The Political Economy of Liberty and Money

Stefan Collignon

This is a first draft of the first three chapters for a few selected readers.

Please do not quote, but send your feedback to: s.collignon@lse.ac.uk

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- Benjamin Constant: ancient and modern liberty
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CHAPTER 1. THE ARGUMENT

I. THE CONCEPT OF LIBERTY

We are all born free and equal, and we have rights of liberty which apply to us all. This is what we believe and “we hold this truth to be self-evident”.\(^1\) These ideas have become the moral standard of international legitimacy in the global community and they are embodied in the Universal Declaration of Human Rights which says that "All human beings are born free and equal in dignity and rights".\(^2\)

Yet, nothing is less "self-evident" than this truth, for there is plenty of evidence that human beings are neither free, nor equal, nor treated with dignity. Jean-Jacques Rousseau (1775 [1762]) famously wrote “man is born free, and everywhere he is in chains.” This is the curse of modern times. Rousseau did not know how to explain this contradiction, but he thought it could be made legitimate. As a modern person I doubt that, although I admit that living in what Popper (1995) called “closed societies”, many people seem to accept that constraints on their liberty are legitimate.

The thought that all humans share the same status of being free and equal by nature and that their liberty can be protected by fundamental rights reflects a revolution that has no equal. For ten thousand years or more, no one ever thought that people were equal, or that individuals had rights. For the ancients being free simply meant to live by the rules of the group or community to which they belonged and to be unfree meant to live by the rules of those who did not belong to them. Only the modern assertion that human beings are born free and equal has liberated individuals from the normative yoke of communities where the subordination to hierarchy prevails. Virginia Woolf (1937) once described modern liberty beautifully as “freedom from unreal loyalties”, namely nations, neighborhoods, sex, teachers, schools, churches, ceremonies etc.\(^3\)

Rousseau asked how the change from being born free to living in slavery did come about. I turn this question around and ask how people came to believe that all human beings are born free and equal? Freedom and equality are not a natural state. Despite numerous antecedents, such as the Magna Charta in England, the idea of modern liberty has entered the stage of world history only with the American Declaration of Independence in 1776 and with the French Declaration of the Rights of Man and of the Citizen in 1789. It finally became enshrined in the Universal Declaration of the United Nations in 1948. Yet, there are still many parts in the world, where these ideas have no meaning.\(^4\)

Benjamin Constant (1988) was the first to notice the difference whereby the liberty of the ancients was collective, while the liberty of the moderns was individualistic. I believe that the liberty of the ancients is the default mode of mankind, but I shall argue that it has been transformed by the development of the

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\(^1\) American Declaration of Independence, 1776

\(^2\) See United Nations, 1948 and (Goodhart M., 2013, p. 2) for a discussion.

\(^3\) Hayek (1944, p. 11) said something similar: “During the whole of this modern period of European history the general direction of social development was one of freeing the individual from the ties which had bound him to the customary or prescribed ways in the pursuit of his ordinary activities”.

\(^4\) Despite the claim of universality, we are still lacking a universally accepted agreement about how we ought to understand what human rights are. See Gosepath, S. and G. Lohman, 1998.
modern monetary economy so that it has now become the universal normative standard. I prefer to speak of the monetary economy rather than capitalism, for capitalism is an overburdened and normatively confused concept while the logic of money is simple and elegant. However, the transformation of traditional into modern societies has never been smooth and the normative conflict between the two concepts of liberty underlies the famous “clash of civilizations”, of which Huntington (1996) spoke. If we wish to understand it, we need to clarify on what grounds people reject modern liberty and under what conditions they will accept it.

The answer is not easy. In many parts of the world, people understand human dignity and liberty very differently from the “modern West”. And even in the West there are many who deny certain individuals the status of being free and equal. Yet, the question is not why liberty is suppressed, or why equality remains an ubiquitous mirage, or why human rights are so difficult to enforce. Such questions only make sense in societies where the meaning of modern freedom is already widely shared and where it seems obvious that individual freedom is part of human dignity. What needs to be explained is how the norms of modern liberty have become so widely shared.

Nevertheless, there is something odd about the proposition that all human beings are born free and equal. It assumes a normative standard which is clearly in contradiction with the facts. According to Freedom House, 2.6 billion people, or 36 percent of the global population are living under conditions called Not Free. In line with some crude empiricism, one may blame the lack of freedom on evil dictators, greedy elites and violent perpetrators, but this explanation does not work, because it does not deal with the normative question why people ought to be free and equal.

One answer to our question is that the desire for liberty is given by nature. We are born free and equal because humans are by nature rational beings and that implies that they must be free to be able to make decisions as they wish. But this crude rationalism also does not work, for it is easily rejected on logical grounds. For example if we say: “All human beings are born free and equal” and “slaves are human beings”, we must conclude that “slaves are born free and equal”, which is certainly not true. Logically, protagonists of slavery must therefore de-humanize those they wish to enslave – which is in fact what we often observe. To ground individual liberty in the biological evolution of human nature will not do either. Some human rights theorists have reactivated naturalist theories in a biological neo-Darwinian tradition, explaining that human rights are good for genetic changes and natural selection by the environment. Others “identify” certain attributes that are shared by all humans and then declare them

5 (Freedom House, 2015, p. 8) emphasizes that more than half of this number lives in just one country: China. They count 51 countries (25% of the total) as Not Free.
6 See footnote 7. One may also argue, as Leibniz did with respect to justice: “Justice follows certain rules of equality and of proportion no less founded in the immutable nature of things and in the divine ideas that are the principles of arithmetic and geometry” (Quoted in (Nelson, 2004, p. 148)). The desire for liberty would be grounded similarly in the immutable nature of human beings. David Ragazzoni has suggested to me that I call this naturalist argument an “ontological argument and distinguish it from the utilitarian argument. However, it will become clear in chapter 2 while the naturalist reasoning is just as epistemological as utilitarianism and should not be called ontological.
7 For a story along these lines see (O’Manique, 1992)
to be part of a “common human nature”. This revival of “natural law” foundations of human rights cannot convince either, for it commits a naturalistic fallacy as Moore (1993) already explained. It also poses epistemic problems: too large are the differences between the liberty of the ancients and the moderns; too embittered are the conflicts between civilizations which define liberty, equality and dignity in radically different ways. Human nature allows an enormous diversity of beliefs.

Modern political philosophy from Hobbes to Rawls has deconstructed the view that human rights, and therefore modern liberty, derive from God or from human nature in His image. Modern political ideas are not exogenously given; they are complex entities constructed from more fundamental elements (Buckley, 2005). They are epistemic organic unities, as Moore (1993) pointed out. In the Kantian tradition one would say these ideas are constituted by a priori synthetic propositions. Rawls (1999 [1980], p. 307) has explained that Kantian “constructivism holds that moral objectivity is to be understood in terms of a suitably constructed social point of view that all can accept. [...] apart from the procedure of constructing the principles of justice, there are no moral facts”. The same constructivism applies to modern liberty. Apart from the practices of interacting as free and equal individuals, there is no modern liberty. Yet, by following this argument, one has to clarify what kinds of practices are constructing modern liberty.

Rawls has proposed a particular “procedure of construction” for setting up principles of justice that took a rationalist bent. He wished to establish a “suitable connection” between a particular conception of the person and normative first principles and argued correctly (pp. 304-305) that the conditions for justifying a conception, such as justice or liberty, “hold only when a basis is established for political reasoning and understanding within a public culture”. I argue that this culture emerges from the general acceptance of specific ideological background discourses and their correlated practices. Because monetary discourses generate a particular culture, societies which are based on monetary economies are characterized by the norm of individual liberty.

Now, Rawls argues that the reason for accepting a particular concept is that it “is (most) reasonable for [people] in virtue of how they conceive of their persons” to do so. And this means that they will accept normative concepts and social institutions “that conform to the freedom and equality of citizens as moral persons”. Yet, while this procedure may justify Rawls’ construction of justice as fairness, it is not helpful for the foundation of modern liberty. For Rawls assumes what needs to be explained: the fact that people regard themselves as free and equal. Even human dignity and the worth of a person are neither immutable, nor necessary, nor universal. Hence, instead of assuming the background discourses of modern societies as given, one has to show what the foundations for their acceptance are.

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8 See (Griffin, 2008). For a discussion see (Valentini, 2012).
9 Note that “general acceptance” is a weaker condition than Kant’s necessary and universal truths, which characterize a priori statements.
10 The issue becomes prevalent even for Rawls when in The Law of Peoples (1999) speaks of well-ordered societies, some of which are liberal and others decent and hierarchical. Thus, the decent people may not believe in freedom and equality, but they are decent enough not to aggress the liberals.
The key question in this book is this: how was it possible to think what no one had thought before, namely that individuals are born free and equal?11 What has caused the changes in the meaning of liberty and how was it possible that the new and modern meaning has been increasingly accepted in many parts of the world while it has been rejected in others? In other words, how come people believe that the belief that they are born free and equal is true? This is an epistemic and not an ontological, i.e. not a factual, question. However, we also want liberty to be a reality. This reality is created when the belief is enacted in the social practices of daily life, of which economic practices are by far the most pertinent ones. What sustains these practices are institutions, and because money makes the world go round, money is a key institution in our story. The belief that all human beings are born free and equal is the normative core of modern liberty, but it is sustained by the institutions of democracy and human rights, by markets and money. We will see that institutions are built by rules which have normative content, and this implies that institutions only exist because their normative content is collectively accepted, practiced, and re-enacted. Understanding how the general acceptance of modern liberty came about may open the way for a new world in which human beings can live in peace and dignity as free and equal individuals. Clarifying this acceptance is my task in this book.

But given that we, who live in modern societies, take the norms, rules and institutions of modern liberty for granted, we find it hard to understand why others do not accept them. We have to question our own “unreal loyalties” and break our attachments to familiar doctrines to go beyond this limitation. As long as we believe that modern liberty is the only acceptable form of liberty, it is impossible to understand how the freedom of the group has turned into the freedom of individuals. We have to forget, so to say, who we are in order to find out who we have become - and ultimately what an extraordinary revolution the idea of modern liberty is.

But how can we ever forget who we are? According to Skinner (2002, p. 58) it is impossible to study the past without bringing to bear our own expectations and pre-judgements. And yet, we can always step out of our conventional certainties by formulating guesses, make anticipations, produce tentative solutions to our questions and problems, hence by formulating what Popper (2002) called conjectures. These conjectures are synthetic in a Kantian sense insofar they bring together and articulate old and new thoughts, but whether these conjectures are refuted or accepted depends on the evidence and on their coherence with a broader set of accepted norms. To understand how modern liberty became generally accepted, one must therefore reflect on the context within which modern human beings stand when they believe in freedom and equality.

11Michel Foucault (1966) famously tells how reading a 17th-century text regarding an ancient Chinese encyclopedia made him rethink his own thoughts. His book, he writes, “first arose (...) out of the laughter that shattered, as I read the passage, all the familiar landmarks of thought—our thought, the thought that bears the stamp of our age and our geography—breaking up all the ordered surfaces and all the planes with which we are accustomed to tame the wild profusion of existing things and continuing long afterwards to disturb and threaten with collapse our age-old definitions between the Same and the Other.” And he concludes: “the thing we apprehend in one great leap, the thing that, by means of the fable, is demonstrated as the exotic charm of another system of thought, is the limitation of our own, the stark impossibility of thinking that.” (Emphasis added). I believe that when we think about liberty, we encounter a similar limitation of our own system of thought.
An important part of the background context for modern liberty is the monetary economy. However, the connection between liberty and money remains incomprehensible as long as we interpret money purely as a means of exchange and the economy only as a market where people exchange useful goods. But when we look at money as a means of payment by which one discharges debt contracts, we recognize the importance of financial promises in a contract economy. We shall then discover that the normative foundations of money have the same logical form as modern liberty. They are deontic rather than utilitarian, and contracts constitute modern claim-rights which constitute individuals as free and equal. It is on these claim-rights that modern liberty is built. Moreover, we will see that the economic dynamics resulting from money as liquidity par excellence has contributed to the universalization of the norms of modern liberty across the globe.

In this chapter, I shall outline my basic argument for explaining the foundation of modern liberty. We shall first look at the manifestations of liberty as norm and fact, and then discuss the varieties of liberty in a normative sense. I shall then analyze the institutions of modern liberty and explain why money is the foundational institution. The last section of the chapter will produce some evidence for this hypothesis.

**Varieties of Liberty**

What does it mean to be free? For Hannah Arendt (2006, p. 142) raising this question was “a hopeless enterprise, fraught by contradictions, antinomies and logical dilemmas”. For MacCallum (1967, p. 313) freedom was simply one of many possible social benefits, and conceptual disputes about the nature of liberty were “attempts by parties opposing each other (...) to capture for their own side the favorable attitudes attaching to the notion of freedom”. Nevertheless, some clarity is needed. I suggest we go beyond the abstract structure of the concept of liberty and show how the norms of liberty are enacted by the practices of people’s daily lives. Thus, we must think of liberty simultaneously as a normative concept and as a social fact. As Burke (1775) put it: “Abstract liberty, like other mere abstractions, is not to be found. Liberty inhere[s] in some sensible object”.

**Liberty as Norm and Fact**

There are many shades and forms of liberty.\(^\text{12}\) Freedom does not mean the same thing to all people at all times. Not only is the norm of liberty applied to many different practices, such as the freedom to speak freely, to practice one’s faith or to marry whom one loves, or to free markets, non-discrimination, absence of deprivation and poverty, but the norm of liberty itself is not immutably the same in all contexts.

Benjamin Constant was the first to see the conceptual difference between the liberty of the ancients and the moderns that is the main subject of this book. Constant’s distinction may clarify the norms underlying traditional and modern societies and how normative change has become possible. Ancient liberty is not just a historical phenomenon. It is still present in modern times when a government justifies

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\(^\text{12}\) In English language there is even a distinction between freedom and liberty. See (Pitkin, 1988). I will use the two notions interchangeably, although I tend to use liberty more frequently for macrostructures and freedom for individuals.
suppressing dissidents on grounds of national sovereignty, when the military stages a coup, when Sharia law is invoked to punish norm-deviating behavior, when the constitution of a country invokes religious norms as its foundations, or when xenophobia turns against foreigners and ethnic minorities. Hopefully the distinction between ancient and modern liberty will help us to explain at least some aspects of the clash of civilizations that has increasingly unsettled the post-Cold War period. But the ultimate task of this book is broader. We shall not only analyze what distinguishes traditional and modern value systems, but we also seek to understand how these norms have become generally accepted and how they are reproduced in the concrete practices of societies.

All the different concepts of liberty arise from the human condition of simultaneously being alone and being a “social animal”. Because we do not live alone, we cannot act without taking into consideration what other people think. We must coordinate our actions, and liberty is one of many ways for doing this. The different forms of liberty are variegated answers to the question how the singular individual ought to live and interact with the many in community.

Thus, liberty is both, a normative concept which emphasizes that human interactions ought to be based on voluntary choices and agreements, and an institutional practice which is enacted in daily life when people act accordingly. Sometimes liberty is treated as if it were a good that provides benefits; it can be valued, traded, sacrificed or lost. But liberty is not a commodity and freedom is not a possession. It is a norm that stipulates the conditions which need to be fulfilled in order for someone to be free, and when these conditions are met, liberty is a fact.

Social facts emerge from practices when thinking and doing merge. Thinking about how to act is normative. Factual liberty is therefore the property of a social practice, which has, like all social practices, normative content. Facts are true, but – as I shall discuss - norms are valid in the sense that it is reasonable to accept them. For this reason norms are prior to the existence of social facts, although they are not necessarily prior to social practices. The normative validity of the concept of liberty is a necessary condition for liberty becoming reality.

However, norms and facts interact. What we think determines what we do (and what we do not do), and what we do creates reality. But what we do also determines what we think, and the loop from thought to action and back to thought takes place in time. This is an autoregressive process, where new conjectures can change the path of development. In this dynamic interaction lies the key to understanding how societies change. Different norms will structure social practices differently, and they thereby generate different facts and realities. When we think and act differently from what we have done before, the world is no longer the same. In this book, I seek to understand how the particular rule-set of modern liberty has become the universal standard against which all other concepts of liberty are legitimately compared and judged. To find an answer we will have to focus on what generates the acceptance of conceptual change.

Yet, many human rights activists accept modern liberty as a valid normative convention that deserves to be enacted and they hope to close the gap between norms and facts by exposing the gap’s existence and by using legal instruments for suppressing deviating behavior. They assume, thereby, the validity of the
modern normative standard as self-evident. Yet, it is precisely this validity which needs to be explained before one can attempt to close the gap. Unless human rights activists question the validity of their modern norms, they cannot understand why some people resist them in the name of traditional liberty.

One of the greatest obstacles for understanding normative change in the thinking about liberty, equality and human dignity is the assumption that agents have well-defined and unchanging preferences. Often such stable preferences are derived from universally valid norms and rules, on the basis of which they make consistent and rational intertemporal choices. People have croissants for breakfast in Paris and bánh phô in Hanoi because that is the norm; they stop at red traffic lights because that is the rule; and they speak their mind because that is allowed in a free country. No doubt, many short-run individual decisions are taken within such normative frameworks, but in the long run the preferences of societies are not stable; they change as social norms are changing. This is the fundamental insight of political constructivism that still waits to be integrated into the economic theory of the long run. Yet, assuming that human beings have a natural inclination to be free, prevents us from seeing how the normative content of the concept of liberty has changed over time.

In modern discourses, liberty implies equality of rights, and unless both liberty and equality are factual, human dignity is violated. Thus, liberty is a normative standard which is composed of several parts. Denying the validity of a part of this standard invalidates the whole. In the Kantian philosophical tradition statements about such composed standards are called analytically true or self-evident.\(^{13}\) It follows that if individuals are not granted equal rights, it is not true that they are free, and if they are not free, they are deprived of their status of true human beings. Hence, whether one is free depends on whether all individuals have equal rights. The existence of liberty is then a matter of fact, which is either true or false, and there is no need to discuss the validity, i.e. the acceptance, of the concept of liberty.

By contrast, in this book I suggest a different route. We will inquire what generates the normative validity of the concept of modern liberty – and in extenso that of equality and human dignity. Thus, we treat this concept in the Kantian tradition as synthetic a priori, which means we look at the conditions which turn the statement that all individuals are born free and equal into a valid statement. For Kant, synthetic a priori statements were necessarily true and therefore universally valid. However, contrary to Kant, I will argue that the validity of the concept of modern liberty is not universal, but local. It is a contingent and not a logically necessary concept. In other words, the different concepts of liberty are only valid in specific contexts. Hence, we need to clarify which are the contexts where the norm that we are all born free and equal makes sense. I will show that modern liberty depends on the institution of contracts which are generated in the context of monetary economies. However, money does not only ground the norms of modern liberty, it also propagates them. We will find that the monetary economy provides the mechanism by which the local concept of modern liberty is gradually universalized and this is how the idea that we are born free and equal has become the generally accepted quasi-universal standard for judging how people ought to live.

\(^{13}\) See (Kant I., Kritik der reinen Vernunft, 1998)
Our analysis postulates a close link between norms and facts and this is not uncontested. Since David Hume, positivist philosophers have insisted on keeping the two separate. Yet, Kant’s aim was precisely to go beyond Hume’s strict separation between normative ideas and empirical facts - a separation whereby only the observation of facts allows rational action, while norms articulate exogenously given and subjective preferences. This distinction is still influential, especially in economics. Von Mises (1981, p. 169) wrote that “science cannot decide whether freedom is a good or an evil or a mere matter of indifference. It can only inquire wherein freedom consists and where freedom resides”. And Milton Friedman (1953, S. 154-155) claimed that “positive economics is in principle independent of any particular ethical position or normative judgments”, while normative economics is about making policy judgments which are based on “fundamental differences in basic values, differences about which men can ultimately only fight”. This would imply that economics has nothing to do with liberty, equality and dignity, and, I would add, money is purely a useful instrument for facilitating the exchange of commodities without any normative implications. If there is a conflict between ancient and modern liberty, one has to fight it out - even with military might to make right what is wrong.

I challenge this view. My approach goes beyond the separation of facts and norms because I seek to explain social facts out of their normative foundation. For the positivist de gustibus non est disputandum. But without explaining how the norms were constructed and how we came to believe that individuals are free and equal, the tastes, claims and actions intended to make modern liberty a reality are groundless. For those who do not recognize that all human beings are born free and equal, modern liberty appears as a violation of liberty and human dignity as they understand it. Conflicts between believers and disbelievers, between modernists and traditionalists are then inevitable and they must be settled by force and power. This is an unsatisfactory state of affairs. We need a theory that explains the foundation of norms of liberty in social practices without closing the system to the freedom of normative change.

