "unfree" to "free." In reality, it is a democracy index. Freedom House simply seems to equate freedom and democracy. Nonetheless, the Political Rights Index is extremely important and a genuine contribution by Freedom House, but it is not a freedom index.

Both indexes are based on the subjective judgments of Freedom House's experts. This article has focused on "what" should be measured. Yet the "how" is also important, though outside the scope of this article except for the few words in this sidebar.

The subjective nature of the Freedom House indexes 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. Ideally, though, an index should use third-party data so the index can be replicated by anyone with access to the third-party data and so the authors' subjective judgments do not affect the data.

Freedom House's omission of any measure of "negative" economic freedom is even more glaring. A strong argument can be made that without economic freedom, when a government has the power to determine individuals' ability to feed, clothe, house, and educate their families and to hold a job and get a promotion as well as the power to restrict their ability to move ahead in other ways, said 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 or government friends and supporters under crony capitalism. When economic freedom is present, people are afforded economic independence, and dependence on government is lessened, opening the way for increases in other freedoms.

Measurements matter and may even affect policy decisions. The U.S. democracy push by President George W. Bush following the events of September 11, 2001, seemed to mix up the ideas of freedom and democracy and failed to understand that although freedom can and should be advanced in virtually any set of conditions, democracy is unlikely to be stable or even desirable until the appropriate institutions are in place. These conditions include not just building economic freedom, as noted in this essay, but also building other freedoms. Only when they are in place at an acceptable level can democracy thrive (see Zakaria 2003; Inglehart and Welzel 2009).

Humana

Charles Humana produced editions of his *World Human Rights Guide* in 1983, 1986, and 1992. A version of the report was also included in the United Nations' *Human Development Report* for 1991. This index, like Freedom House's, is weakened by subjective judgment. It also excludes economic freedom. Finally, its forty 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, again confused as a freedom. The Humana index was discontinued after 1992.

Fraser Institute

First, a disclaimer: one of us (McMahon) is directly involved in the *Economic Freedom of the World Report*, the annual report prepared by the Fraser Institute

and copublished by institutes in nearly ninety nations and territories (see, e.g., Gwartney and Lawson 2006, 2008). And both of us have contributed to *Economic Freedom of North America*, a companion report focusing on the state of economic freedom in the United States, Canada, and Mexico, so we are not unbiased observers of it.

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

Yet we have long recognized that even this measure of freedom is incomplete, which explains the importance of the Human Freedom Index. The HFI's purpose is to measure the degree to which people are free to enjoy classic civil liberties—freedom of speech, religion, individual economic choice, and association and assembly—in each country surveyed. Toward that end, this measurement project combines economic freedom measures from the *Economic Freedom of the World Report* with various measures of civil and personal freedoms to illustrate a fuller, more accurate picture of freedom.

Conclusion

As noted at the beginning, this paper details the philosophical underpinnings of the HFI. The lessons of this review are:

- Any measure of freedom should pick one definition of freedom and stick to it; otherwise, it becomes unclear what is being measured. In fact, as discussed in the sidebars, most measures and charters of freedom confuse various inconsistent varieties of freedom.
- As a consistent measure, “positive freedom” does not have a single clear meaning and thus cannot be measured except through the eyes of some ideology—in which case it becomes a measure of the purity of Stalinism or fascism or whatever, but definitely not a measure of universal freedom.
- “Claim freedoms” are not freedoms (though some may be rights), and thus it is not appropriate to measure them in a freedom index.
- Democracy, often called “political freedom,” is not a freedom (though it may be a “good thing”) and thus should not be included in a freedom index.
- The only possible “freedom” to measure is “negative” freedom because it has a constant definition, which in turn allows measurement.

- Consistent with the discussion on the nature of negative freedom, this measure should be of constraints on the individual's ability to act as he or she wishes.
- A freedom index should attempt to measure as wide a variety of constraints as possible—social, cultural, governmental, and so on—to pick up these constraints whether one believes they are imposed by a “malign” use of negative freedom (Hobbes) or are an abuse of power that are not a type of freedom (Locke).
- Economic freedom has clearly been a central element of the discussion of negative freedom emanating at least from the Enlightenment (even if the term *negative freedom* came later).
- Any measure of negative freedom that claims to be complete should contain all aspects of negative freedom, including economic freedom—something now absent from previous indexes that claim completeness, as discussed in the sidebars.

The HFI has been in part motivated by the flawed or incomplete nature of existing charters and measures of freedom. We encourage readers to examine the sidebars to better understand this motivation. With the exception of the Fraser Institute's Economic Freedom of the World Index, none of these charters or measures is consistent with all of the lessons listed here, and that index measures only one component of freedom, as its name implies.

The HFI is not perfect—no measure of freedom can be. However, until the HFI, the first prototype edition of which was released in January 2013, no acceptable empirical measure of human freedom was available—one that included all key aspects of freedom, including economic freedom, and contained an intellectually consistent definition of freedom. The HFI's measure of human freedom chooses one definition of freedom, the negative one, and sticks to it.