I shall argue that this foundation is found in the practices of making promises and concluding contracts, and that these practices prevail in monetary credit economies. Hence, the normative validity of individual freedom and equality is anchored in the institution of money and was propagated by it across the planet. In the second part of this book, we will study how these economic practices are reflected in the liberty discourses of some of the most eminent political and economic thinkers.

Ultimately however, we are interested how modern liberty becomes a fact, and how people enact the norms of liberty in their daily practices. As Constant said “we must have liberty, and we will have it”. He meant, I believe, that social facts follow norms. But given the never-ending struggles by human rights activists this statement seems over-optimistic. There is no automaticity between claiming liberty and getting it. Don’t we witness every day the divorce between norms and facts? Revolutions have been

14 As Somek (2008, p. 271) put it: “Unless an answer can be given to the question of why an individual should want to have the desires that are important to his life as a whole, the individual cannot be said to be autonomous”. And only autonomous individuals can be free in the modern sense.
fought, wars have been waged, and NGOs struggle every day to close the gap between liberty and domination, between freedom and repression, and international human rights aim at constraining the sovereign power of states. And yet, without the general acceptance of the norms and values and principles of modern liberty, none of this would be possible; the quest for freedom would be pointless. This book proposes a foundational theory of modern liberty that, I hope, will help to turn the claims for freedom and equality into factual reality.

**DEGREES OF LIBERTY**
We will now look at some empirical facts of liberty. As we have seen, liberty is first of all a normative claim, which becomes a fact when the conditions set out by this claim are fulfilled, but before discussing the normativity of liberty, it may be helpful to start with some factual evidence. We will first review how to measure liberty and then relate these measures to the role assigned to liberty in economics.

Degrees of liberty measure the extent to which the norms of liberty are realized in actual practices. The gap between norms and facts can be measured by constructing indices, which assemble a list of propositions how the norm of modern liberty ought to be applied in concrete practices. For example, one may ask whether freedom of speech, freedom of assembly, due legal process, free elections etc. are guaranteed by law and whether the law is implemented in practice. A quantifiable degree of liberty is then obtained by counting the number of “true” propositions regarding a reasonably large set of such practical applications.

Freedom House in New York publishes the most frequently used indices for measuring political rights and civil liberties. It covers most states of the world since 1972. According to their assessment for 2013, 40% of the world’s population live under political regimes that are free, 35% are unfree and 25% are in between (called partially free).\(^\text{15}\) Important changes have taken place over time: The state of freedom reached its nadir in 1975, when 40 countries, just 25 percent of the world’s independent states, were ranked as *Free*, compared with 65 countries, or 41 percent, ranked as *Not Free*. Since then the state of freedom in the world has improved.

\(^{15}\) See: [http://www.freedomhouse.org/sites/default/files/Country%20Status%202013%20Ratings%20Overview%2C%202013.pdf](http://www.freedomhouse.org/sites/default/files/Country%20Status%202013%20Ratings%20Overview%2C%202013.pdf) [accessed 1.5.2014]
Figure 1.1. shows that the percentage of unfree countries has shrunk, the free world has grown, but it is remarkable that nearly two thirds of the world is still not fully free. One may argue that “it takes time” to improve freedom. But time is never the cause of anything. A better question is to ask what is the probability of a country to improve its freedom status? Table 1.1 presents the transition probabilities for political rights. There is a high degree of inertia: The probability for a country that was already free in 1972 to have remained free in 2013 was 78 percent. If it was partially free, it had a nearly 50:50 chance to remain there, and the likelihood of staying non-free was similar, although slightly less. Only a quarter of all non-free countries have managed to become free, while 5 percent of free countries have become non-free. A country that was partially free had twice as good a chance to become free than to become oppressed.

Thus, the big picture has been a gradual and slow transition to freedom in the world, where the status of partial freedom has played a significant role. However, this move towards freedom is not universal. If the process described by these transition probabilities would continue for a long time, the distribution of freedom in the world would converge to a stationary equilibrium shown at the bottom of Table 1.1. Only 58.5 percent of all countries would become truly free, while 13.6 percent would remain permanently unfree. Thus, time fixes nothing. A big bloc of mankind would stay unfree forever, if the world continues to work with the transition probability distribution which has prevailed over the last half century. This is odd. Do people not love freedom wherever they live on the planet? Is liberty not a fundamental human right that ought to apply to all mankind?
Table 1.1. Transition Probabilities for Political Freedom in the World

<table>
<thead>
<tr>
<th></th>
<th>1972 Free</th>
<th>1972 Partially Free</th>
<th>1972 Non-free</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012 Free</td>
<td>78.0</td>
<td>34.3</td>
<td>24.2</td>
</tr>
<tr>
<td>Partially Free</td>
<td>17.1</td>
<td>48.6</td>
<td>32.3</td>
</tr>
<tr>
<td>Non-free</td>
<td>4.9</td>
<td>17.1</td>
<td>43.5</td>
</tr>
</tbody>
</table>

|                | 100       | 100                 | 100          |

Stationary Equilibrium Distribution

|                | 58.5      | 27.9                | 13.6         |

Source: Freedom House (2013) and own calculations

GAPS BETWEEN POLITICAL AND CIVIL LIBERTY

Varieties of liberty are even more pronounced when we look at what it means in daily life applications. Political philosophers have distinguished political liberty from civil liberty. Both are based on rights which protect individuals' freedom from infringement by governments, social organizations and private individuals and by guaranteeing a right to privacy, freedoms of thought and conscience, speech and expression, religion, the press, assembly and movement. However, political liberty reflects more narrowly the vertical relations between governments and the governed and it is constituted by rights that ensure one's ability to participate in the civil and political life without discrimination or repression. Civil liberty describes horizontal relations between individuals that ensure peoples' physical and mental integrity, life and safety by protecting them against discrimination on grounds of race, gender, ethnicity, sexual orientation, religion, or disability. Broadly we may say that political liberty protects individuals against tyrannical rulers, while civil liberty protects them against the tyranny of the majority. Usually, the two are assumed to develop together, but this is not always true. When the two split, we speak of illiberal democracy and of tolerant authoritarianism.

Zakaria (1997) has classified countries as illiberal democracies when they are at least partially free and the index value for political rights exceeds the value of civil liberties. Thus, in illiberal democracies individuals suffer from the tyranny of the majority; multiparty elections take place, but the protective rights for individuals are either severely constrained or unenforceable or distorted by corruption and minorities are suppressed. Elections are free but not fair. Typically, in illiberal democracies presidents are elected by large (silent) majorities, but minorities such as opposition parties, trade unions or NGOs are limited in the scope of their activities.

However, the opposite case is also possible: civil liberties may be higher than political rights. I call this tolerant authoritarianism. Authoritarian governments let people get on with their lives as long as they do not interfere with those who hold political power. Economic liberty can thrive in such environments, at least at an early stage of capitalist development, because free markets, consumerism and free enterprise...
broaden the freedom of choice for individuals. However, civil liberty hits its limits when it threatens the privileges and power of ruling elites.

Based on the two Freedom House indicators for political and civil liberty, we calculate the gap between the two indices and take this as a measure for illiberal democracies and tolerant authoritarianism.\textsuperscript{16} Table 1.2 shows the gaps between political and civil liberties for the year 2012 for all countries sampled by Freedom House.\textsuperscript{17} Although such lists vary from year to year, it is interesting that illiberal democracy and tolerant authoritarian regimes are fairly balanced in terms of numbers, although the gaps are unequally distributed between countries with different status.

The data show, first of all, that free countries are more likely to give priority to political liberty over civil liberty, while nearly three quarters of countries with tolerant authoritarianism are not free. Tolerant authoritarianism is nearly twice as widespread among partially free (PF) countries as illiberal democracy. Second, the gaps are bigger for tolerant authoritarian countries; no illiberal democracy has a gap of -2. Third, among free countries there is a greater tendency to turn to illiberal democracy than toward tolerant authoritarianism. Hence, the status of free countries is supported by strong political rights and threatened by limitations of civil rights. The opposite is true for Not Free (NF) polities. Such countries are inclined to grant more civil liberties if they do not threaten political domination.

\textsuperscript{16} “A country or territory is awarded 0 to 4 points for each of 10 political rights indicators and 15 civil liberties indicators, which take the form of questions; a score of 0 represents the smallest degree of freedom and 4 the greatest degree of freedom. The political rights questions are grouped into three subcategories: Electoral Process (3 questions), Political Pluralism and Participation (4), and Functioning of Government (3). The civil liberties questions are grouped into four subcategories: Freedom of Expression and Belief (4 questions), Associational and Organizational Rights (3), Rule of Law (4), and Personal Autonomy and Individual Rights (4). The political rights section also contains two additional discretionary questions. For additional discretionary question A, a score of 1 to 4 may be added, as applicable, while for discretionary question B, a score of 1 to 4 may be subtracted, as applicable (the worse the situation, the more points may be subtracted). The highest score that can be awarded to the political rights checklist is 40 (or a total score of 4 for each of the 10 questions). The highest score that can be awarded to the civil liberties checklist is 60 (or a total score of 4 for each of the 15 questions). The scores from the previous edition are used as a benchmark for the current year under review. A score is typically changed only if there has been a real-world development during the year that warrants a decline or improvement (e.g., a crackdown on the media, the country’s first free and fair elections), though gradual changes in conditions, in the absence of a signal event, are occasionally registered in the scores.” \url{http://www.freedomhouse.org/sites/default/files/Methodology%20FIW%202014.pdf}

\textsuperscript{17} Because the Freedom House index goes from 1 (most free) to 7 (totally unfree), illiberal democracy has a negative gap and tolerant authoritarianism a positive gap for PL-CL.
An interesting question is whether and how these two regimes of liberty interact and I shall present some econometric evidence at the end of the chapter. Zakaria (1997, S. 24) has suggested that illiberal democracy may be replacing old-fashioned dictatorships: “Few illiberal democracies have matured into liberal democracies; if anything, they are moving toward heightened illiberalism. Far from being a temporary or transitional stage, it appears that many countries are settling into a form of government that mixes a substantial degree of democracy with a substantial degree of illiberalism. Just as nations across the world have become comfortable with many variations of capitalism, they could well adopt...
and sustain varied forms of democracy. Western liberal democracy might prove to be not the final destination on the democratic road, but just one of many possible exits. If this were true, we ought to conclude that the struggle for liberty cannot be reduced to political revolutions installing democracy. Instead one ought to focus on battles for civil liberty. However, in this crude form the hypothesis is not supported by the facts.

Figure 1.2 shows that over time important regime shifts have taken place in the world. Although political and civil liberties do rarely diverge in advanced industrial countries, imbalances seem to occur on the planet in nearly one country out of two. When Zakaria observed illiberal democracy in the late 1990s, it seemed to be expanding rapidly, but subsequently the trend has been inverted. The share of illiberal democracies was at its highest in 1998; since then it has been reduced by more than half, reaching its lowest level in 2005, primarily because civil liberties have caught up with political rights. By contrast, tolerant authoritarianism has gradually increased between 1995 and 2009. Since the Global Financial Crisis, illiberal democracy has been on the rise again, while tolerant authoritarianism has dropped and the share of countries without a gap between political rights and civil liberties has remained stable. This may be a sign that during economic crises, freedom is repressed by restricting civil liberties while the political regimes remain in place.

Figure 1.3 confirms that the gap between political and civil liberty tends towards tolerant authoritarianism in free countries and towards illiberal democracy in partially free countries, although in fully repressive countries the difference is no longer relevant. Thus, there is some non-linearity in the relation between the levels of liberty and the articulation of political and civil liberty. Perfectly free countries tend to grant utmost freedom, and truly unfree countries suppress everything, but in between these extremes, different regimes are possible.

18 For similar evidence see (Friedman B. M., 2005).
In general one may conjecture that as countries become freer, they tend to move from full dictatorship to illiberal democracy to tolerant authoritarianism, ending up with full freedom. Hence, it is still the struggle for political freedom where the road to liberty starts, while subsequently it is opening the door to civil liberty. Although there is no automaticity for such movements, the econometric evidence presented in the last section of this chapter does not reject this hypothesis. Nevertheless, evidence for correlations between different types of freedom does not explain causality. It is only the foundational theory of liberty based on money that provides an explanation for what drives the process of expanding liberty in the world and also what may block it. This conjecture is supported by the econometric evidence shown below.

**Figure 1.3**

![Proportion of Liberty Gaps](image)

ECONOMIC ARTICULATIONS OF LIBERTY

How can we explain the different states and regimes of liberty? One hypothesis, first popularized by Milton Friedman, is that civil liberty and political liberty are caused by economic liberty. Economic freedom supports wealth creation and, given that all people want to be rich, they choose liberty. Economic liberalization will transform political authoritarianism into democracies because repressive

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19 See: (Friedman M., Capitalism and Freedom, 2002)
regimes interfere with free markets and obstruct greater prosperity. As people become richer, they have more choices to do what they want. Thus, freedom grows with the economy. Not surprisingly, in the age of neo-liberalism, conditions of economic freedom have become the focus of structural reforms, which are often supported by international organizations like the IMF and the World Bank. However, the link between liberty and the economy is not that simple.

**Freedom and Prosperity**

The conservative Heritage Foundation, in cooperation with the Wall Street Journal, produces an index for measuring economic freedom. It tracks four key aspects of the economic environment over which governments typically exercise some control: Rule of law (property rights, freedom from corruption); Government size (fiscal freedom, government spending); Regulatory efficiency (business freedom, labor freedom, monetary freedom); and Market openness (trade freedom, investment freedom, financial freedom). This index measures effectively a narrow slice of political liberty, namely the protection of private economic activity against vertical interferences by governments. It blends out the horizontal dimension of civil liberty, most importantly the dimension of equality.

The 2014 *Index of Economic Freedom*, covering 186 countries in six regions, found that the average global score of economic freedom had reached 60.3 on a scale 0-100, the highest ever recorded in the 20-year history of the index. Of the 178 economies covered by the 2014 index, exactly half were considered “mostly unfree” or “repressed”. Only 6 countries (3 percent) were ranked as “free”, and 28 percent as mostly free. See Figure 1.4 which shows the distribution of liberty by countries. This index does not match comfortably with the Freedom House measures for political and civil liberty, for we find a large part of the world is economically but not politically “unfree”. If this is true, the Friedman hypothesis, whereby political liberty follows economic freedom, must be rejected.

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20 Along these lines Milton Friedman (1987, p. 130) has called General Pinochet’s dictatorship in Chile a political miracle: “Chile is an even more amazing political miracle. A military regime supported reforms that reduce sharply the role of the state and replace control from the top with control from the bottom”.

21 Hong Kong, Singapore, Australia, Switzerland, New Zealand, Canada
The idea of linking economic and political liberty is not new. John Locke’s *Two Treatises of Government*, the writings of French physiocrats, Adam Smith, Karl Marx, as well as Keynes, Hayek and Friedman all have discussed the relation between economic and political liberty. Yet, the evidence about the economy fostering political and civil liberty is mixed. At first, researchers discussed the correlation between economic development and political liberty, but recently they have been more interested in what comes first. While political interference was often seen as a danger for the creation of the wealth of nations, Lipset (1960) claimed to have found a strong causal relationship between economic development and democracy, which justified giving development aid to support the “free world” during the Cold War. But this aid could be interpreted as government interference in free markets and therefore a reduction of economic liberty. Milton Friedman (2002) turned the argument around to support his view that a free society is founded on economic institutions. He suggested that competitive capitalism – the organization of economic activity through private enterprise operating in a free market -

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22 Since Lipset’s and Friedman’s original hypotheses, a rich literature has produced supportive and dismissive evidence. To mention only a few, Barro (1997) found a weak effect of democracy on growth, but a strong positive linkage from prosperity to the experience of democracy. Persson and Tabellini (2006) have asked whether “democracy promotes economic development” and found that “the answer is positive, but depends – in a subtle way – on the details of democratic reforms”. Acemoglu et al. (2008, p. 812) have shown that while the positive cross-country correlation between income and democracy exists, it disappears when one allows for the idiosyncratic effects of development within different countries. They explain this apparently contradictory evidence by the fact that “political and economic development paths are interlinked and are jointly affected by various factors. Societies may embark on divergent political-economic development paths, some leading to relative prosperity and democracy, others to relative poverty and dictatorship.”

23 Lipset (1959, p. 69) had explained this causality by saying: “in dealing with democracy, one must be able to point to a set of conditions that have actually existed in a number of countries, and say: democracy has emerged out of these conditions, and has become stabilized because of certain supporting institutions and values, as well as because of its own internal self-maintaining processes.”
is a necessary condition for political and civil freedom, while political freedom was not necessary for economic and civil freedom.

However, the direction of this causality has been challenged. First of all, Amartya Sen (1999) has argued that development is the process of expanding the real freedoms which people enjoy and that prosperity is only one of the means by which this is achieved. Hence, human freedom, and not only economic freedom, is both the main purpose and the primary means of development. Secondly, when political and civil liberties help preventing economic disasters, for which there is solid evidence, causality can go in the opposite direction of what Friedman has claimed.

Acemoglu and Robinson (2012) have advanced the discussion by showing evidence over a long historic period whereby the dynamics of freedom and prosperity are not so much caused by economic policies or political ideologies or cultural values, but by political institutions which determine economic institutions. Hence, politics comes before economics. They distinguish between failed and successful nations, a concept that, for our purposes, entails the notion of unfree and free countries, and they relate their performance to “inclusive” or “extractive” institutions. Inclusive economic institutions allow and encourage participation in economic activities and enable individuals to make the choices they wish. They require secure property rights, an unbiased system of law and the provision of public services accessible to all, so that individuals can contract exchanges, enter new businesses and choose their careers. Thus, inclusive institutions generate or protect liberty.

By contrast, extractive economic institutions are designed to extract incomes and wealth from one subset of society to the benefit of the elites. Extractive economies often do not have secure property rights and the legal system and public services are biased in favor of the dominating group. Thus, power and repression are necessary for elites to be able to rule. In other words, inclusive systems are freer, more equitable, and even more egalitarian than extractive systems. Acemoglu and Robinson also argue that inclusive economic institutions support economic growth. They identify the political institutions, which determine who has power in society and to what ends that power can be used, as the key determinant for that outcome. Given that in democracies there is a more equal distribution of political power and that democracies encompass the norms of political pluralism and economic equality, the institutions of modern liberty affect growth and prosperity positively.

Acemoglu and Robinson (2012, pp. 73-76) observe, however, as well that the positive association between income and democracy only becomes clear over the very long run, because “most societies were nondemocratic 500 years ago and had broadly similar income levels”, so that “differences in development paths must be explained by diverging political and economic orientations that occurred at some critical junctures during the past 500 years”. While the long view behind this research is certainly helpful for our understanding of how modern liberty has emerged in Europe, it remains an open question how it was possible that non-democratic societies all over the world have come to accept economic and political institutions, which entail the normative idea that human beings are born free and

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24 See (Sen, Amartya and Jean Drèze, 1981).
equal in dignity and rights. This question applies not only to what happened 500 years ago, but also to at least one third of all countries in the world today. The past is always contained in the present.

Utilitarian Justifications of Liberty

A less mechanical view sees modern liberty as an evolutionary economic choice problem. People have innovated and experimented with different forms of freedom, they have found and kept what has worked to satisfy their natural desire to be free, and they have copied what they have seen and liked elsewhere. They fought for freedom and ultimately became victorious. In some cases it took longer because the enemies of liberty were stronger and nastier, but liberty has triumphed and will always prevail. In other words, people act as any other utility maximizing economic agent under constraints, and liberty is a self-evident value that defines their subjective utility. This explanation may describe some features correctly, but unfortunately, like in most choice models, it never specifies what generates the perception of utility.

In fact, a troublesome question is hiding behind the evidence of freedom indices: if all human beings are born free and equal in dignity and rights, why do they not always live in accordance with these norms? Or as Acemoglu and Robinson ask: why not always choose prosperity? If freedom and prosperity are correlated, then the choice of prosperity implies the choice of freedom. This turns the discussion of liberty into an economic choice problem. If liberty is chosen, people must have a preference for it and liberty must have utility. This is the utilitarian argument for justifying liberty.

Let us first deal with the obvious argument why people do not choose to live in liberty: it is that they can’t. If the world is not a freer place than it is, it must be because evil people in power prevent the rest from being free. Acemoglu and Robinson (2012, p. 84) blame predatory dictators and others in the elites who resist the redistribution of income which would make them worse off. There is certainly truth to that. “Political power grows out of the barrel of a gun” Chairman Mao Zedong said. But how come the powerful can exercise their power? Someone must trigger the gun; someone must give the order to shoot; someone must obey the order. And many must be watching silently. Similarly, if public stoning of women is admitted in some countries as a punishment for sex outside marriage, along with flogging for unmarried male offenders, this is a law that must find significant public support. Hence, power and putting up with it cannot be separated from what people think. But then we are back to our initial question: how come people accept to believe that they are born free and equal?

This brings us to the next point. People may not choose liberty because they do not want it. They want something else. Liberty may be “on the market”, just as “markets are on the market” to use Narveson’s expression. There is even “a market for holism” were a variety of religious faiths are on offer and it is up to individuals to decide if they want to adopt a religion or not. Along those lines one may say that there

25 In a fascinating exchange with Judge Raveh, Adolf Eichmann declared in his trial in Jerusalem that all his life he had tried to live according to the Kantian imperative, but he was unable to act accordingly because he was bound by his oath to the Führer. See: [http://www.nizkor.org/hweb/people/e/eichmann-adolf/transcripts/Sessions/Session-105-04.html](http://www.nizkor.org/hweb/people/e/eichmann-adolf/transcripts/Sessions/Session-105-04.html). (Accessed 19.3. 2014).

exists a market where liberty, equality, justice, welfare, etc. are on offer and purveyors of ideologies and public institutions compete for the public’s approval. Hence, if people do not choose more liberty, they must have other preferences that yield higher utility.

John Stuart Mill argued forcefully that the idea of liberty cannot be separated from utility, which he defined as a commitment to progress.\(^\text{27}\) However, his argument ran into trouble because of inconsistencies between the principles of liberty and utility. Mill has been called a consistent utilitarian who is not a great champion of liberty, and a true defender of liberty – but not on utilitarian grounds.\(^\text{28}\) Utilitarianism is the philosophical backbone of economic theory, defined as the science of rational choice. It formulates the principle that a choice is right or good if and only if the consequences of the choice, which may be a discrete act or a rule, increase or at least do not deteriorate the happiness and well-being of all human beings.\(^\text{29}\) Economists have formalized this idea by modelling rational individual decision makers who maximize their utility; aggregate social behavior will then result from behavior of all individual actors together so that macro-phenomena have microfoundations. However, I shall now argue that utilitarianism cannot provide the foundation for the belief that we are born free and equal.

Jeremy Bentham (1907, p. chapter 1 §3) defined utility in general terms as “that property in any object, whereby it tends to produce benefit, advantage, pleasure, good or happiness (...) or (...) to prevent the happening of mischief, pain, evil or unhappiness to the party whose interest is considered: if that party be the community in general, then the happiness of the community: if a particular individual, then the happiness of that individual.” Jevons (1970, p. 101) gave the classic economic definition of utility as “the abstract quality whereby an object serves our purposes and becomes entitled to rank as a commodity”.\(^\text{30}\) In economics, rational choice is a normative correspondence between what one tries to achieve (the goal) and how one goes about it (the means) and the binary relation between ends and means is described as the utility function (Sen A. , 1987, pp. 13-14). Rational choice has then two dimensions: one may choose one’s goals or one may select the means for accomplishing the goals efficiently, and liberty can be either of them – a goal or a means.

This classical concept of utility stands in the long tradition of Aristotelian scholasticism: Utility is a property in an object; it is intrinsic to it. Along similar lines, the classical value theory from Locke to Marx believed that the value of commodities was intrinsic to goods and services. However, with the marginal utility revolution in the 19th century this view became untenable. Utility was now understood as purely subjective “in the heads of people” (Robbins L. , 1938), although the subjective feelings of satisfaction were still attached to objects of desire and preference. Nevertheless, these feelings changed with the quantities of commodities. The assumption of a stable utility function implied a quasi-mechanical or technical relation between things and their utilities. It had no role for the volatile expectations which

\(^{27}\) “I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being.” (Mill J. S., 1993, p. 14).

\(^{28}\) See (Strasser, 1984) for a discussion. Strasser’s attempt to bridge the gap by extending utility into a timeless concept with infinite horizon is subject to the critique of utilitarianism due to insufficient knowledge about the future, which, as I will discuss below, led Keynes and Hayek to reject utilitarianism.

\(^{29}\) See (Bentham, 1907, pp. chapter 1 §2-3); (Mill J. S., 1993) (EGgleston, 2014); (Smart, 1973).

\(^{30}\) Emphasis added in both quotations.
were shifting utility assessments in Keynes’ *General Theory*. As a consequence, marginal utilities are still assumed to be functionally fixed to the quantities of goods and services and not to what people think. The utility function is stable, because preferences for goods were assumed to be externally given. Neoclassical economists never developed the instruments by which they could explain how the individual assessments of utility would change and how they could become objectively valid despite being anchored in the ontology of individual brains. But if utilitarian calculations were to explain the shift from ancient to modern liberty, we would need a theory of preference change.

As I shall discuss in the next chapters, this can be accomplished with the linguistic theory of value, which builds on Keynes’ description of monetary economies. In this theory, the subjective evaluations of utility are expressed in value statements, which are objectified when people conclude contracts. Economic value is assigned to goods and services by agreeing how much money is to be paid as a condition for satisfying a financial contract. This monetary paradigm shifts the focus of the analysis away from the “intrinsic” utility of things to the question how, in their minds, people agree individually and collectively on what is value and how their preferences change. I believe that the same mechanism that leads to the consensual acceptance of value statements in economics - and therefore to their epistemically objective status – also generates the general acceptance of normative discourses regarding liberty and therefore the objective validity of norms of liberty.

We have to keep this paradigmatic background in mind when we try to understand utilitarian justifications of liberty. Smart (1973) has linked the utilitarian discussion of means and ends to the two-fold evaluation of all choices: on the one hand, we judge an action as an *efficient means* for achieving a goal. On the other hand, we appraise what is “good” or “best” in the sense of *which goals* generate “greatest happiness”, well-being or welfare. Evaluating whether an action is “right” in terms of effectiveness requires judging the probable effects of an action. Habermas (1981) has called this instrumental rationality. It is at the core of utilitarian consequentialist ethics. But judgments about what is right in terms of preferences and in terms of ultimate moral and ethical principles require communicative rationality where arguments are exchanged and weighted by individuals. Rational choice in economics is primarily concerned with the first kind of evaluation and assumes the ultimate goals and values as given. However, our foundational theory of liberty aims at explaining how the norms of modern liberty have risen to the top of the preference ordering.

The utilitarian approach for founding liberty claims that people accept specific liberty discourses because it increases their happiness or welfare. If we look at liberty in this way, we must answer the fundamental question: how do we assess the utility of liberty? Utilitarians do not ask this question. They simply assume that liberty is either a means or an end. But if we believe that liberty is a means for some other end, we may adopt freedom only as long as it serves our ends – and drop it when it is no longer useful; if we think liberty is an end, we need to explain how we came to accept this idea, and not just assume that all human beings want to be free.

Let us first look at the welfare approach, which sees liberty as a means. It does not accept liberty for its own sake, but for the sake of some other end, such as welfare. For example, liberty may improve
productivity and create more wealth. Already Adam Smith (1978, p. 670) used this argument to defend free trade: “[P]erfect freedom of trade would even be the most effectual expedient for supplying them [i.e. trading nations], in due time, with all the artifices, manufactures and merchants, whom they wanted at home, and for filling up the properest and most advantageous manner that very important void which they felt there”. Here, the goal is prosperity, not liberty. In a similar vein, Amartya Sen (1999) wrote: “Development consists of the removal of various types of unfreedoms that leave people with little choice and little opportunity of exercising their reasoned agency. The removal of substantial unfreedoms (...) is constitutive of development”. That liberty may be good for wealth-creation and economic development is not necessarily a bad reason for accepting and defending liberty, but it does not explain why we consider the norm of freedom and equality of all human beings as valid.

A more serious problem is that if liberty has utility in the economic sense, it becomes a commodity that can be traded off. The utility of liberty can then be compared with other goals or means. Economic efficiency consists of achieving one’s given ends with the least possible input of means. Thus, if it is a means for achieving prosperity or growth or equality, liberty ought to be minimized. For example, Barro (1997, p. 61) claims that “more democracy raises growth when political freedoms are weak but depresses growth when a moderate amount of freedom is already established”. Here, liberty is contingent on how much it serves economic growth. Not surprisingly, those who defend the welfare thesis often argue that democratic freedom may be traded off for economic prosperity. This argument is implied by Barro’s thesis that too much liberty is bad for growth, and it has even been used to justify political regimes of development dictatorships.\footnote{See (Przeworski, Adam and Fernando Limong, 1993); (Menzel, 1993, S. 23).} Liberty as an instrument for something else cannot tell us why we believe that human beings are born free and equal; it only explains why free and equal individuals choose liberty to improve their lives.

Next we look at liberty as an end or final goal. This requires specifying what kind of liberty we are talking about: economic, political or civil? In neoclassical theory, comparing diminishing marginal utility from increasing any sort of liberty will lead to equilibrium where the amount of each form of liberty is optimal, because it matches the marginal utility of other liberties, and of other objectives such as equality or social justice. Thus, the utilitarian commitment to liberty is contingent on external conditions, in this case on a range of potential goals. But we still do not know from what grounds the preferences and marginal utilities are derived.

Milton Friedman (2002, p. 8) recognized the mutual contingency of means and ends for liberty: “Economic arrangements play a dual role in the promotion of a free society. On the one hand, freedom in economic arrangements is itself a component of freedom broadly understood, so economic freedom is an \textit{end in itself}. In the second place, economic freedom is also an indispensable \textit{means towards the achievement of political freedom}”.\footnote{Emphasis added.}

However, the idea that economic freedom is a goal in itself has never found much support and even Friedman mainly argued that economic freedom, which he set equal to capitalism, was a means for
sustaining personal freedom: “I know of no example in time or place of a society that has been marked by a larger measure of political freedom, and that has not also used something comparable to a free market to organize the bulk of economic activity”. Friedman justified the strategy of liberating competitive capitalism from government intervention and setting up a free society “through voluntary exchange in a free private enterprise exchange economy” (2002, p. 13). Economic freedom was a means for the end of broad liberty. To demonstrate how economic freedom contributes to broad liberty, Friedman cited (2002, p. 8) economic regulations that impose broader constraints on liberty in general: “The citizen of Great Britain who after World War II was not permitted to spend his vacation in the United States because of exchange control, was deprived of an essential freedom. (...) The citizen of the United States who is compelled by law to devote something like 10 percent of his income to the purchase of a particular kind of retirement contract, administered by the government, is being deprived of a corresponding part of his personal freedom.” Thus, it is not economic freedom but liberty in general that is the goal of eliminating economic regulations.

The nexus between economic freedom as means and general liberty as an end is the normative core of neoliberalism. However, it is often overlooked that general liberty entails political freedom and if economic freedom is a means for achieving liberty, the argument can also be inverted: if general liberty is to be maximized, political liberty must have priority over economic freedom as long as the marginal contribution from increasing political freedom is higher than economic freedom. Under these conditions, policies are entitled to constrain and even suppress economic freedom in the name of liberty, for any optimization can be expressed as maximization or as minimization. This is of course the opposite of what economic liberals wanted to achieve. To avoid this conclusion, economic liberals had to establish liberty as the highest and ultimate goal – independent of any contingent means. But by taking this route, they had to postulate a deontic and not a utilitarian justification for liberty. This is what libertarian economists have done most coherently.

ALTERNATIVES TO UTILITARIANISM

Deontological ethics are the alternative to utilitarian consequentialism. They deal with rights and obligations and the nature of moral duty without regard to the utility, goodness, value, motives or desirability of the ends of any act. In libertarian models, the acceptance of liberty is not derived from it being a means to well-being. Liberty is well-being. It is the ultimate goal, and rights are the means to accomplish it. Nozick (1974) has argued that the respect for individual rights is the key standard for protecting liberty, property and contract. In the opening phrase of his book he declares: “Individuals have rights, and there are things no person or group may do to them (without violating their rights)”. Rather than minimizing rights violations, one ought to refuse the violation of rights altogether.

33 For example von Mises (1981, p. 172) wrote. “[…] political freedom is not the whole of freedom. In order that a man may be free it is not sufficient that he may do anything unharmful to others without hindrance from the government or from the repressive power of custom. He must also be in the position to act without fearing unforeseen social consequences. Only Capitalism guarantees this freedom by explicitly referring all reciprocal relations to the cold impersonal principle of exchange do ut des (I give as you give, or colloquially, give and take).”
Nozick has derived this libertarian claim from the fact that individuals have “separate existences”. As a consequence, “no moral balancing act can take place among us” and each individual must be protected against “sacrificing one person to benefit another”. People are entitled to claim-rights that “prohibit aggression against another”. The foundation of liberty in rights is here no longer consequentialist and utilitarian; it reflects “the underlying Kantian principle that individuals are ends and not merely means; they may not be sacrificed or used for the achieving of other ends without their consent”.

Here, liberty is an end in itself because it safeguards the status of human beings as free and equal. The argument is coherent with political individualism. Nevertheless, the libertarian claim remains without foundation. Libertarian moral rights are given in a pre-moral state of nature à la Locke, but Nozick gives no further explanations about their status, so that Nagel (1975, p. 137) scolded him for not exploring “the foundations of individual rights and the reasons for and against different conceptions of the relation between those rights and other values that the state may be in a position to promote”. As I shall discuss in the next chapter, the reason for this missing foundation is the logical fallacy of confusing the ontological status of individuals (their separate existence) with their epistemic status of sharing collective intentionality. I shall argue below that agreeing on substantial preferences is coherent with holistic liberty, but problematic for individual liberty. However, the institution of rights overcomes this difficulty because it defines the spaces within which individuals are free to do realize their preferences. This is what libertarians correctly perceived, although they ignored that the constitution of rights is still based on general acceptance. Once we take this fact into account, it will become clear that only claim rights can constitute liberty. By seeing rights as entitlements, libertarians made no distinction between regulative command-rights and voluntary claim-rights. This makes libertarianism vulnerable to a friendly takeover by holism.

Another powerful critique of utilitarianism has been voiced by Friedrich von Hayek who has emphasized the uncertainty of knowledge. Hayek observed that in the late 18th century utility was still an attribute of means in the sense of usefulness. But later, utilitarians reinterpreted the term “to describe a supposedly common attribute of the different ends which they served”, such as pleasure or satisfaction (1982, pp. II, 18). This shift in the significance of the term utility was important because it generated higher demands on the human capacity of knowledge. In earlier times it had been fully understood that human efforts must be directed at providing means for unforeseen particular purposes, but rationalist constructivists derived the usefulness of means from known measurable common attributes like pleasure, which defined the ultimate ends. In other words, utilitarianism made the world deterministic. More recent stochastic versions of utilitarianism based on the rational expectations hypothesis have not changed this logic, for all forecast errors are assumed to have normal distributions with a zero mean. For Hayek such certainty of knowledge was impossible.

Hayek consequently identified utilitarianism with his life-long bête noir, namely “the constructivist interpretation of rules of conduct” (1982, pp. II, 17). By rational constructivism he did not mean Kantian constructivism à la Rawls, but the “characteristic error (...) to base [an] argument on what has been...

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34 See (Nozick, 1974, pp. 28-34) and (Mack, 2014).
called the synoptic delusion, that is, on the fiction that all the relevant facts are known to some one mind, and that it is possible to construct from this knowledge of the particulars a desirable social order” (1982, pp. I, 14). This error leads, he claimed, to the serfdom of a “deliberately planned society”.

Referring to the well-known distinction between act-utilitarianism and rule-utilitarianism,35 Hayek argued that while act-utilitarianism “can claim to be consistent in basing approval or disapproval of actions exclusively on their foreseen effects of ‘utility’”, the “factual assumption of omniscience which is never satisfied in real life” makes the existence of moral rules and laws “superfluous and unaccountable”. Rule-utilitarianism, on the other hand, required that all rules are fully determined by utilities known by all actors and on the rules being followed by all. Hence, “rule-utilitarianism consistently pursued could never give an adequate justification of the whole system of rules and must always include determinants other than the known utility of particular rules” (1982, pp. II, 20). This was an epistemic critique of utilitarianism: how could one know the ultimate goals of a group of heterogeneous individuals? But if one cannot know the long-run implications and consequences of liberty as a means, nor by which means liberty can be achieved if it were the final goal, then utility is unable to provide the foundations of liberty. I believe this insight has far-reaching implications for the clarification why a norm like “all humans are born free and equal” cannot be founded on utilitarian reasoning.

It is a curious incident that Hayek’s critique of utilitarianism was shared by his great adversary John Maynard Keynes. Hayek’s critique had already been formulated in the early 20th century by the Cambridge philosopher E.G. Moore (1993), who’s student was Keynes. The lectures and the publication of Moore’s Principia Ethica in 1903 had a transformative impact on the young group of students with whom Keynes was hanging out.36 In the third part of his book, Moore had argued that moral laws were never self-evident and that the acceptance of moral duty depended on conditions which will conjointly determine the effects of an action. It also required exact knowledge of the effects of these conditions and on the knowledge of all future events which will be affected by our actions. Moore therefore concluded that “it is obvious that our causal knowledge alone is far too incomplete for us ever to assure ourselves of this result”.37 Both Hayek and Keynes accepted this argument, but drew radically opposed conclusions from it.38

For Hayek the limitations of knowledge meant that the constitution of liberty had to be based on the spontaneous order which emerged as a general equilibrium of individual interaction and for which the invisible hand in markets was the obvious paradigm. Keynes went deeper into the philosophical consequences of Moore’s ethical theory. In his Treaty on Probability (1973 [1921]) he accepted Moore’s thesis of uncertain knowledge in the distant future (“in the long run we are all dead”), but he argued that probabilistic knowledge was possible, even if the mainstream frequentist theory of probability was not able to deal with fundamental uncertainty. Instead he proposed a theory of probabilistic knowledge,

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35 See (Eggleston, 2014) and (Miller D. E., 2014).
36 See (Keynes, My early beliefs, 1972) and (Skidelsky, 1992).
37 See (Moore G. E., 1993, pp. 198-199 (§90-91)).
38 Hayek explicitly and approvingly mentioned Moore in (1982, pp. II, 19)
which was logical knowledge under conditions of uncertainty, where conclusions could still be drawn from the “bearing of evidence”. In his General Theory he later translated this insight into the theory of liquidity preference. I shall show in chapter 3 that this theory allows us to understand how modern liberty is rooted in the practices of a monetary economy and also how it became diffused across the globe.

This brings us back to the foundational problem of modern liberty – which is epistemic. If there are different concepts of liberty, whether political, civil, economic, or positive and negative, or ancient and modern, the epistemic issue is how they have gained acceptance and become valid. Utilitarianism cannot explain why in traditional societies people do not accept that the apparently “self-evident” norms of modern liberty are valid for their lives. If the evidence in Table 1.1 above provides good reasons for believing that a substantial portion of mankind will never be free, we must not conclude that people have “false ideas” or incorrect understandings of liberty that should be corrected, but we must acknowledge that some societies must have reasons to follow other rules than those which were called universal by the United Nations in 1948. The big question is therefore: why do not all people follow the same rules and adopt the same norms of liberty? Moreover, isn’t the plurality of norms and rules part of modern liberty? Wouldn’t it be cultural imperialism to say all human beings must accept political individualism?

All liberty is founded in the practices and cultures of societies. Insofar as social practices enact social norms, they “reproduce the local prejudices of a particular society or culture as the dictated of reason” (Kelly, 2011, p. 22). But if we believe that all humans are born free and equal, we cannot stop at this normative relativism. We need to explain how modern liberty has become a generally accepted value standard without turning into a kind of cultural tyranny. However, if several concepts of liberty are valid, lack of individual freedom, violations of human rights, and the corruption of market economies are not just deviations from the only correct rule of liberty that confirm the rule. Rather they express the clash of inconsistent ideas and contradictions in the logic of action. Lack of freedom in the world is then more than an implementation problem that could be solved by international courts or by an international police force which enforces standards of human rights. Liberty is first and foremost a state of mind.