This clarity in measurement allows other researchers and the public to understand what is being measured, enabling empirical investigation of the consequences of negative freedom for human well-being. Toward that end, this measurement project combines economic freedom measures from the Economic Freedom of the World Index with various measures of civil and personal freedoms to illustrate a fuller, more accurate picture of freedom.¹

The HFI remains a work in progress. The publication of the proto-index has produced much constructive comment and criticism. We plan to publish in 2014 the first full edition of the HFI, which will incorporate these comments and criticisms and contain many improvements to the proto-index.

1. The book containing the HFI and a number of essays on the nature of freedom, *Towards a Worldwide Index of Human Freedom* (McMahon 2012), is available in PDF format at <http://tinyurl.com/bjtbswh>.

References

- Amnesty International. 2007. *The State of the World's Human Rights*. Elk Grove Village, Ill.: Alden Press.
- Berlin, Isaiah. [1958] 2002. Two Concepts of Liberty. In *Liberty: Incorporating Four Essays on Liberty*, edited by Henry Hardy, 166–217. Oxford: Oxford University Press.
- Bouillon, Hardy. 2004. *What Are Human Rights?* Potsdam, Germany: Liberal Institute of the Friedrich Naumann Foundation. Available at: <http://www.fnf.org.ph/downloadables/What%20are%20Human%20Rights.pdf>.
- Constant, Benjamin. [1816] n.d. *The Liberty of the Ancients Compared with That of the Moderns*. Reprint. Arlington, Va.: Institute for Humane Studies. Available at: <http://www.uark.edu/depts/comminfo/cambridge/ancients.html>. Accessed April 3, 2014.
- Declaration of the Rights of Man. 1789. Reproduced by the Avalon Project, Yale Law School. Available at: http://avalon.law.yale.edu/18th_century/rightsof.asp. Accessed April 3, 2014.
- Freedom House. 2008. *Freedom in the World Report*. Washington, D.C.: Freedom House. Available at: <http://www.freedomhouse.org/template.cfm?page=363&year=2008>.
- Gwartney, James, and Robert Lawson. 2006. *Economic Freedom of the World: 2006 Annual Report*. Vancouver: Fraser Institute.
- . 2008. *Economic Freedom of the World: 2008 Annual Report*. Vancouver: Fraser Institute.
- Gwartney, James, Robert Lawson, and Walter Block. 1996. *Economic Freedom of the World: 1975–1995*. Vancouver: Fraser Institute. Available at: http://oldfraser.lexi.net/publications/books/econ_free95/. Accessed March 3, 2014.
- Hanson, Victor Davis. 2002. *Carnage and Culture*. Sioux City, Iowa: Anchor Books.
- Hayek, Friedrich A. [1960] 1978. *The Constitution of Liberty*. Chicago: University of Chicago Press.
- Hobbes, Thomas. [1651] 1996. *Leviathan*. Edited by Marshall Missner. London: Pearson Longman.
- Inglehart, Ronald, and Christian Welzel. 2009. How Development Leads to Democracy. *Foreign Affairs* 88, no. 2.
- Locke, John. [1690] 1960. *Two Treatises of Government*. In *The Works of John Locke*, vol. 4: *Economic Writings and Two Treatises of Government*. Online Library of Liberty. Indianapolis, Ind: Liberty Fund. Available at: http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=763&Itemid=27.
- McMahon, Fred, ed., 2012. *Towards a Worldwide Index of Human Freedom*. Vancouver: Fraser Institute.
- Mill, John Stuart. [1863] 2002. *The Basic Writings of John Stuart Mill: On Liberty, The Subjection of Women, and Utilitarianism*. New York: Modern Library.
- Rousseau, Jean-Jacques. [1762] 1950. *The Social Contract*. In *The Social Contract and Discourses*, translated by G. D. H. Cole, 4–134. Boston: E. P. Dutton.

- Sen, Amartya. 1999. *Development as Freedom*. Sioux City, Iowa: Anchor Books.
- Stark, Rodney. 2006. *The Victory of Reason: How Christianity Led to Freedom, Capitalism, and Western Success*. New York: Random House.
- Thucydides. 1996. *Pericles' Funeral Oration*. Translated by Richard Hooker. Minneapolis: University of Minnesota Human Rights Library. Available at: <http://www.umn.edu/humanrts/education/thucydides.html>. Accessed April 3, 2014.
- United Nations. 1948. *The Universal Declaration of Human Rights*. Available at: <http://www.un.org/Overview/rights.html>. Accessed April 3, 2014.
- . 1991. *Human Development Report*. New York: United Nations.
- United Nations Development Program. 2000. *Human Development Report: Human Rights and Human Development*. New York: United Nations.
- Zakaria, Fareed. 2003. *The Future of Freedom: Illiberal Democracy at Home and Abroad*. New York: Norton.

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