Before we move to discussing the normativity of liberty, let me clarify my own position. While it is true that I prefer modern liberty over political holism, the justification and defense of my preference is not the object of this book. Like anyone, I have my reasons why I accept the discourse of political individualism, just as others have theirs for rejecting it. What I seek to explain is how modern liberty is grounded in the concrete practices of daily life; my argument is not that modern freedom is better or worse than ancient liberty, or that Western culture is superior to non-Western traditions. Nor do I accept that respect for traditional cultures justifies the repression of modern liberty. As I have said, my task is to develop a foundational theory of liberty and, paradoxically, this implies challenging the view that human rights are universal. But I argue that under certain conditions the claim that all human beings are born free and equal is universalizable. I will explain what that means and how it works. For only if we understand how the norms, rules and practices of modern liberty have become generally accepted and
broadly recognized as valid will it become possible to realize and enforce individual liberty in practice. Political activists have tried to change the world. The point, however, is to understand it.
II. THE NORMATIVITY OF FREEDOM

Social facts are generated by social practices, but without the acceptance of norms, there are no practices.39 A practice enacts certain norms because it is constituted by rules which have these norms as content. When particular practices are widely performed, the norms on which they are based are generally accepted and become valid. This commutativity between norms and practices constitutes institutions. I shall discuss this in greater depth in the next chapter. However, before we can look at the process of normative acceptance, it is useful to know what norms we are accepting, when we claim liberty. Therefore, we now take a closer look at the normative ideas which shape the claims of liberty.

NORMATIVE CLAIMS: POLITICAL HOLISM AND INDIVIDUALISM

Normative statements make claims about how the world ought to be. The coherent articulation of such statements I call ideological discourse. An ideology is a discourse that describes the conditions that need to be satisfied for the world to fit certain norms, and it coherently articulates them by ranking and prioritizing these norms. The set of accepted and coherent ideological discourses constitutes a society’s value system.

We have already seen that there exists a variety of liberty discourses. We owe the insight to Benjamin Constant (1988) that modern liberty is individualistic and different from the collective freedom of the ancients. He also found that modern liberty is rooted in trade and the economy.40 However, his observation is not just a matter of empirical historic facts. Constant made a conceptual distinction which expresses different normative priorities and this distinction raises two related sets of questions: (1) how is the concept of modern liberty constituted? What are its norms and claims? What are the logical reasons for the procedures by which it is generated? (2) What is the rationality for accepting the concept? How reasonable is it to believe a particular concept of liberty and what are the reasons for accepting that all human beings are born free and equal?

It is important to keep these two sets of questions analytically separate, for when they are amalgamated, it is often believed that giving reasons for why one ought to accept a concept of liberty implies that one will actually accept it in practice. But that is wrong.41 Most of the literature focuses on how modern human rights can be justified and develops arguments based on reason, dignity, need, capabilities, autonomy and consensus (Goodhart M., 2013). However, justification is not the same as foundation. A discourse may be logically coherent and advance good reasons for actions, but ignored and irrelevant for

39 Insofar norms generate expectations, Popper (2002, p. 59) is right to say: “Expectations must come first, before repetitions”.
40 Historians have debated whether the “ancient economy” has followed a formal logic similar to our modern economic principles or whether it was substantially embedded in an elite-constrained system of status and domination. The issue goes back to John Hicks’ (1969) model of the First Phase of the Mercantile Economy, which provoked Moses Finley’s (1973 [updated 1999]) counterattack in his benchmark book The Ancient Economy, where he argued in the tradition of Karl Polanyi that status and civic ideology rather than supply and demand prevailed in the ancient economies. See also (Cartledge, 2002).
41 On a similar argument regarding scientific reasoning, see (Popper K., 2002, p. 75).
practical life. A foundational theory of liberty must explain how the normative discourse of individual freedom is enacted in the practices of societies.

We start with the set of questions regarding the content of liberty discourses. We shall deal with the acceptance issues and institutions below. So, what does Constant mean when he distinguishes between the liberty of the ancients and the moderns? Ancient liberty, he says, is collective freedom which subjects “the individual to the authority of the community” (1988, p. 311). By contrast, “the aim of the moderns is the enjoyment of security in private pleasures; and they call liberty the guarantees accorded by institutions to these pleasures” (p. 317). Thus, ancient liberty claims that the group, to which individuals belong, ought to be free, but it says nothing about the freedom of individuals; modern liberty claims that individuals ought to be free and equal and this freedom entails the freedom of the group within which individuals live. These are two diametrically opposed normative claims about relations between the one and the multitude, between individuals and collectives.

Normative claims are made through speech acts and, more generally, in the form of discourses. In order to emphasize the logical structure of different normative claims for liberty, I shall distinguish between discourses of political holism and political individualism. These two classes of discourses are characterized by two opposite axiomatic norms, which are the smallest logical units, the binary code, of political normativity. These norms give sense and structure to the relations between individuals and groups. The holistic norm states that “the group counts more than the individual” and the individualistic norm says “the individual counts more than the group”. These norms are then articulated by broader discourses, where they are combined, like a binary code, into a hierarchical order. This discursive order, which appears to describe an organic unit, establishes normative priorities and allows individuals to act and interact in the world with reasonable confidence and certainty. Note, however, that the organic unit is constructed by the normative discourses and it is a reality only as long as the norms are accepted and enacted in social practices. It has no ontological foundation and therefore changes with changes in normative discourses.

When the norms of political individualism take higher priority, they are articulated by discourses of political individualism; otherwise political holism prevails. This distinction between political holism and political individualism is crucial for understanding modern societies and their cultural conflicts with traditional values and fundamentalist political ideologies. In order to avoid confusions with other concepts, especially between normative, methodological and epistemological discourses, I have added the adjective “political” to individualism and holism. As will be discussed in the next chapter, political individualism, a normative concept, is clearly distinguished from methodological individualism which

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42 Tönnies (2001 [1887]) has articulated the contradiction between Gemeinschaft und Gesellschaft. Sociologists trace the distinction between holism and individualism back to Durkheim (1950). Popper (1995) considered political individualism the constitutive principle for an “open society”, which he understood to be “a civilization which might be perhaps described as aiming at humaneness and reasonableness, at equality and freedom”. By contrast, he saw “closed societies” as tribal and holistic societies. Dumont (1980) has shown the logical necessity between holism and hierarchy.
explains matters of agency, and political holism is distinct from epistemic holism which deals with issues of meaning.

The articulation of political holism and individualism shapes a variety of liberty concepts by putting the basic norms into coherently ordered discourses. The main distinction is, of course between the holistic liberty of the ancients and the individual liberty of the moderns, but even within these concepts we find further subtle differences.

For political individualism, the autonomy of individuals is the defining criterion which declares that all human beings are born free and equal in dignity and rights. The logical relation between individuals is here symmetric, while in political holism this relation is asymmetric. In this context, the notion of authority and power is important. 43 Power is the asymmetric relation which allows one set of individuals (the powerful) to prevent another set of individuals (the powerless) from acting as they wish. Authority is what generates legitimacy for the exercise of power (Dumont L., 1980, p. 167). The asymmetric relation of power is constituted and legitimized by the hierarchical structure of discourses which ensure the reproduction of the rules and generate social practices. Power is therefore entailed in the concept of holistic liberty; it is normatively incompatible with the symmetric relations between free and equal individuals. I shall say more about hierarchy below.

In traditional societies discourses of political holism dominate, while in modern societies political individualism prevails. Note, however, that speaking of “prevailing” and “dominating” norms implies that the opposite principle is always present, although in a subordinated position. Thus, normative discourses always come as a package, so to say, and normative change in a society means that the priority of norms is reversed in the order of discourses.

To bridge the tension between individuals and the collective without turning to political holism, modern liberty requires institutions, which on the one hand preserve and protect individual autonomy, while on the other hand they allow the articulation of collective interests. Such institutions of modern liberty are human rights, markets and democracy.

**Ancient Liberty**

For Constant, ancient liberty “consists in exercising collectively, but directly, several parts of the complete sovereignty. (...) If this is what the ancients called liberty, they admitted as compatible with this collective freedom the complete subjection of the individual to the authority of the community”. This is what characterizes political holism. In traditional societies “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” (1988, p. 311). The whole prevailed over the individual: “the individual was in some way lost in the nation, the citizen in the city” (1988, p. 312).

43 I will point out later that the two are not the same. Authorities are norm and rule setters, power is the capacity to prevent acts.
One implication of seeing the individual as part of an organic unit, as a member of a communitarian whole, is that each person has to fulfil a function that serves the subsistence of the whole. The whole is articulated as a group, the body politic, the nation, the tribe, etc. to which the individual is submerged for the sake of the wellbeing of the whole. The functions individuals must serve are arranged as hierarchical structures of rules, which ensure and preserve the unity, identity and wholeness of the group. Hence, in holistic societies the normative orientation, the supreme value governing most relations, is the preservation of the community as a whole. Such holistic systems require a supreme authority, which, standing for the whole and ensuring its unity, gives legitimacy to the power of making and dismissing rules. It is the highest authority in the hierarchy (the “sovereign”) that determines the meaning of the group’s identity. Robert Filmer (1680, pp. 6-7), the traditionalist antipode to John Locke in the 17th century, put the point starkly: “The greatest Liberty in the World (if it be duly considered) is for a people to live under a Monarch. It is the Magna Charta of this Kingdom, all other shews or pretexts of Liberty, are but several degrees of Slavery, and a Liberty only to destroy Liberty”.

Hence, the holistic discourse of the ancients understands liberty as the unimpeded reproduction of the group’s integrity as a whole, and for this reason it claims the submission of individuals to the collective and suppresses norm-deviation. It does not define freedom as autonomous self-determination. Liberty simply means remaining free of alien rule; it implies self-rule for the group – which is ruled by the leader - but it does not define liberty as individual freedom. This seems incompatible with liberty as we know it. Nevertheless, in a holistic society all individuals are considered to be free, despite their submission to the whole, when and because the whole is free. Thus, the whole is free, when it is not externally dominated, i.e. when it is not ruled by someone who is external, foreign or alien to “us”. Thucydides gives a good example of holistic liberty in his work on the Peloponnesian War: “And it is your hereditary custom, when a foreign enemy comes against you, to fight with him both on your own and on your neighbour’s ground alike; (...). For liberty with all men, is nothing else but to be a match for the cities that are their neighbours. With these then, that attempt the subjugation not only of their neighbours, but of estates far from them, why should we not try the utmost of our fortune? (...) And you must know, that though others fight with their neighbours about the bounds of their territories, we, if we be vanquished, shall have but one bound amongst us all: so that we shall no more quarrel about limits. For if they enter, they will take all our several states into their own possession by force”. (Thucydides, 1839). Holistic liberty has always a xenophobic touch.

The “holistic autonomy” of ancient liberty stands for living in harmony within the given order of a community or group to which individuals “belong”. This does not exclude private spaces of individual

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44 Because discourses of political holism and individualism articulate combinations of normative holistic and individualistic principles, it is strictly wrong to speak of holistic or individualistic societies. The correct formulation is “holistically or individualistically dominated societies”. However, this expression is often cumbersome. I will therefore talk of holistic societies as shorthand for holistically dominated societies when it is clear that the other norm set is still present in a subordinated position.

45 As Hobbes (1996, p. 149) nicely says: “The Athenians and the Romans were free; that is free Common-wealths; not that any particular man had the libertie to resist their own Representative; but that their Representative had the libertie to resist, or invade other people.”

46 The translation is by Thomas Hobbes.
freedom, or “well-demarcated spheres of agency” as Valentini (2012, p. 579) calls them, but the liberty of the ancients encompasses and constrains individual freedom in order to generate and preserve the freedom of the whole.47 The group is free when it follows its own norms and rules, but individuals are means to preserve this integrity; they are not the ends of society.

This holistic submission is an asymmetric relation of power that necessarily constitutes hierarchal rankings, although the degree of steepness in the hierarchy may vary and depends on whether authoritarian commands by one person, or conformity to the abstract morality of the community prevail. Within the normative framework of holism, we find therefore a second order distinction between authoritarianism and communitarianism. The distinctive criterion between these two is the degree of asymmetry of power, i.e. the degree of equality. Authoritarian discourses minimize equality and maximize power; communitarian discourses spread power more equally as long as this is coherent with the authority that ensures the integrity of the group. However, in both cases freedom means freedom of the group as a whole and self-determination of individuals is constrained by the whole. Individuals count less than the group, and as a consequence, the group’s leader counts more than the multitude.

In practical terms the holistic constraint is articulated by imperative speech acts, commands which must be obeyed and not put into question. These imperatives and commands are then often translated into positive law and individual liberty is subordinated to the norms that the group as a whole ought to follow. Individuals have the “duty” towards the group and its authority to obey. In the authoritarian case with steep hierarchy, the duty to serve the authority implies obedience to the will of an individual, or assembly of individuals, that stands for the group. Their authority commands; the subject obeys. By contrast, in more communitarian cases with flatter hierarchy, moral duty means the compliance with the abstract norms of the established order of the group. Authoritarian regimes are prone to tyrannical rule of one, communitarian regimes are the tyranny of the majority.

The holistic ruler is free to excise his authority and power to make rules and decisions with full discretion and the subjects have to submit and conform, something they may do voluntarily or under force. As the ultimate rule setter, the sovereign ruler has also the power to grant certain “liberties” as privileged entitlements. Although these liberties are not claims which the sovereign is obliged to respect, they are a first step in the direction of individual rights. Individual liberty without equality is a privilege derived from power and not a claim-right derived from contracts. The conflicts in 17th century in England between Court and country, or later during French Revolution with the Ancien Régime were essentially about the status of the King to grant privileges and monopolies in order to raise money for the crown.

47 Hegel is the classic thinker of such holistic liberty: “Das Wahre, der Geist ist konkret, und seine Bestimmungen Freiheit und Notwendigkeit. So ist die höhere Einsicht, dass der Geist in seiner Notwendigkeit frei ist und nur in ihr seine Freiheit findet, wie seine Notwendigkeit nur in seiner Freiheit ruht. [...] Die Freiheit kann auch abstrakte Freiheit ohne Notwendigkeit sein; diese falsche Freiheit ist die Willkür, und sie ist eben damit das Gegenteil ihrer selber, die bewußtlose Gebundenheit, leere Meinung von Freiheit – bloß formelle Freiheit.” (VGP II: 45 )VGP I (Hegel), Teil 1. – TW 18. Friedrich Engels (1962, p. 106) adopted this holistic vision: „Hegel was the first to state correctly the relation between freedom and necessity. To him, freedom is the insight into necessity (die Einsicht in die Notwendigkeit): ‘Necessity is blind only in so far as it is not understood [begriffen]’“.
and the “tyranny” of insecurity which resulted from the fact that individuals had no rights to make claims against the ruler. 48

In discourses of political holism individuals function as mere “organs” of a body, of the “body politic”. 49 When individuals’ desires conflict with the group’s collective intentionality, i.e. with “what the group is about”, they must surrender to the general will. They must conform and assume their status and take their given places in the social hierarchy. Confucius said “let the Emperor be Emperor, the minister be minister, the father be father, the son be son” and the Rig Veda put Brahmins on top and the Shudras at the bottom of the social hierarchy. Status limits liberty. A sweeper cannot become Brahmin and a King who marries down has to abdicate. Economic and intellectual resources are allocated according to the status and rank that is assigned to them in the functional order of the whole. Nobles live in castles, peasants in huts. As members of the community they must accept the shares of resources which enable the reproduction of the whole, including the symbolic structures of rank and order. 50 Hence, the value of community is always superior to the value of individuals. There is a universal perception whereby individual bodies may die, but “what cannot die is the public and corporate body” that is held together by the idea of law and order (Lukes, 2006, p. 52). The perfect expression for this holistic ideology can be found a World War I memorial in the city of Hamburg, where the inscription shows a battalion of marching soldiers with the inscription: “Germany must live, even if we must die”.

At this point we must keep in mind an important proviso, namely that even if the norms of political holism are dominant, their opposite is never absent. Where does individualism exist in holistic societies? It is articulated as the freedom of the a-political man. Dumont (1980) has shown that in the holistic Indian cast society, Buddhism and Jainism trace the path to individual liberation. Thomas Mann has praised in a famous pre-WWI book the authenticity of the a-political man and his view stands in the German holistic tradition, which made individuals “special”, outstanding and unique. 51 As Simmel wrote: “the total organism of society shifts, so to speak into a location above [individuals]”, and accordingly “this individualism, which restricts freedom to a purely inward sense of the term, easily acquires an anti-liberal tendency”; it is “the complete antithesis of eighteenth century individualism, which could not even conceive the idea of a collective as an organism that unifies heterogeneous elements”. 52 As we shall see later, it is a paradoxical consequence of economic liberalism, which rejects political interferences

48 For Britain see (Brenner, 2003); for France, see (Doyle, 2002)
49 The first explicit explanation of society as a body to which members have to surrender responded to the plebeian uprising in Rome in 491 BC. It is reported identically by Livy, Plutarch and Dionysus. Shakespeare has dramatized the event in Coriolanus. See also (Nelson, 2004, p. 50) and (Moore G. E., 1993, pp. 82-85).
50 It is no coincidence that holistic societies have built palaces, while modern societies have functional administrative buildings.
51 „Der deutsche Mensch bedeutet in jedem Individuum eine aparte Welt; er ist am meisten eine Person; er ist im tiefsten Sinne des Wortes ein Charaktermensch schon um deswillen, weil er, verglichen mit den Individuen anderer Nationen, eine Person, ein Genie, ein Original, ein Gemütsmensch, weil er kein Figurant, kein soziales oder »politisches Tier« im Sinne der Franzosen ist, die sich in dem Augenblick als die charakter- und gemütlosesten Personagen dekouvririeren, wo man sie nicht mehr als Nation, sondern als Personen ins Auge fassen will” (Mann, 1991).
52 Quoted by (Lukes, 2006, p. 32)
into private markets, that it restores the a-political liberty of holism. It is the a-political articulation of individualism, which makes liberty coherent with illiberal democracy and tolerant authoritarianism, as we discussed above.

**Modern liberty**

Modern liberty is a normative discourse that recognizes *individual actors as free and equal*, and thereby articulates the norms of political individualism. Constant (1988, p. 323) made the point: “Individual liberty is the true modern liberty”.

Half a century earlier, Kant had already expressed the individualistic focus of modern liberty by declaring that human beings exist as an end in themselves, and that the dignity of human beings, their “worth”, depended on their autonomy, which is incompatible with treating them as means. Autonomy is the ability to choose the principles and ends of our actions freely rather than having them imposed on us by others (Guyer, 2014, p. 5). Because means are things to which we assign a functional relation of utility, which Kant calls inclinations, the value of means is conditional and not absolute. Hence, this conditionality was an external imposition contrary to autonomy. But the worth of human beings is absolute and “holy”: “The moral law is holy (inviolable). Man is indeed unholy enough, but he must regard humanity in his own person as holy. In all creation every thing one chooses and over which one has any power, may be used merely as means; man alone, and with him every rational creature, is an end in himself. By virtue of the autonomy of his freedom he is the subject of the moral law, which is holy” ([1788] 1996, p. 210 [5.87]). This radical individualism is incompatible with political holism where individuals are assigned a function which they have to fulfil. As we have seen, it is also incompatible with utilitarianism, where the liberty of autonomous individuals is a means for other ends.

If individuals are an end in themselves, they must be free from social conditionality. They must be self-directing agents, free to choose and capable of acting in pursuit of ends they have set themselves, although they must do so in interaction with other individuals. How can one accept such an idea? For Kant modern liberty was grounded in full rationality. He thought that it was “not enough that we ascribe freedom to our will on whatever ground, if we do not have sufficient ground for attributing it also to all rational beings” ([1785] 1996, p. 95 (4.448)), and he considered reason to be the foundation of liberty: “Reason must regard itself as the author of its principles [i.e. of the determination of judgments] independently of alien influences; consequently, as practical reason or as the will of a rational being it must regard itself as free, that is, the will of such being cannot be the will of his own except under the idea of freedom ([1785] 1996, p. 96 (4.448))”. This freedom is what Kant calls “individual autonomy” or

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53 “[T]he human being and in general every rational being exists as an end in itself, not merely as a means to be used by this or that will at its discretion; instead he must in all his actions, whether directed to himself or also to other rational beings, always be regarded at the same time as an end”. (Kant I., [1785] 1996, p. 96 (4.448))

54 “All objects of the inclinations have only conditional worth; for, if there were not inclinations and the needs based on them, their object would be without worth” (Kant I., [1785] 1996, p. 96 (4.448))

55 The German original is *Menschheit*, which is more appropriately translated as *mankind* and not as *humanity*.

56 For an in-depth discussion of this concept see (Valentini, 2012).
self-determination: “To the idea of freedom there is inseparably attached the concept of autonomy, and to this in turn the universal principle of morality”.

Yet, Kant’s notion of autonomy is a curious mélange between political individualism and holism. Berlin (2002, p. 198) rightly asked: “What can have led to so strange a reversal – the transformation of Kant’s severe individualism into something close to a pure totalitarian doctrine on the part of thinkers some of whom claimed to be his disciples?” Maybe this inconsistency should not surprise us in a thinker who lived all his life in Königsberg, a town which was an international Hanse city with an active port and a breeding ground for liberals, while politically dominated by Prussia, one of the most authoritarian regimes in Europe. I believe Kant’s holism was a consequence of his concept of full rationality, which shaped his moral philosophy, and of the methodological holism by which he justified it. Flikschuh (2007, p. 70) has nicely shown that Kant’s claim of individuals as ends in themselves is based on the shared characteristics of humanity, while for Nozick (1974), who referred to Kant in his libertarian approach, it is based on individuality. This means that Kant’s foundation of liberty is grounded in epistemic holism, as I shall discuss in the next chapter. However, epistemic holism does not necessarily imply political holism. If the proposition that all human beings are born free and equal in dignity and rights is generally accepted, it becomes a shared property of those who think that way, and with some generosity we may accept that this is a property of “mankind” (Menschheit). However, the normative content of this statement articulates political individualism, which as a discourse is independent of who and how many people accept it.

Obviously, political individualism is a political concept. The notion of autonomy combines private and political freedom. For Constant, it was the political dimension of autonomy that distinguished modern from ancient liberty. He derived political liberty from and subordinated it to individual freedom: “Political liberty is its guarantee, consequently political liberty is indispensable. But to ask the peoples of our day to sacrifice, like those of the past, the whole of their individual to political liberty, is the surest means of detaching them from the former and, once this result has been achieved, it would be only too easy to deprive them of the latter” (1988, p. 317). Thus, in a modern society, the whole is, so to say, not only free at the outer surface where it touches other wholes as in the holistic model, but it is “free from within”, because each person is free as an individual and not a subject ruled by some higher authority. Thus, individual freedom represents the emancipation from holistic liberty along similar lines to what Thomas Paine (2014, p. 132) wrote about public goods: “Public good is not a term opposed to the good of individuals: on the contrary, it is the good of every individual collected. It is the good of all, because it is the good of every one: for as the public body is every individual collected, so the public good is the collected good of those individuals”. For the moderns, a society is free when each individual is free and autonomous.

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57 See also footnote 172.
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For Constant, it was clear that private and political liberty complemented each other, but what guarantees individual liberty are rights: “the aim of the moderns is the enjoyment of security in private pleasures; and they call liberty the guarantees accorded by institutions to these pleasures” (Constant, 1988, p. 317). Thus, modern liberty cannot be understood without the institutional guarantees of rights.69 “Citizens possess individual rights independently of all social and political authority, and any authority which violates these rights becomes illegitimate. The rights of the citizens are individual freedom, religious freedom, freedom of opinion, which includes the freedom to express oneself openly, the enjoyment of property, a guarantee against all arbitrary power” (1988, S. 180).

While these fundamental human rights demarcate spaces for agency, modern liberty also implies that individuals are free to choose within these spaces. As Kant already pointed out, choice means people have preferences, which represent evaluated desires, and they imply an action by which the world is made to fit these preferences.60 Individual autonomy is therefore anchored in individual choice practices, which are guaranteed and perpetuated by institutions such as human rights and democracy. However, these practices have two dimensions. On the one hand, liberty stands for freedom of choice, which is concerned with the range of options for choice; on the other, it means freedom of the chooser where freedom is autonomy in interpersonal relations.61 Economists usually focus on the first aspect, political theorists on the second.

When my freedom of choice is restricted, I have a limited choice set and I cannot do all the things I want to do. In this case, the lack of capabilities appears as lack of liberty (Sen, 1999). Thus, a poor man with no money has fewer choices and therefore has less liberty than a rich woman. Augmenting his choice set, for example by giving him money and thereby increasing his access to resources, will increase his liberty. Liberty is here seen as an instrumental relation; it is a means to an end - namely exerting greater capabilities. This is the kind of liberty which has preoccupied economists when they link freedom to material development, but, as a consequence, they have missed the deeper foundational relations by which economic practices constitute modern liberty.

Moreover, if the validity of the norms of modern liberty is derived from their application, liberty is a means for something else and we have seen that this utilitarian framework implies that the normative content of liberty is holistic. But the utilitarian argument is logically incoherent with freedom of choice. Köszegi and Rabin (2007) have shown that if preferences are choice-set dependent, they cannot reveal welfare. The so-called Weak Axiom of Revealed Preference, on which welfare economics stands, only works for a given choice set. If we interpret liberty as freedom of choice, increasing liberty implies extending the choice-set, and consequently the model of rational choice of liberty becomes

69 Constant (1988, S. 312) quotes Condorcet approvingly who said: “the ancients had not notion of individual rights”.
60 Kant’s argument in ([1798] 1996, pp. 374-375 [6:213]) is convoluted. Like most translators I understand Willkür to mean choice, and I interpret Wunsch as preference. A preference that is accepted as worthy of action is Wille. For the German original see (Kant I., Metaphysische Anfangsgründe der Rechtslehre. Metaphysik der Sitten, 2009, p. 17)
61 I have taken the distinction of freedom of choice and freedom of chooser from (Pettit P. , 2006). For a discussion of freedom as availability of options. See also (Flikschuh, 2007, pp. 31-2)
undetermined. It cannot explain why people prefer more freedom over less. Hence, freedom of choice model cannot justify why we ought to believe that we are all born free and equal in dignity and rights.

I have argued above that when freedom is a means, it must be subordinated to some higher end which is defined by some authority. In that case the freedom of the chooser is constrained by the power of higher ranking authorities and the chooser is no longer autonomous. But then it becomes clear that liberty is a social relation: someone else, or the group as a whole, has the power to prevent me from doing what I want. Hence, when freedom is a means to something else, liberty is holistic. This explains why economic liberals like Freedman are often social conservatives who combine economic freedom with political holism, and also why certain forms of socialism are repressive.

It may also explain Isaiah Berlin’s (2002) resistance to the concept of positive liberty, which was so crucial for Kant.62 Berlin interprets individual autonomy as self-mastery and interiorizes the external authority into a “higher” or real” self: “the real self may be conceived as something wider than the individual (as the term is normally understood), as a social ‘whole’ of which the individual is an element or aspect: a tribe, a race, a Church, a State, the great society of the living and the dead and the yet unborn. This entity is then identified as being the ‘true’ self which, by imposing its collective, or ‘organic’, single will upon its recalcitrant ‘members’, achieves its own, and therefore their, ‘higher’ freedom” (Berlin, 2002).

The problem with this concept of positive liberty is the amalgamation of mind states and their objects, i.e. the neglect of individual and collective intentionality. Intentional mind states are about something, but the fact that I think about something does not necessarily imply that I will accept what I think about, nor does it oblige me to act in accordance with what I think. I can accept the thought that it may be a good idea to kill someone, but for all kinds of reasons I may choose not to do so. There are gaps between what I think and what I accept as a valid and acceptable thought and between what I have accepted as a valid thought and what is worthy of action. These gaps constitute the spaces in which free will is manifested itself. I understand free will as the capacity to choose between accepting and rejecting a mind state as valid and worthy of action and autonomy is the capacity to exercise this freedom. The freedom of the chooser will then depend on whether there are conditions which inhibit or prevent the chooser from acting in accordance with free will.

This interpretation of the freedom of choosers solves the dilemma of the contented slave, whereby it is generally understood that slaves are not free because they cannot do what they wants, whereas a contented slave is a slave who is content to do what his master wants him to do, i.e. a slave who accepts the same mind state as his master, so that the contented slave does not seem to be unfree (Flikschuh, 2007). The dilemma confuses free will, as I define it, with the capacity to exercise it. Because slaves are human beings, they have free will in accepting or rejecting thoughts as valid and worthy of actions, but their social status as slaves limits their capacity to live by their free will. They are lacking the right to exercise their free will when they wish to do so and not only when they happen by coincidence to prefer

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the same thing as their master. Even if the contented slave is not interfered with by the external will of his master, he is dominated by the master who has a right to tell him what to do.

When we focus on the freedom of choosers, liberty is no longer a means and it goes beyond income and control of resources, although, as we will see, it is normatively related to the ways the economic system functions. Hence, the freedom of the chooser entails the freedom of choice, but not the other way round. It is therefore the freedom of choosers that requires a normative foundation, because modern liberty means that it is the choosers who are born free and equal.

If liberty is a social and not an instrumental relation, it articulates norms how people ought to interact in a free society by exercising their free will. This has consequences for institutions like democracy, markets and money. I will show in chapter 3 that money can be interpreted either as an instrumental means of exchange, which serves the freedom of choice, or as a social relation when it serves as a means of payment. I shall then argue that it is money which functions in social relations that generates the practices which constitute individuals as choosers, because the link between liberty and money is the institution of contracts which generate claim-rights.

**Equality, the Twin of Modern Liberty**

By focusing on individual and human rights, discourses of modern liberty also articulate the principle of equality. For is we accept the norm that individuals are free in their contractual relations, it is logically inconsistent to claim that some are excluded from these relations and therefore unequal. Benjamin Constant (1988, pp. 310-311) recognized this clearly when he listed a range of liberties which we now associate with human rights. As a child of the French Revolution, he described the liberty of the moderns as “the right to be subject only to the laws, and to be neither arrested, detained, put to death, or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express their opinion, choose a profession and practice it, to dispose of property, and even to abuse it; to come and go without permission, and without having to account for their motives or undertakings. It is everyone’s right to associate with other individuals, either to discuss their interests, or to profess their religion which they and their associates prefer, or even simply to occupy their days or hours in a way which is most compatible with their inclinations or whims. Finally, it is everyone’s right to exercise some influence on the administration of the government, either by electing all or particular officials, or through representations, petitions, demands to which the authorities are more or less compelled to pay heed.”

Because these rights apply to all, they apply to all equally. If rights guarantee modern liberty, liberty cannot be dissociated from equality. Isaiah Berlin (2002) and many others have claimed that there is a trade-off between liberty and equality, but if human beings are born free and equal in dignity and rights, this is logically impossible. In fact, the trade-off defines freedom as holistic liberty, where freedom is a means subordinated to other ends.

Amartya Sen (1992) has emphasized that equality is always judged in different domains, which he calls “spaces”, so that discussing equality requires asking “equality of what?” These spaces are applications of the norm of equality and they are particularly salient for normative theories of social arrangements that

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63 Emphasis added.
demand equality of something, such as income, wealth, rights, primary goods, opportunities, capabilities, etc. Sen pointed out that equality in one domain may imply inequality in another. For example, equality in income, wealth and opportunities does not necessarily mean equality in happiness, capabilities and accomplishments. For our purposes it is therefore important to specify what kind of equality corresponds to ancient and modern liberty.

In traditional societies individuals are equal either with respect to certain functions they fulfil, or with respect to the homogeneity of their community’s culture. Holistic equality is communitarian. The community may be defined functionally, as the working class in Marxist discourses, or culturally as in ethnic or nationalist discourses. It always entails the similarity of members of a group or community, although their functional diversity implies hierarchy between different groups.64 For example, all slaves are equal as slaves and all nobles are equal in their privileged status, but there is a clear hierarchy between the social functions assigned to slaves and nobles. Similarly, in the medieval guild system, the notion of equality implied belonging to the same corporation, which had its own inner hierarchy.

Modern individuals are equal to each other, because they have the same rights by which they claim their liberty. This liberty requires that individuals meet as unstrained choosers and this norm is enacted when they make contracts. The practice of freely making contracts is the opposite of surrendering to external authorities which impose rules, order and social hierarchy. Insofar social hierarchy assigns functional status to persons, and insofar individuals have no choice but to fulfil the functions they have been assigned, they are unequal. Contracts are voluntary agreements between free agents, where each party is free to agree to the terms or to refuse them. When contractual relations replace social hierarchy, individuals become free and equal in the modern sense: they recognize each other as equals because they are free. This reciprocity in liberty is the foundation of the norm that human beings are free and equal in dignity and rights. Hence, liberty and equality are the twin constitutive norms of modernity; one cannot exist without the other. They are two sides of the same coin and, as I will show later, this coin was minted in the monetary economy, because money is generated by financial contracts.

**Repressing Modern Liberty**

The concept of individual liberty has gradually emerged as the dominant norm since the 17th century and was first articulated by radical enlightenment in the European Renaissance.65 In the early phase of development, political individualism was, of course, limited to restricted constituencies of merchants, bankers and other elites. Ordinary people still lived in holistic contexts, which demanded the submission to hierarchy, not to talk about gender and racial discrimination, but the monetary economy has relentlessly demolished the strongholds of holistic privileges and propagated liberty and equality across the globe. Yet, the process of individualistic emancipation from holistic contexts is never easy. The normative progress of modern liberty has its shadow, as the accumulation of wealth by lenders of capital generates material inequality which violates the norm of equality. When liberty or the intent to restore equality threatens privileged interests, it often gets violent. However, violence is only the last stage in

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64 See (Dumont L., 1980, p. 15)
65 See (Israel, 2002) for a description of the radical transformation that took place in the late 17th century.
the conceptual resistance against the normative transformation of traditional societies, for if holism, inequality and the liberty of the ancients are to be defended, individualism and modern liberty must be invalidated on normative grounds. Hence, the violation of human rights and the authoritarian repression of democracy are not just the arbitrary display of power by evil dictators, although that may also sometimes be the case. More importantly, these violations of modern norms may be founded and morally justified by claims of preserving the holistic liberty of traditional societies.

The standard discourse of political holism often associates political individualism with atomistic societies, where nasty selfish actors seek to satisfy their desires without respect for others. This is wrong. Popper has carefully explained that selfishness and individualism are distinct dimensions of normativity. For political individualism, the ultimate aim of society is the full development of individuals’ talents and capacities. Each individual can make a contribution and the allocation of resources ought to enhance individuals’ abilities to make decisions on their own. That means that individuals cannot live in atomistic isolation when they are free in this sense and the charge of selfish individualism has no validity.

The modern freedom of such socially interacting individuals is incompatible with holistic liberty or with what Hegel called “absolute freedom”. For Hegel absolute freedom is the formal liberty in which the “mere appearance (ein leerer Schein)” of the concrete world disappears into an ideal, where “the contradiction between the general and the particular will is balanced (ausgeglichen) with itself.” This contradiction reveals the unpleasant predicament of modernity that describe freedom as a tradeoff between private and collective liberty. When individualism emerges as the dominant principle and threatens the hierarchies of a traditionalist society, the holistic response is either to repress individuals back into an organic order (the right-wing totalitarian solution), or to abolish individualism altogether (the left-wing totalitarian solution).

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66 See (Lukas, 1971); (Lukes, 1971); (Somek, 2008). For Marx (1971) the egoistic lifestyle was the defining characteristic of the bourgeois civil society, in which man “acts as a private individual, regards other men as a means, degrades himself into a means, and becomes the playing of alien powers.”

67 The term ‘individualism’ can be used (according to the Oxford Dictionary) in two different ways: (a) in opposition to collectivism and (b) in opposition to altruism. There is no other word to express the former meaning, but several synonyms for the latter, for example ‘egoism’, or ‘selfishness’. This is why in what follows I shall use the term ‘individualism’ exclusively in sense (a), using terms like ‘egoism’ or ‘selfishness’ if sense (b) is intended.” (Popper K., 1995, p. 100)

68 For an extensive discussion of the semantic history and basic ideas of individualism, see (Lukes, 1971) and (Lukes S., 2006).


70 As (Hegel G. F., 1970, p. 435) put it: “Universal freedom, which would have differentiated itself in this manner into its various parts, and by the very fact of doing so would have made itself an existing substance, would thereby be free from particular individualities, and could apportion the plurality of individuals to its several organic parts.”

71 As (Marx, 1971, p. 173) explained: “How is an opposition resolved? By making it impossible. How is religious opposition made impossible? By abolishing religion.” The materialistic abolition of normative thought requires the violent suppression of the thinker. I refer here to Dumont’s (1986, p. 158) and (1977, p. 12) definition of totalitarianism: „Totalitarianism results from the attempt, in a society where individualism is deeply rooted and predominant, to subordinate it to the primacy of the society as a whole. (...) The violence of the movement is
Political individualism must solve the normative dilemma between private and collective liberty, but it cannot accept the suppression of holism either, for individuals must remain free to choose modern over ancient liberty. This paradox is solved by ideological discourses which structure the articulations of individualistic and holistic norms, and where one set of principles takes priority over the other. The contradiction between the two principles is overcome by the hierarchical order of norms, where the norm of individual self-determination entails all other subordinated norms, rules and values. This concept of hierarchical opposition was developed by Louis Dumont and will be discussed in the next section. What matters here, however, is the fact that in the perspective of political individualism, individual selfish wills and the general will always coexist, although their coexistence may be articulated in different hierarchical orders. When individuals “choose modern liberty”, they accept the validity of the normative package of political individualism and they act in accordance with it.

However, as we saw, the variety of individual beliefs and preferences is likely to generate conflicts which require authoritative regulations. This opens the door to the tyranny of the majority when the general will suppresses the individual will. The freedom of individuals must therefore entail individuals’ rights as protective spaces of individual autonomy and enable individuals to determine their lives as they choose. This is why modern liberty must be articulated as a right and not as one-sided authorization or privilege. Political and civil rights are entitlements which shield individuals against undesirable interferences which would constrain them in pursuing their own ends and goals collectively and individually. I will discuss the institution of rights below.

**NORMATIVE SHIFTS AND THE DIFFUSION OF NEW IDEAS**

The discourse that all human beings are born free and equal represents a radical innovation, a genuine revolution, but it remains unacceptable in societies dominated by traditions of political holism. How can we explain the shift from the holistic liberty of the ancients to the individual freedom of the moderns?

A normative shift takes place when a society collectively accepts the new ideological discourse of political individualism and no longer attributes validity to the old set of holistic norms. However, this revolution does not necessarily require the eradication of all previously valid norms and discourses. In fact, no revolution has ever made tabula rasa, a clean slate of the past. Revolutions only subordinate the old to the new. A revolution is both a discursive change in the priority of norms, and a change in social practices which enact these new discourses and gradually become universal. However, the universalization of normative change happens in a sequence. First new ideas emerge. How that happens and where new ideas come from is a mystery, but usually innovation occurs in the context of something people do. Hence, new ideas emerge from practices. This implies that as people start to interact through

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rooted in this contradiction and that it abides in the very promoters of the movement, torn apart as they are by conflicting forces”.

72 (Minogue, 1979, p. 3) has argued that human rights are an innovation and less a product of evolution: they are “as modern as the internal combustion engine”. Natural rights are seen as predecessors to human rights, which (Bobbio, 1993) traced back to Hobbes, (Donnelly, Universal Human Rights in Theory and Practice (Paperback), 2013) to Locke, and other authors even further back, see (Tiemey, 1997).
contractual relations rather than through hierarchical commands, they will develop ideas of individual liberty. Second, if these ideas have the potential to improve some conventional practices, they are integrated into the logical structure of ideological discourses which articulate the more or less coherent order of new and old ideas. Finally, when the new discourses are generally accepted, they give guidance to what people do. Factual change happens when social practices enact the norms which are articulated by the new discourses.

This poses three crucial questions for our foundation of liberty: How did the idea of individual freedom emerge? How come this new idea was retained in traditional societies? How was it possible that the modern conception of liberty spread across the globe? Normative change is necessarily discontinuous and applied to specific practices, but a series of small discrete changes can cumulate to big changes when the new practice is adopted by a large number of individuals. I will call this the diffusion effect. However, the accumulation of these innovations requires also that normative change is enacted in institutions. I shall discuss the nature of liberty-sustaining institutions in the next section. First, we will look, however, at normative change and then at its diffusion.

**Dominant norms**

Modern liberty, the idea that we are all born free and equal, makes the claim of *universal validity*. How can that claim be justified? Is a universal claim not an “imperialist” imposition on the plurality of diverse cultures? Does it not suppress other discourses, constrain the freedom of thought, and request that all individuals ought to think and believe the same? In this case, the modern discourse of liberty would be inconsistent with its own norms for it would prevent individuals from defining freely who they are. Yet, although the claim for universal validity of modern liberty and human rights may look like a “comprehensive doctrine” in John Rawls’ sense, universal normative validity does not necessarily imply the unanimity of fully comprehensive doctrines on all kinds of subjects or on all kinds of applications in practical life, but rather the acceptance of political individualism as the dominant norm. The norms of ancient liberty have not disappeared from earth like dinosaurs.

The normativity of discourses sustains continuity of identity over time. This view goes back to John Locke (1975, pp. 332, §7) who argued that it is the continuity of a name that constitutes identity. As will be discussed below, normative discourses articulate rules for repeating actions. They thereby structure social practices and generate narratives by which persistent individual and collective identities are constituted. I am a man, because I accept the discourse of what it is to be a man and I believe there is continuity in being a man. I am nationalist, a Christian, Buddhist, Jew or Muslim because I accept the time-honored discourses of these religions when I follow the rules of what a believer ought to think and

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73 *Rawls (1996, S. 13)* defines: “A conception is fully comprehensive if it covers all recognized values and virtues within one rather precisely articulated system; whereas a conception is only partially comprehensive when it comprises a number of, but by no means all, nonpolitical values and virtues and is rather loosely articulated. Many religious and philosophical doctrines aspire to be both general and comprehensive.” The attractiveness of Hayek’s and Friedman’s theories of liberty was due to them attempting to turn partial comprehensive doctrines of free markets into fully comprehensive doctrines.

74 *For a discussion of the Lockean theory of personal identity, see (Bratman M. E., 2007)*
do and because I act in accordance with them. I am the personality I am because I believe the narrative of my life that says what I have become. This sense of identity accepts a society’s normativity as a discursive package and individuals will surrender to its norms and rules even if they resent parts of them. However, in modern societies different packages coexist.

**Pluralism and Hierarchical Opposition**

The status of free and equal individuals implies that individuals can choose which discourses they accept as their “own”. Hence, a plurality of norms and discourses must exist in society. Western rational thinking has a tendency to classify normative discourses in either/or terms, because that seems to facilitate coherent articulations. However, normative purity is not a necessary condition for logical coherence. Nor does the coexistence of norms require compromises, where each side makes concessions and the accepted standard is less desirable than purity. If we reject the either/or approach, the distinction between political holism and individualism does not describe two mutually exclusive discourses, one of which happens to be realized while the other is not. Instead, ideological discourses are structured by the way the two distinct norms of holism and individualism, their binary code, are prioritized, so that one norm dominates the other. Nevertheless, it is the discourse as a whole that reflects the sense and structure of the actions and practices of individuals and groups. If some norms are dominant, others must be subordinated.

In order to understand how the norm that all human beings are born free and equal could become dominant, we must now inject a discussion of hierarchy. Dumont’s fundamental insight was that within broad ideological discourses certain norms are dominant because they entail the dominated norms. Hence, they do not eliminate the dominant norms. Domination always requires the presence of the dominated. There is no master without slave. Thus, ancient and modern, collective and individual liberty always coexists in all societies, but the discourse of modern liberty as individual freedom entails the freedom of the collective to which an individual belongs. It does not reject collective liberty, for the individual liberty of each entails the liberty of all. When the discourse of describing human beings as free and equal becomes universally accepted, it replaces political holism as the dominant norm and transforms traditional into modern societies, but it does not abolish traditional holism as a norm. It establishes a new hierarchical ranking of norms. Hence, before any revolution can create new social facts, a normative transformation must take place, whereby a new ideology becomes sufficiently accepted for people’s practices to change. The two norms of political holism and individualism continue to coexist in all societies, although they are articulated in asymmetric structures of discursive hierarchies. This fact is frequently overlooked by Western thinkers, who oppose modern to traditional societies and ignore that the old is preserved in the new and that the new was formed by the old.

If political individualism does not abolish political holism, we need to explain this normative coexistence. Dumont’s model of hierarchical opposition is an alternative to the either/or approach, which he calls

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75 Claiming dominance of one principle and suppressing the alternative may also become necessary, if normative inconsistency puts the legitimacy of power into question. For example, Mantena (2010) has described how challenges by traditional Indian society to the liberal justification of Empire as a modernizing agenda have induced the reaction of authoritarian and repressive holistic British colonialism.
**symmetric opposition** and his method is particularly useful for understanding fundamental normative change.

A distinction is a partition of possible states of the world that is expressed by discourses. Normative discourses describe social practices as systems of action and they are oriented towards certain goals or values, ends. I will come back to the relation of goals and intentions to norms and values in the next chapter. However, the point here is that in a systemic context, where the system functions as a whole, a normative distinction implies ranking the distinguished elements within the discursive representation of the system, and this is what gives the system its order. At the minimum, the distinction says “what works” within the system, and what doesn’t, but quickly this translates into concepts of “good” and “bad”.

Good and bad define a hierarchy. Good is higher than bad. Talcott Parsons has observed\(^76\) that in order to be functional, all components of systems of actions must be subject to a process of evaluation, which puts the distinguished entities into a rank order and simultaneously integrates them into a common value system.\(^77\) In fact, “to adopt a value is to introduce hierarchy” (Dumont L., 1980, p. 20). We define hierarchy as an asymmetric and temporarily irreversible relation, where the dominant pole of the distinction encompasses the inferior position as part of the whole. Note that this hierarchy entails the asymmetric notion of power, although it is broader because hierarchy contains all norms. This is the logical structure of **hierarchical opposition**, while in **symmetric opposition** both poles have the same rank. Hierarchical opposition is like a lexicographic ordering; it is different from the idea of a “ladder of command” with systematically graduated authority. In the case of hierarchical opposition, the lower ranked element or norm is entailed and always present in the whole.\(^78\)

A society can be interpreted as a “whole”, because individuals live in groups to which they believe they “belong”. However, this belief is an epistemic property, which defines the group’s identity when the group member have accepted certain normative discourses as valid. The acceptance generates shared meaning.\(^79\) New ideas and discourses may be imported from “outside”, which makes them “strange”, but they need to be accepted within a group in order to gain normative validity and to be able to orient individual actions. Thus, individuals constitute themselves as a group through language and communication when they come to accept normative discourses as their “own”. It is, therefore,

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\(^{76}\) For a full discussion see (Dumont L., 1980, pp. 19-20)

\(^{77}\) The values are common because they serve to order all individual components.

\(^{78}\) See Dumont (1979) (1980, p. 65). We can summarize his argument like this: a hierarchical opposition describes a relation between a set (the whole) and an element of the set. According to the principle of abstraction in set theory, a set A is defined by the convention that the members of A satisfy the condition that the statement P(a) is true. This implies identity of all elements a of the set A with respect to P(a). On the other hand, the individual elements of set A are not the same as the set of elements defined by P(a) unless P(a) defines a unit set. Thus, the relation a ∋ A between the set and its elements is necessarily asymmetric. Hence the statement which defines the whole dominates the part. By contrast, a simple opposition reflects the relation between two elements within the set, i.e. if A = {a, b} then (a ∋ b) | (a, b) ∈ A], which can be symmetric or asymmetric, reflexive or transitive depending on circumstances.

\(^{79}\) For a full discussion see chapter 2.
inevitable for individuals to live in epistemic communities, as Aristotle already argued when he spoke of man being a “social animal”.80

What makes groups of individuals distinct is their common acceptance of ideological discourses which give them directions and allow them to coordinate their actions.81 But the plurality of normative discourses within a given society poses a problem, for incoherent norms will confuse and disorient people and their actions may clash. There are two ways to deal with that. As discussed, the authoritarian approach suppresses plurality, restricts liberty, and coerces norm conformity. Alternatively, normative diversity can be made coherent by ranking inconsistent norms as in a lexicographic ordering. The conflict is then solved because the hierarchical ranking determines which norms will prevail. This applies also to ranking subsets of norms by which an “inner hierarchy” of ideological discourses will be generated. This is presumably what Dumont meant when he said that hierarchical opposition assigns different roles to the elements in the functioning of the whole.82

However, ranking requires prior values. Within a given system it is impossible to have outside values as the ranking criterion. Hence, it is the dominant norm of the system which serves as the value towards which all elements in the system are oriented. In the case of normative conflict, the most generally accepted standard will dominate and be considered as valid. This dominant norm is therefore the “general” norm, which encompasses the subordinated norms. Both together constitute the hierarchy of the system, but the normative content, the value orientation of the system, depends on which norm is generally accepted and therefore dominant. How general acceptance comes about will be discussed in the next chapter. For the moment we retain that the hierarchical ranking of normative discourses generates normative universality when the dominant discourse fully entails the dominated principles. The norms of political holism and individualism are, therefore, duals, which are ranked in such a way that

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80 Aristotle, Politics, i.1.7 (1253a: 3). Social animal (edReader (1819) (Western and Eastern Social animal (1819) (Western and Eastern) social) (Western and Eastern social))

81 Rawls (1996) distinguished communities from societies by the fact that communities adopt the same “comprehensive doctrine”, where all members accept and know that all the others accept the same political doctrine, while in well-ordered societies a plurality of doctrines can coexist. Rawls rightly points out that “a well-ordered society in which all its members accept the same comprehensive doctrine is impossible” (2001, p. 9), although people “may agree on political conceptions of justice”. In this case, the conception of justice is a hierarchically dominant principle, which must entail a conception of liberty.

82 See also Parkin (2003) for a discussion of Dumont’s hierarchical opposition in anthropological analysis.
the dominant discourse speaks for the whole. The modern claim of universality of human rights is the expression of such hierarchical ranking, because the values of political individualism are valid and apply to each individual and therefore to the whole of mankind, while holistic discourses with the values of survival and group-reproduction remain valid in substructures like the army, policia, bureaucracies, churches, etc.

SECOND ORDER DISTINCTIONS AND IDEOLOGICAL ARTICULATIONS
A society is called “traditional” when political holism is the dominant value system; it is “modern”, when the dominant value is individualism. This is the fundamental distinction. However, the logic of hierarchical opposition implies that each pole of the opposition can have further sub-distinctions which are also ranked. These are second order distinctions.

For example, within political individualism the distinction between liberty and equality is a second order distinction, while within political holism community customs versus authoritarian power are secondary distinctions. The major political ideologies, which have dominated modern Western political thought, such as republicanism, liberalism, and social democracy have articulated political individualism by giving different weights to the norms of liberty and equality.

The ranking of these distinctions generates the articulations of broad political ideologies, which also apply to specific social practices, although the ranking is not necessarily identical for all applications. For example, economic liberals value the freedom to transact in markets higher than the equality of economic status and capacities, while political liberals give higher value to democratic liberties, and social democrats emphasize equality. However, these articulations are not mutually inconsistent, for on the one hand, they simply apply to different domains and, on the other hand, the lexically rank the alternatives.

Because political individualism dominates in modern societies, the second-order conflicts between liberty and equality always seem salient, while the conflict with holistic values remains hidden. For example, liberals and social democrats fight over whether liberty or equality ought to have higher priority, but they are both firmly grounded in individualism and oppose conservative authoritarianism. Nevertheless, while the first order distinction is the basic one, it can become corrupted when an element of the second order is combined with one of the first order components. In economic terms, this is the case when power relations dominate market exchanges and voluntary contracts between free and equal partners, or when extractive elites extract monetary rents. Confusion about the hierarchical order of political norms also often gives rise to hybrid political ideologies, where second order norms are tied to a specific first order norm. Political individualism is then polluted by holism. Thus, when Milton Friedman (1987) called General Pinochet’s coup in Chile “a political miracle”, he ranked the political holism of the generals higher than the political individualism of democracy. Such normative corruption is also typical
for the “partially free” countries identified by the Freedom House Index, especially during periods of transformation, when political individualism is emerging as the new dominant ideological system.

Figure 1.6 represents a norm tree as an example for hierarchical subordination. Within the overall system of political values, we observe the first order distinction between individualistic and holistic norms. Within political individualism, the second order distinction is between liberty and equality, and the holistic norm of fraternity can be articulated either as communitarian flat hierarchy or by authoritarian power.

To summarize, the discourse of political individualism may encompass some holistic practices of subordination to the community, but it does not accept that holistic norms are dominating. This is clear when we look at the interaction of institutions: markets interact with states; democracies operate with bureaucracies; governments regulate individual freedom. In all these cases, the institutions of markets, democracies and individual liberty enact the norms of political individualism as the dominating norms. The universalist claim of individual liberty does not eradicate the holistic practices enacted by bureaucracy, positive law and regulations, but it subordinates them to the idea that human rights protect individual liberty, and free and equal citizens can elect governments that represent them all.
III. INSTITUTIONS OF MODERN LIBERTY

Modern liberty becomes a reality when the practices by which it is generated are persistently enacted by institutions. The basic institutions supporting modern liberty are democracy and human rights, rights and contracts, markets and money. We will now discuss these institutions and how they are related to norms.

NORMATIVE FOUNDATIONS OF INSTITUTIONS

Norms stipulate how the world ought to be. Gaps between how the world is and how we project it ought to be must be closed by action. Rules say how one ought to act in order to make the world fit to our projected mind states. Practices are repeated actions that follow rules, and institutions are clusters of inter-related rules and practices that are sustained over time. Hence, all institutions have normative content and with the change of ideological discourses, institutions will change as well.

It is useful to distinguish between institutions and organizations. North, Wallis and Weingast (2013, p. 15) define institutions as “rules of the game”, “the pattern of interaction that govern and constrain the relationships of individuals” and include formal rules, written laws, social conventions, norms of behavior, shared belief as well as the means of enforcement. By contrast, organizations consist “of specific groups of individuals pursuing a mix of common and individual goals through partially coordinated behavior”. Institutions are, therefore, rules which apply to society as a whole, while organizations are institutional subsets, which have their own internal institutional structure. Thus, states, laws and conventions are institutions, while corporations and governments are organizations.

However, not all rules are alike. A further useful distinction is made between constitutive rules which set up institutions and create social practices, and regulative rules which structure independently existing social practices. These rules will be discussed in further detail in chapter 2.

Constitutive rules are the foundation of all institutions. They function like rules of games and are created by declarations that assign status functions (Searle J., 2010). They are self-enforcing, because it is impossible to deviate from these rules without undermining the institution. With constitutive rules, there is no gap between norm and practice. Thus, when I play chess I follow the rules of chess, because that is what playing chess means. Regulative rules, like traffic rules, regulate social practices in accordance with externally given norms. Linguistically, regulative rules are commands super-imposed on individual practices by outside authorities. They are not self-enforcing because deviating behavior is possible without putting the validity of the norm in question. Thus, regulative rules are issued and

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84 See also (Fotion, 2000, p. 192)
85 According to (Hall, Peter and Rosemary Taylor, 1996), historical institutionalists associate institutions with organizations and the rules or conventions promulgated by formal organization. They define institutions as the formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy. Sociological institutionalists tend to define institutions more broadly to include, not just formal rules, procedures or norms, but the symbol systems, cognitive scripts, and moral templates that provide the ‘frames of meaning’ guiding human action. My use of the term “institution” entails both these definitions. It is inspired by John Searle’s (1995) analysis of “institutional facts”.
86 Searle (1995) has developed this distinction based on Rawls (1955).
enforced by organizations like governments, courts, police etc. that act through commands with the purpose of structuring social interactions and minimizing norm deviations, while constitutive rules enact norms through social practices.

It is important for our subsequent discussion to recognize the logical difference between these two sets of rules. In the case of constitutive rules, the norms are generated and enacted in (and not by) specific practices. By this I mean that the logical form of constitutive rules is commutative in the sense that a norm will structure a practice, and a practice will constitute a norm. Regulative rules, by contrast, have a non-commutative logical form, because the practice may follow the norm, but the norm does not follow from the practice. Because they are formulated by external organizations, regulative rules interfere with individuals’ free will. Hence, they cannot provide the foundation of liberty. By contrast, constitutive rules are intrinsic to specific practices, so that if a practice is freely chosen, the normative content of the rule is also freely chosen. Our foundational theory of liberty must explain what has led to the acceptance of the constitutive rules of modern liberty.

**DEMOCRACY**

The distinction between constitutive and regulative rules helps us to clarify the relation between states and governments. States are set up by constitutional rules that specify how collective decisions regarding the regulation of private decisions are to be taken. Governments are organizations, which issue and enforce such regulations. But that implies that governments are contingent on the broader set of rules which constitute states and authorize governments to act in specific ways. This is why the power of governments must be authorized by a higher authority, the sovereign. In traditional societies the sovereign is a person, possibly the representative of religious authority; in modern democracies, the people, i.e. the ensemble of all citizens, are the sovereign that has the authority to legitimize governments.

The transition from traditional to modern societies requires a normative shift whereby the sovereignty of the absolute ruler is transferred to individual citizens collectively. Historically, this transfer was claimed by republicanism, which defined liberty as non-domination. Non-domination means having *rights* which protect individuals against the arbitrary interferences by authoritarian rulers (despots). However, it took some time to recognize that the sovereignty of the individual also required protection against the tyranny of the majority, i.e. against the rule of the collective. Modern democracies have therefore enshrined a set of fundamental civic and human rights that guarantee the integrity and liberty of all human beings. Republican discourses have not always acknowledged political individualism as a guarantee of individual rights, so that they stand sometimes uncomfortably between the norms of holistic communitarianism and the rules of liberal democracies. This elasticity of republicanism has created a lot of confusion (Urbinati, 2012), which can be cleared up when we recognize that modern rights are constituted by contracts.

Fundamental civil or human rights are institutions that define spaces for individual liberty, but laws regulate how free people ought to interact within these spaces and regulating organizations make sure

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87 See (Pettit P., 1997) (Skinner Q., 1998)
the laws are obeyed. Hence, what makes an institution is the fact that it is constituted by rules which express publically recognized norms; what sustains an institution is the fact that the rule is followed in daily practices. The sustainability of social practices requires therefore institutions which deal with norm deviation, because persistent and excessive deviations from regulative rules will undermine the general acceptance of any kind of rules as the issuing organization is losing its authority.

However, if regulative rules and organizations serve to sustain the validity of the norms that constitute the accepted practices in a given society, the space of freedom depends on the constitutive rules, which define it, and on the degree of interference, by which authorities regulate individual spaces of liberty. While modern states enact the democratic norms of individual freedom, governments often interfere with them by imposing regulations. This creates the paradox of modern liberty: in order to preserve individual liberty, freedom needs to be regulated. The validity of the norms of freedom and equality depends on the effectiveness of policing and suppressing diverging behavior, but when they impose external constraints on people’s wills, regulations restrain liberty.

How large can this gap be without jeopardizing the norm of liberty itself? The answer depends on the hierarchy of values in society. When the protection of individual freedom has a higher value than conformity with consensus, the gap is legitimized by liberal pluralism, which requires the acceptance of the fundamental norm that all human beings are free and equal in dignity and rights. When holism is the dominant value, the pressure to conform will close the gap, but at the price of giving up individualism.

If the regulative interference with individual freedom is to be acceptable, regulative rules must stand in the broader discursive context of political individualism which generates the free and unconstraint acceptance of such rules. The institution of democracy generates such a background, because the rules that set up democracy have political individualism as their normative content: free and equal citizens have the right to decide how social practices are to be regulated. They are simultaneously the authors and the addressees of laws. But this means that the constitutive rules of democracy must themselves be founded in discourses that establish individuals as free and equal and this normative foundation cannot be imposed by an outside authority. Individuals have to live their lives in such a way that their social practices manifest and enact the norms of political individualism and such practices are founded on the institution of contract from which claim-rights are derived.

FROM STATUS TO CONTRACT

Henry Sumner Maine (1861, pp. 168-170) was the first to describe the social transformation from political holism to individualism, and therefore from ancient to modern liberty, as the institutional transition “from status to contract”. He argued that traditional societies are characterized by status and “forms of reciprocity in rights and duties which have their origin in the family”, while modern societies are defined by the institution of contract, which has progressively replaced the traditional institution of

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88The distinction is very clear in the French Declaration of the Rights of Men (1789): “Liberty consists in the freedom to do everything which injures no one else; hence the exercise of the natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights. These limits can only be determined by law.”
status: “The movement of the progressive societies has been uniform in one respect. Through all its course it has been distinguished by the gradual dissolution of family dependency and the growth of individual obligation in its place”. Sumner Maine’s notion of (extended) family described the core group to which holistic discourses refer, and his definition of status summarized the hierarchical order of these groups and the interpersonal relations in traditional societies that he opposed to contracts as institutions of freedom.

Modern anthropology has developed the concept of kinship system to cover what Sumner Main called the family. Kinship designates a “pattern of social usages observed in the reciprocal behavior of related persons”, i.e. “the set of regularities that can be abstracted from the behavior towards one another of individuals in a relation of kinship” (Dumont L., 2006, p. 7). The relations of kinship are structured by hierarchically ordered systems which are held together by obligations imposed on individuals. Marcel Mauss has described these reciprocal obligations as archaic forms of contracts, but they are in no way comparable with modern contracts between free and equal individuals. They were customary obligations for hierarchically structured groups the members of which had to obey, for failing to do so meant being expelled and living without any protection. Modern contracts, by contrast, are mutual promises between individuals who are free to accept or reject the terms of the agreement.

Having worked as a colonial administrator in India, Sumner Maine was interested in the shifts in jurisprudence from political holism to individualism, but he never explained what has caused their transition - although he did mention the role of commerce. As a typical 19th century thinker, Sumner Maine saw the transition from holism to individualism as a linear progression: “Starting, as from one terminus of history, from a condition of society in which all the relations of Persons are summed up in

89 “Dans les économies et dans les droits qui ont précédé les nôtres, on ne constate pour ainsi dire jamais de simples échanges de biens, de richesses et des produits au cours d’un marché passé entre les individus. D’abord, ce ne sont pas des individus, ce sont des collectivités qui s’obligent mutuellement, échangent et contractent; les personnes présentes au contrat sont des personnes morales: clans, tribus, familles qui s’affrontent et s’opposent soit en groupes se faisant face sur le terrain même, soit par l’intermédiaire de leur chefs, soit de ces deux façons à la fois. De plus, ce qu’ils échangent ce n’est pas exclusivement des biens et des richesses, des meubles et des immeubles, des choses utiles économiquement. Ce sont avant tout avant tout des politesses, des festins, des rites, des services militaires, des femmes, des enfants, des danses, des fêtes des foires dont le marché n’est qu’un des moments et où la circulation des richesses n’est qu’un des termes d’un contrat beaucoup plus général et beaucoup plus permanent. Enfin, ces prestations et contre-prestations s’engagent sous une forme plutôt volontaire, par des présents, des cadeaux, bien qu’elles soient au fond rigoureusement obligatoires, à peine de guerre privée ou publiques” (Mauss M., 1950, pp. 150-151).

90 Graveson (1941) has rejected Maine’s thesis and claimed that common law, which has developed from “feudal agreements between lord and man” has a contractual basis. However, the feudal relation was very much a relation of status which assigned function to lord and tenant, which were not freely negotiable. As Maine put it: “The great majority of Jurists are constant to the principle that the classes of persons just mentioned are subject to extrinsic control on the single ground that they do not possess the faculty of forming a judgment on their own interests; in other words, that they are wanting in the first essential of an engagement by Contract” (p. 170).

91 Sumners Maine based his analysis of ancient law largely on Roman law: “Such motives were not of course confined to Rome, and the commerce of the Romans with their neighbors must have given them abundant opportunities for observing that the contracts before us tended everywhere to become Consensual, obligatory on the mere signification of mutual assent.” (Maine, 1861, p. 334)
the relations of Family, we seem to have steadily moved towards a phase of social order in which all these relations arise from the free agreement of Individuals. (…) The word Status may be usefully employed to construct a formula expressing the law of progress thus indicated, which, whatever be its value, seems to me to be sufficiently ascertained. All the forms of Status taken notice of in the Law of Persons were derived from, and to some extent are still coloured by, the powers and privileges anciently residing in the Family. If then we employ Status, agreeably with the usage of the best writers, to signify these personal conditions only, and avoid applying the term to such conditions as are the immediate or remote result of agreement, we may say that the movement of the progressive societies has hitherto been a movement from Status to Contract.”

Unfortunately, we have learned that history is more complex. Sumner Maine’s naïve progressivism does make us to understand the countervailing holistic movements, such as nationalism, communism, fascism, religious fundamentalisms, which have interrupted the steady progress to individual liberty and threatened political individualism in the 20th century. Nevertheless, I believe that Maine has correctly recognized the importance of contracts for the transformation of traditional societies.92

This transformation is reflected in two concepts of rights, as I shall discuss below. Control-rights are imposed by outside regulators in the form of regulative rules, while claim-rights are constituted by the contractual relation between free and equal individuals. Democratic states are founded on claim-rights, authoritarian states on control-rights. Hence, democratic liberty is based on the institution of contracts.

The institution of contract is a set of rules that stipulates the conditions under which a freely made promise becomes a binding obligation for the promisor and a claim-right for the promisee. That contracts are the exchange of promises (Fried, 1981) is an interpretation nowadays shared by most contract theorists (Kimel, 2005). What is relevant for us is that the practice of making contracts generates claim-rights, because the promisee obtains a rightful claim for the satisfaction of the promise, and it enacts the norms of liberty and equality, because the promisor is free to choose between promising and not promising, and because they are both free to accept or reject the terms of the contract, they are equal, too.

In other words, in contractual relations individuals constitute themselves as free and equal. However, the purpose of the contract is not the generation of freedom and equality; the purpose is to deliver what the contract is about. If I need money to buy a car and we make a contract whereby you lend me money for one year and I promise to pay it back to you plus interest, then my purpose is buying the car and the means to this end is getting credit, while your wish to earn interest. Our actions and practices are caused by our intentions, but the way we go about them stands in a broader context. The normative context in our example is that when I commit to the repayment of the loan, I do this freely just as you have freely chosen to entrust your money to me. Thus, we both enact our liberty by freely choosing goals and means and every time we do this, the norm of individual liberty is validated in practice. Hence, the normative implications of this relation are implicit and not part of the conscious intentions of the contractual

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92 For a critical discussion, see (Graveson, 1941); (VeerSteg, 1988-1989).
partners. The constitution of individual liberty and equality is the unintended consequence of people freely and voluntarily exchanging promises.

However, a promise alone does not yet make a contract. For contracts to be valid and become a social institution, they must be backed by what Searle (1995) calls collective intentionality. The agreement must be recognized by a group or society to have been made in accordance with the generally accepted rules of contract. These rules are formally canonized in contract law. When contracts satisfy these formal conditions, they are valid and enforceable by law. Now, clearly, contract law is a regulative institution, while making a contract constitutes individual liberty. Thus, if we recognize the foundations for modern liberty in the contractual relations between free and equal individuals from which rights are derived, they must be backed by the broad social consensus about the legitimacy of contract law regulations, and this consensus must reflect the norms of political individualism.

Contractual claims generate institutions of modern liberty, because they require the consent of free and equal partners. By contrast, control-rights, usually derived from customary and positive law, constrain individual freedom by regulating what people ought to do so to say “from the outside”. How do we move from individual enactment of a normative relation to the general acceptance of social norms will be discussed in chapter 2. However, in a nutshell the argument is that the norms underlying specific practices are becoming an acceptable reference for people’s mutual interactions as these practices are more widely adopted. With their general acceptance as valid norms, they are the content of constitutional rules that set up institutions.

This analysis has important implications for democratic states and the status of liberty. Modern political philosophers, starting with Hobbes, have explained that states are the result of a social contract to which all members of society subscribe. Rousseau (1975 [1762], p. 243) is often seen as the most prominent thinker who has modelled the social contract: “How to find a form of association which will defend the person and goods of each member with the collective force of all, and under which each individual, while uniting himself with the others, obeys no one but himself, and remains as free as before’ this is the fundamental problem to which the social contract holds the solution”.

However, the social contract is a fiction. When two parties conclude a contract, they are free to accept or reject its terms, although after accepting them, they are bound and obliged by the mutual agreement. The social contract is the opposite: individuals are born into the obligations resulting from the social agreements made by others, although as citizens they are free to change collectively the terms of the social contract. It is this democratic liberty to renegotiate the social contract that constitutes modern

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93 John Austin (1885) defined laws as “commands of a sovereign”, because he saw rules as “general commands” given by a sovereign. The correlate to command is duty, and non-performance must be sanctioned. Henry Summers Maine has criticized Austin’s notion of sovereignty, which “is arrived at by throwing aside all the characteristics and attributes of Government and Society except one, and by connecting all forms of political superiority together through their common possession of force” (quoted in Cocks (2004, p. 121)). As I will explain later, the vision of law as command is correlated with the explanation of money as a means of exchange; it is very different from contract law, where contracts are seen as promises (Fried, 1981) and rights are legitimate claims and their correlate are obligations. The second view is reflected in the idea that money is a means of payment.
liberty at the political level, a liberty that is opposed to Rousseau’s holism where “we incorporate every member as an invisible part of the whole” (1975 [1762], p. 244). Submission to a norm or rule is not the same as acceptance, and collective recognition requires that individuals accept what is collectively valid.

Rousseau’s consensus, which he has called the “general will”, is ambiguous, for while it can explain the collective acceptance of political individualism, it is often used to justify political holism. However, contracts are institutions of liberty, and not of obligations, even if regulations impose external constraints on individual behavior. Because a contract is not valid unless it is concluded freely and voluntarily, the norm of freedom entails the obligation, but the normativity of liberty ranks higher than the obligatory constraint.

This is different in holistic institutions. Under the influence of Max Weber and the German holistic tradition, institutionalism has often emphasized the constraining aspects of institutions, especially power, rule enforcement, conformism, and sanctions. For example, Streek and Thelen (2005, p. 9) call institutions “building blocks of social order” which “represent socially sanctioned, that is, collectively enforced expectations with respect to the behavior of specific categories of actors or to the performance of certain activities”. Such institutions oblige people to behave in certain ways and the justification for this obligation is derived from their status in the social order and not from their individual will. Individuals have to submit and surrender to the commands issued by the regulating institution, but they are not able to negotiate the terms of the contract and to choose whether they wish to accept or reject them.

One could justify this holistic institutionalism on utilitarian grounds. Holistic discourses often claim that repression may be necessary to maintain order in society as a whole and that without order there is no freedom. However, the idea that regulative institutions or organizations can constitute modern liberty is untenable. How could a repressive machine justify individual liberty? It seems paradoxical to say that constraints are the foundation of liberty, unless one refers to holistic liberty where individuals must surrender to the requirements of a functioning organism. This conservative-holistic argument in favor of authoritarian practices is incompatible with the idea that all human beings are free and equal in dignity and rights. No doubt, many societies are built on repressive institutions, which are then over time gradually accepted as useful and legitimate, but modern individual liberty does not fit into such environments. If contracts are voluntary, deliberate, and legally binding agreements between two or more competent parties, liberty is articulated as the individual freedom to accept, reject or modify the terms of an agreement. Thus, making a contractual agreement is an act of liberty. A society that moves from status to contract, as Sumner Main observed, is a society that increasingly enacts modern liberty.

94 In Chinese history, for example, the founders of all dynasties have been cruel and repressive rulers who set up a new order, which then became legitimate when people start behaving in accordance with the new rules.
FROM CONTRACTS TO RIGHTS

At this point I ought to elaborate on the two competing concepts of rights, namely control-rights and claim-rights, which give different flavors to modern liberty and also shape views of human rights. Following Searle, I understand rights as institutions which are constituted by speech acts in the form of declarations and legal discourses. Different kinds of speech acts are generating different kinds of rights and laws.

Control-rights are the entitlement created by permissive commands issued by a higher authority to use and exercise power over resources and exclude other people from using them; they are granted or imposed by external organizations with the power to do so, and often it is an absolute ruler who grants them as privileges and “liberties” (De Dijn, 2008). Control-rights are problematic in international human rights law because there is no international sovereign who can oblige governments to respect human rights.

Claim-rights, by contrast, are the entitlement to make a claim with the counterpart of someone’s obligation to satisfy the claim. They are generated by mutual promises and not by commands. Of course, once a contract is agreed, freedom is replaced by the obligation to fulfil the promise made by the two parties, but this obligation is not externally imposed. It is the outcome of the free choice of accepting or rejecting the terms of the contract. Hence, contracts are voluntary agreements that generate valid expectations to which individuals commit out of their free will (Mulcahy, 2008). Yet, as we saw, a purely private agreement is not yet a contract; like all institutions, contracts depend on public recognition. When the claims of a promisee against a promisor are publicly recognized as legitimate, they become enforceable rights. Nevertheless, claim-rights are consistent with discourses of political individualism, because by concluding the contract both parties have implicitly accepted that the terms can be enforced by legitimate organizations. The important point here is that claim-rights articulate individual autonomy, while control-rights depend on the will of authorities.

However, while this is fairly clear in contract law, which governs private relations, it is much more complex in the case of social contracts. Social contracts bind individuals who have never explicitly committed themselves to fulfilling the social obligations. If John has promised Mary to make a payment and fails to deliver, Mary can seek redress with the help of courts; and if the contract has been made in accordance with legal norms, public authorities will recognize it as valid (Smith S. A., 2004). But if one individual does not agree with the constitutional order of the society in which she lives, she cannot seek

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95 These lines of interpretation have influenced the debates between economists, legal scholars, and political scientists. In economics they are reflected in the conflict between the classical-neoclassical tradition and the alternative Keynesian paradigm of money, as I will show in chapter 3. Among legal scholars, the economics-influenced efficiency paradigm for the foundation of contract theory is confronted by a deontic autonomy paradigm (Kraus, 2004). Among political philosophers, the ditches are less clearly dug, which also contributes to the confusion over political normative discourses.


97 For a discussion of interpreting “contract as promise” and “promise as contract”, see (Kimel, 2005)
redress against the general will of the rest of society. For if she does so by claiming her human right to dissent, she is already implicitly accepting the terms of the social contract by which human rights are recognized as elements of the order she puts into question.

The relation between rights and liberty is, of course, highly contentious, when human rights make the claim for universal liberty. Why are they universal? What is the foundation of this claim? What kind of liberty is granted by these rights? How can one possess rights, when they are permanently violated (Donnelly, 2013)? Jeremy Bentham (1843, p. 501) expressed the malaise when he remarked in reaction to the Declaration of the Rights of Man during the French Revolution that speaking of “natural rights is simple nonsense: natural and imprescriptible rights, rhetorical nonsense, nonsense upon stilts.” Bentham’s critique of human rights is not without foundation, but it is only consistent with the interpretation of rights as control-rights. Such rights are set by positive law and require political legitimacy of an external authority as lawmaker. But human rights make sense when they are making claims which are considered valid. The question is then, how come the claims made by human rights declarations have become generally or even universally accepted?

Human rights are institutional devices for granting individuals protection against unwarranted interference by the whole. How do these liberty-guaranteeing rights come about? Utilitarians explain them by instrumental efficiency: human rights are welfare improving. Rule-of-law explanations derive fundamental rights from control-rights granted by the highest authority – the sovereign. Holistic authoritarians like Filmer (1680) argued that the sovereign was authorized by God, and ancient Chinese scholars related the Emperor’s right to rule to the “Mandate from Heaven”. The natural law interpretation, which emerged in the Renaissance from scholasticism, has interpreted human rights as individuals’ natural birth-right granted by God to each individual and not exclusively to the sovereign. However, the idea of a natural law is a naturalistic fallacy: laws do not exist in nature, but in our minds. We must explain how it got there and why it remains there.

People constitute laws and rights by their practices and discourses. When individuals participate freely in the democratic deliberation process by which they authorize governments to issue external rules and laws, they contribute to the general consensus by which their daily practices are validated as legitimate. Thus, when the economic practices consist in making contracts about buying and selling, and about borrowing and lending, individuals are not only enacting the norms of modern liberty at the micro level, but they are also constituting the broader macro context within which their micro decisions make sense. By contrast in a command economy, the government or planning bureaucracy issues orders which individuals must obey.

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98 I wish to focus on liberty, but similar questions apply to the question of human dignity. The modern idea of human dignity is defined by “the equal status of all persons” (Kateb, 2011). This status assigns liberty as their common status of all individuals, which are protected by human rights.

99 English Real Whigs were the first to insist that an Englishman was entitled to be ruled by laws to which he had himself consented, wherever he was, at home or abroad, and from there the claim was quickly extended as a right to all mankind (Robbins C., 1959, p. 7). This Whig theory became a powerful argument against colonial conquest and in favor of developing rights of man and the theory of human rights.
It is a commonplace in neoclassical economics that secure and enforceable property rights are a necessary condition for the efficient functioning of markets, and given that markets are institutions of liberty, property rights are the foundation of modern liberty. However, this view is problematic because neoclassical property rights are defined as control-rights which regulate the use and usefulness of resources; they are not claim-rights. Thus, in the property rights school markets and liberty are constituted by commands issued by an external authority and not by the agreement between free and equal individuals. While it is true that historically markets were organized spaces established by states and imposed on recalcitrant traders (Rothchild, 2001, p. 20), there is a normative incoherence between this regulation of markets and the foundation of liberty.

For economic liberals the market seems to provide the institutional framework for liberty and contracts, because that is where people freely exchange goods and services. However, the pure exchange of goods does not require contracts. It is barter and not the exchange of promises. Contracts appear when the exchange is spread over time, so that one party promises to perform, and the other has a right to claim the performance. Markets cannot function without money, because money is the means of payment that discharges debt contracts. I shall explain below that debt contracts are also the engine of growth in the economy through which the norms of liberty are propagated. Money and credit provide a simple and elegant explanation why modern individual liberty has expanded and become the universal standard for modernity: modern money is credit; credit is made by debt contracts; creditors claim interest, which must be paid back by more money, hence by creating more contracts. The paradigm of markets as places for exchange falls short of explaining this.

Claim-rights are articulate and sustain individual freedom and equality. Control-rights require subordination to the regulator and therefore interfere with the liberty of the chooser. It is therefore not surprising that economic liberals seek to minimize such interferences by governments. However, the reduction of regulative government interference usually comes at the price of increased externalities from private actions that are simply another form of interference. It is therefore not possible to discuss modern liberty without founding liberty on the general acceptance of collective regulation.

This is the idea of democratic liberty whereby citizens agree to the laws which apply to them. The laws are usually made by citizens’ representative agents, of which they are the principal. Democratic institutions are built by rules to which citizens have to submit individually, although collectively they have the choice of accepting or rejecting them. Democratic liberty implies that the consensus of the collective can legitimately be challenged and changed. This is why the freedom of opinion and expression has such an important constitutive role in modern liberty: public debates and free collective deliberation are a necessary prerequisite for the formation of democratic consensus. Individual freedom emerges exactly in this gap between what is and what ought to be. Contracts generate modern liberty, because they define liberty as individual autonomy and simultaneously require the social recognition by others who are also free and, in this respect, equals.

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100 See for example (Alchian, 2008); (Clague, Ch., Ph. Keefer, S. Knack, M. Olson, 1999); (North, Douglass C.; Wallis, John Joseph; Weingast, Barry R., 2013).
NORMATIVE ACCEPTANCE AS THE FOUNDATION OF INSTITUTIONS

We have now elaborated on the normative content of modern institutions, but we must still explain how the acceptance of norms comes about. Finding the reasons for this acceptance is the key question for explaining the foundation of liberty. Rational beings have reasons to accept institutional norms. We may distinguish three. The first is logical consistency. If the normative discourses describing certain social practices form a coherent system, it is reasonable to accept them as valid, because they are intellectually convincing. This is the Kantian justification of acceptance. However, when the norms of the constitutive rules of a system conflict with other rules, it may be impossible to accept them as universally valid. In this case, normative inconsistency will undermine general acceptance and the system’s sustainability.

The second reason takes a pragmatic utilitarian view and explains norm acceptance by instrumental rationality and systemic efficiency.\(^{101}\) This approach interprets the validity of norms as conventions: we recognize norms as valid simply because it works for us to do so. In principle, any reason can justify adopting conventional norms as long as everyone follows them. For example it does not matter whether road traffic is on the left or right side, as long as people stick to the rule. But the ultimate argument for such rule following is the fear of accidents and punishment for non-compliance. But how could liberty be compatible with and even be founded on the threat of punishment and force?

A major objection to these two reasons is that they are dependent on cognitive and intellectual capacities of rational calculation (applying moral criteria, evaluating strategic options, etc.), which are quickly beyond human reach if they are realistically complex. For this reason, I prefer a third model which, which I call stochastic consensus.\(^{102}\) It is based on bounded rationality and will be fully explained in the next chapter.

Normative acceptance is not necessarily a conscious act. In fact, it rarely is. As Appiah (2007, p. 73) wrote: “A large part of what we do do because that is just what we do. (...) [W]hat moves people is often not an argument from a principle, not a long discussion about values, but just a gradually acquired new way of seeing things”. When people go about their daily practices, they enact rules and norms, but they rarely ask whether the underlying set of norms is good and justifiable, but rather whether it works to implement them.\(^{103}\) When institutions fulfil the functions assigned by their intrinsic rules, the norms are implicitly accepted. When individuals conclude contracts to accomplish certain ends, their contracts

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\(^{101}\) For a critique of instrumental rationality see (Habermas J., 1981)

\(^{102}\) A stochastic system is one whose state is non-deterministic so that the subsequent state of the system is determined probabilistically. As a stochastic process, consensus evolves over time in a random, non-deterministic way, where the transition from one state of mind to the next is governed by a stochastic matrix of transition probabilities. This, contrary to many traditional social theories, notably Marxist historical materialism, I explain the acceptance of norms as a random process where what matters are the transition probabilities.

\(^{103}\) For example, an enormous amount of intellectual debate and reflection was necessary to set up the rules for creating the euro as the currency for Europe, but when they pay for their daily bread, few people in Europe ask whether creating this institution was a good idea. As long as the euro fulfills its function as a means of payment and storing and transferring wealth claims, it is a sustainable institution. Criticism of the euro has been voiced about price increases after the switch to the new currency unit, and in the context of high unemployment after the financial crisis. These are critiques addressed to the functioning of the currency.
constitute them as free and equal individuals, and modern liberty is generated every time a contract is made.

Hence, the proof of normative validity is in the practice, and this implies that when I follow certain practices, I necessarily accept the norms and constitutive rules on which the practice is built. This is true regardless of regulative or constitutive rules. When I drive in England, I have implicitly accepted the regulative rule of keeping my car on the left side of the road and the whole rest of traffic regulations. When we practice democracy, we accept the constitutive rule that the government is elected by free and fair elections. When I make a contract with you, we both accept the norm that we are equally free to walk away from the negotiation. And if money is created by credit contracts, the creation of money, although not its use, will enact norms of liberty.

By discussing contracts and norm acceptance in social practices, we have focused on the liberty of the chooser who is free to accept or reject norms, rules and actions. However, I shall now show that if we base the modern liberty on contracts, we do not only choose freely the norms of liberty, but we are also obliged to accept them. The implicit acceptance of the norms of political individualism could sound like an adaptation of revealed preference theory, pioneered by Paul Samuelson (1938). The weak axiom of revealed preference (WARP) specifies criteria which need to be satisfied in order to make sure that a consumer’s choice is consistent with her preferences. If a consumer chooses apples over pears, given her budget, then she reveals that she prefers apples over pears. WARP says that when preferences remain the same, her choice reveals, ceteris paribus, that her preferences are such that she will never choose pears over apples. Along these lines, one could argue that when people engage in making contracts they must have chosen and accepted the norms of modern liberty. But that implies that the norms of modern liberty are chosen because people have a preference for making contracts. The normative foundation of liberty is then based on a preference for individual liberty and we still have to explain where this preference comes from. Thus, when can we say that a norm is collectively recognized and becomes a valid norm? We often engage in practices of which we do not like the norms. We get up in the morning and go to work, even if we do not feel like it, because we have a contractual obligation to satisfy the conditions of our employment contract. But how can we enact voluntarily a norm that we do not prefer? To clarify this, we must look at how the practice comes about.

A practice is a set of repeated actions. But actions are undertaken because individuals have intentions, which are commitments to act. Preferences are one of the causes in a chain of reasons that generate intentions. They are the normative content of intentions (because I prefer apples over pears, I ought to choose committing to do what will realize my preference for apples). However, the preference and the action are not indissociable, because in addition to my preference I must accept my commitment to act. My deliberation about whether I should accept a preference and commit to the appropriate actions constitutes my rationality. The freedom to accept or reject it constitutes my free will. However, the reasons for committing to an action may be different from my preferences. For example, if you lend me some money, I may prefer not to pay you back, but I will do so because I am committed to honoring our contract. Now, I may have all kinds of good reasons for borrowing the money, but I do not pay back the credit because of these reasons, but simply because that is what the institution of credit requires. Hence,
practical acceptance of norms means accepting the functional assignment created by norms and rules which structure social practices.

Hence, when I propose a contract, e.g. for borrowing money, I am obliged to accept that the lender is free to reject my offer and I am free to reject his request for better credit terms. This obligation is a logical necessity resulting from the commutativity of norms and practices that was discussed above and it implies that contractual relations necessarily generate the norms of freedom and equality. However, while this is true for all contractual relationships, the monetary economy has the additional feature – as I shall demonstrate in chapter 3 - that it only works correctly if it expands and therefore generates the system-immanent pressure to extend the space in which freedom and equality are valid norms. A pure exchange economy may enact the norms of individual liberty, but it cannot explain how the liberty of the ancients has been crowded out by the norms of political individualism.

It is today accepted wisdom among economists that all macroeconomic phenomena must be grounded in individual micro-decisions. We have now discovered that this is only one side of the coin. The other side is that micro-decisions are founded on macro-phenomena. While it is true that political individualism is a macro-phenomenon grounded in the contractual relations between utility-seeking individuals, it is also true that financial contracts in a monetary economy depend on the validity of the broader normative framework which enables people to formulate mutual claims in terms of contracts. This macro-framework requires that the freedom of the chooser is generally recognized. But that raises the important question how social practices emerge from the interaction of the macro and micro dimensions. Individual practices enact norms bottom-up, the ideological discourses lingering in the social background determine top-down whether a practice is legitimate. I shall explain the interaction by the model of stochastic consensus in the next chapter.

**General acceptance and Stochastic Consensus**

We can now clarify what we mean by general acceptance. This is the keystone which holds all elements of my argument together. How does the idea that all human beings are born free and equal in dignity and rights become generally accepted as the dominant normative discourse? When I believe something, I accept that my thought is true. When I desire something, I accept that I want to have the object of desire. When I believe that we are all born free and equal, I accept this statement as true and I accept that we are justified in making claims for protecting individual liberty and equality.

In the philosophy of mind, believes, desires, ideas, etc. are called mind states that can be described and expressed by statements. But I do not accept all mind states to the same degree. I may believe certain thoughts strongly, and I may desire some objects only weakly. The intensity of believes, desires, preferences, etc. can be modelled as the probability of me accepting a certain mind state, by which I mean that I will retain or drop that mind state as “my thought”, “my desire”, etc. It has been objected that mind states are subjective and can never be known by others (Robbins L., 1938), although Wittgenstein (1953) has explained that they can be communicated by the use of language.
Assuming truthful communication, the probability of acceptance of a mind state corresponds to the probability of accepting statements such as “I believe my thought is true”, “I want this object”, etc. This opens the possibility that we can rank statements according to their probability of acceptance. We may then say that a discourse which has the highest probability of acceptance by a given individual is subjectively accepted, and it is generally accepted if it has the highest degree of acceptance for every member in a group. A dominant discourse is then a discourse with the highest probability of being accepted. Notice that this is a stochastic and not a deterministic modelling of consensus and unanimity.

The key to explaining the general acceptance of normative discourses lies in the question what factors determine the probability of acceptance of certain discourses? Our answer will proceed in three steps. First, we may say mind states are given a priori, say by nature or technical requirements. For example, when it is hot, I may wish to drink water or lust after a soft drink and say “give me a coke”. However, as a rational being I will check and evaluate whether there are good reasons for accepting such mind state. Because I know that coke is bad for my health, I may prefer water after evaluation, which means I shall accept to say with higher probability: “give me mineral water”. Thus, at the second level, the probability of accepting the mind state may change because it now becomes conditional on the reasons I have for retaining them. What changes is the probability of acceptance, not the statement.

At this second level, we still assume that I am capable of making up my mind on my own, but this assumption is too heroic. In many areas I do not have the cognitive capacities to evaluate on my own whether my beliefs are true or my desires are worthy of action. In this third instance I will therefore ask other people I trust for help and my probability assessment for accepting a discourse will be an aggregate of all their views, including my own. The limitation of cognitive capacities is an important constraint on rationality (Simon H. A., 1987). The fact of knowing that one does not know everything provides a good reason for trusting what other people say or do, at least to some degree. This has far-reaching implications. Lehrer and Wagner (1981) have shown that under some extremely weak conditions, the tendency to trust others will lead to the consensual acceptance of a belief in a group. In a connected group of individuals with an ongoing repeated process of deliberation and communication, the probability of accepting different ideological discourses will converge to an equilibrium distribution, where every member of a group will accept any discourse with the same probability as any other individual. Hence, there is consensus.

This model can be used for explaining why it is rational to accept the norms of modern liberty, as I will discuss in detail in the next chapter; but here I wish to emphasize that individuals’ beliefs and behaviors are affected by what other people do. For, if I trust other people who change their views and I am rational, I have to change my own views and behavior as well; and when I change my behavior, others

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104 In case the communication is not truthful, the tow probabilities do not match.
105 The minimal conditions are (1) that at least one person has some self-trust and (2) that a network of trust relations connects every individual with everyone else, either directly or indirectly. See chapter 2.
106 In fact, as Lehrer (1976) puts it, rational disagreement is actually impossible under these conditions. Lehrer (2012, p. 149) also emphasizes the distinction between acceptance and belief: belief arises like desires without our deciding to believe. Hence, what matters for the collective intentionality which constitutes institutions is the acceptance of norms “as our own”, and this is well explained by Lehrer’s consensus model.
who trust me will have to change theirs, too. In the long run equilibrium, we shall all accept a discourse with the same probability. This stochastic consensus explains how a group of individuals comes to accept collectively certain norms as valid, although it does not imply deterministic unanimity. When the norms are valid, they have epistemic objectivity which founds micro-behavior, even though this objectivity emerges from the communicative actions of individuals.

Now, the equilibrium only emerges in the long run. I will accept the discourses because I see that others do so, too. In the short run, however, I may have reasons for not accepting a statement. This dissent may have reasons which are intrinsic to the deliberative process, namely the degrees of trust given to different people and their chains of connection, but it may also be induced by new practices which have not yet been diffused across all members of the group. But if a small avant-garde of individuals consider for whatever reason that certain norms ought to be accepted and others discarded, and if the avant-garde is trusted by the rest of society at least to some degree, this will set into motion a process of normative change in society. Thus, when a small elite like the merchants and bankers of Renaissance city states started making contracts, they were trusted and respected by the rest of society because of their social status and the norms of political individualism were gradually accepted and became dominant as the unintended consequence of their social practice.

However, there is no guarantee that this process by itself will automatically lead to systemic change. For example, in a traditional society, a slightly higher degree in acceptance of individualistic norms may just improve the relative weight of individual freedom without yet making it dominant over holism. The reproduction of any society requires that it functions with coherent systemic logic. If the old practices are deeply anchored in unchanging practices, the transformation may get blocked or reversed. Normative inconsistencies need to be eliminated and this can cause long and turbulent systemic transition periods. If trust breaks down, no consensus is possible; violence and force will then decide which social practice will be imposed and modern liberty will be the victim.

At one point the ranking may switch, however, and then we say that the norms of modern liberty have become dominant. This is the tipping point in normative transformation, which looks like a revolution. The classic examples have been the revolutions in England in the 17th and in France in the 18th century, but the 20th century has seen many equally important transformations for better or worse.

The social acceptance of norms will depend on the probability of acceptance by each individual, and on the propagation of these norms across the population. The more people are highly likely to accept the new norms, the larger is the probability that the new normative ranking will become the new consensual equilibrium and replace the previously dominant view.\(^{107}\) This model of stochastic consensus offers a plausible explanation for why and how certain ideological discourses will be considered as valid. In principle, the normative change can be modelled as a mutual assignment of relative weights of trust

\(^{107}\) The process of adjustment can be modelled as a stochastic process governed by a homogenous or non-homogenous transition matrix which reflects the degrees of trust people have for each other. The dynamics of adjustment are highly complex for large groups, but the system will always converge over time to a single equilibrium. Nevertheless, the process may take a long time as we know from Galileo Galilei’s ideas.
between individuals, but why should one trust one person more than another? We need some 
grounding of trust in the practices of daily life to answer this question.\textsuperscript{108} Our problem of finding the 
foundation for modern liberty consists in determining the concrete practices which generate a trust 
network. This sets the agenda for our foundational theory of modern liberty. To understand how the 
norms of modern liberty and political individualism have become generally accepted, we first need to 
give reasons for the normative shift of the probability distribution accepting political holism and 
individualism and, second, we need to explain how this shift was propagated across the world and 
became a universal standard. The monetary provides the ground on which both these shifts are possible.

\textbf{Money, Credit and the Foundation of Liberty}

The most obvious argument for trusting other people is that one knows them from transactions in daily 
life. In traditional holistic societies, many transactions are based on hierarchical subordination; in a 
monetary economy, individuals are engaging in making contracts for buying, selling, borrowing and 
lending. This makes financial contracts a dominant vector for transporting the norms of modern liberty 
through a network of trust. For this reason, money plays a privileged role in creating modern liberty.

Yet, money and finance have bad press with lovers of liberty. Rousseau (1959, S. 38) nicely made the 
point: “I love liberty; I hate embarrassment, worry, and subjection. So long as the money lasts in my 
purse, it assures me of independence and relieves me of the need of plotting to obtain more, a need 
which has always appalled me. So afraid I am to see it end that I treasure it. Money in one’s possession is 
the instrument of liberty; money one pursues is the instrument of servitude. That is why I hold fast to 
what I have, but covet no more”. Rousseau expresses here the dilemma we all know: having money, 
being liquid, opens spaces for freedom of choice; getting it is hard work; and many people think that 
poverty, i.e. not having money, is a deprivation of liberty.

However, defining liberty by what we can buy falls short of an explanation of the foundations of liberty – 
and also of what money is. In a functioning monetary economy, the possession of money can always be 
converted into the possession of other resources. We shall inquire in chapter 3 why this is so. Amartya 
Sen (1999, p. 74) has explained that not only controlling goods but also the capability of converting them 
into a person’s ability to promote her ends constitutes the substantive freedom to achieve various 
lifestyles (which he calls “functionings”). Controlling or even exercising a monopoly over dominant goods 
such as money is then a limitation of liberty for those who do not have access to money, and distributive 
conflicts are struggles for liberty. Improving freedom would require restoring equality by breaking up 
these monopolies of control and redistributing goods. However, this can only be done at the price of 
continual state intervention by “officials committed to the repression” (Walzer, 1983, p. 17). No doubt,

\textsuperscript{108} For example, a dissident in a dictatorial regime may have reasons to trust other dissidents when she voices 
critique, but she must recognize that the regime’s institutions are valid until they are changed. Her trusted 
community will, therefore, remain small and her impact on changing the consensus will be weak. On the other 
hand, if she lives in a free country, she has reasons to trust that her criticism will not put her into prison. She may 
then stand up for her convictions and try to rally support for them, and instead of individual surrender to the 
system, social practices will be changed by individual actions. Thus, liberty-generating institutions will increase the 
probability that individual freedom will become more acceptable and, therefore, democratic institutions sustain 
modern liberty.
this logic has led Hayek (1944) to call such system the Road to Serfdom. But the problem is not there; what needs to be explained is how individuals can justifiably claim that they are all free and equal, for how could one otherwise justify redistributing money and resources?

We have seen that modern liberty consists in the trinity of political, civil and economic liberty and their institutional counterpart of democracy, human rights and markets. For neoliberals like Milton Friedman (2002), markets provide the foundation on which freedom stands. For North, Wallis and Weingst (2013) “thriving market economies also facilitate the stability of open access orders, democracy in particular, in a surprising number of ways. By studying democracy in isolation of markets, political scientists have missed these forces of political stability.” However, while markets may contribute to the freedom of choice, they do not necessarily establish the freedom of choosers.

What defines markets, their constitutive rule, is the price mechanism. Suppliers are free to offer goods and services at a price of their liking and consumers are free to accept or reject. This is, of course, the logic of all contractual relations. But typically the market model focuses on the exchange of goods for utilitarian purposes and this misses the normative dimensions which are generated by contractual relations. According to neoclassical analysis, competition will push prices to a level where suppliers’ marginal costs will be equal to the marginal utilities of consumers. There is freedom of choice between different options in the negotiation between suppliers and buyers. This freedom is based on the control and exchange of resources. A necessary condition for the efficient functioning of the price mechanism is the existence of stable private property rights, which exclude users unwilling to pay, but it is not sufficient because we need money as a means of payment in intertemporal exchange contracts. The concept of property is more complex than having a system of control-rights. A full-fledged market economy needs money as a medium through which partial goods markets are integrated into a coherent system. Without money, there may be barter, but no market economy.

**TWO CONCEPTS OF MONEY**

Money, as Keynes (1971) wrote, is an asset, the transfer of which discharges debt contracts. This makes money useful. It has utility as liquidity, which means it is an asset that guarantees immediate payment in debt contracts. Rousseau described this utility by his fear of “seeing it end” or not having it. There are good reasons why not being able to honor one’s debt raises fears. At the minimum, a faulty debtor will

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110 Riese (2004, S. 178) makes the point clearly: “The comparison of market and plan, or as often occurs, of the free market economy and the command economy, reveals a methodological short fall in that the market is by itself not able to secure cohesion in the economic system. It is rather the case that central planning alone or the uniform category of money can fulfill this function. There may be individual markets, but there is no overall market. It should be noted that this state of affairs is shown very clearly by the neoclassical theory of general equilibrium when it associates the market solution with the fictitious existence of an auctioneer who establishes the cohesion of the whole system.”
lose trust and reputation and cause his social marginalization. In ancient times, it was one of the main reasons for falling into slavery.\footnote{Already in Mesopotamia 5000 years ago, freedom was linked to debt. Mesopotamian city-state temples had advanced loans to peasants against collateral and if the peasants could not repay their debt, their possessions were seized and family members, sometimes even the borrower himself, became debt peons. When defaults occurred at a large scale, often after droughts, debt became extremely disruptive for society and Sumerian and later also Babylonian kings periodically announced general amnesties. In Sumeria, these announcements were called “declarations of freedom” and the Sumerian word amargi, apparently the first recorded word for freedom in any language, literally means “return to mother” – since this is what freed debt peons were finally allowed to do (Graeber, 2011, p. 65 and 81). In the 5th century BC the idea of freedom as redemption of debt was brought from Babylon to Israel by Nehemia, who, as governor of Judea, created the Jubilee year whereby all debts were automatically cancelled after seven years (in the Sabbath year). Freedom came to refer to the release from the effects of debt. Christianity built on this concept of redemption.}

Not having money is frustrating and limits freedom of choice. If individuals were not credit constrained, they would be free of fear as they could get all the money they need by borrowing it. While borrowing may increase the freedom of choice for creditworthy individuals, it does not lift the systemic budget constraint that money exercises in a monetary economy. This constraint makes the monetary economy, in the eyes of many, a rather despicable institution. Who wants to be constrained? In addition, money is the whip that makes us work even if we don’t like it. A loan needs to be repaid and for that we need to create more income. We may be free to decide whether we want to take out a loan, but once we have done it, we are bound by the credit contract. This has led some money critics like Tolstoy to think of the monetary economy as slavery.

Schumpeter once said that there are only two theories of money which deserve that name, namely “the commodity theory and the claim theory” (Ingham, 2004, p. 6). In his History of Economic Analysis (1954/82, p. 56) he traces these theories back to Aristotle and Plato. The commodity theory treats money on the same footing as any other commodity. Although this theory has been challenged by sociologists and anthropologists alike, it has remained the basis of classical and neoclassical economics from the early writings of John Locke, Adam Smith, Karl Marx, Carl Menger and Ludwig von Mises, all the way to modern Arrow-Debreu general equilibrium models.\footnote{See (Ingham, 2004) and (Graeber, 2011) and the extensive references to the literature.} The claim theory, on the other hand, which interprets money as a means of payment that discharges debt claims, can be traced back to Hobbes, Montesquieu and the Banking School of the 19th century, and it was elevated into high theory by Keynes’ liquidity preference paradigm. Although it has received less support from academic economists, the theory of money as a claim has been the intellectual anchor for bankers and central bankers for centuries. I shall argue that the claim theory gives us the tools for understanding why money is the institution that provides the foundation for modern liberty - provided we are willing to drop some familiar preconceived ideas about money.

The claim theory sees money as a financial asset, i.e. as credit, which serves as a means of payment. Credit is created by credit contracts. Borrowers and lenders are equal partners who exchange mutual promises out of their free will, even if there are constraining reasons why they accept or reject certain terms. Thus, in the practice of making credit contracts people constitute the normative validity of
freedom and equality, and ultimately this normativity gets translated into ideological discourses of political individualism and modern liberty. In principle this is true for any market transaction where people freely negotiate prices, but the credit relation has the added dimension that it requires trust. Our model of stochastic consensus shows that a network of trust leads to the general acceptance of normative discourses. It follows that the monetary economy with its extensive credit networks is more likely to generate the collective intentionality about norms of political individualism than a pure exchange economy where individuals barter useful commodities. Most people, who accept the commodity theory, believe that money is just an instrument for facilitating the exchange of useful things; money as such has no utility – it is a veil that is neutral with respect to what really matters. Yet, while it is certainly true that money serves a means of exchange in market transactions, this is not its only function. When money is a claim, it has normative implications.

THE DYNAMICS OF DEBT AND THE EXPANSION OF LIBERTY

Critics of the monetary economy often think that what matters, or ought to matter, are the “real” goods and services we consume, and not financial claims on output. They are interested in the possession and not the property of resources. They are also concerned that property claims distort a fair distribution of income and wealth because the interest claim enriches those who own capital. Yet, while it is true that the logic of capital accumulation tends to violate norms of equality, it is this desire for more money that in a convoluted way transforms societies and propagates the norms of modern liberty across the globe. The reason is that the dynamics of debt and interest expands the practice of making contracts.

Debt needs to be repaid in money – not in apples and pears. Debt carries interest, which means more money is needed for repayment than was borrowed. From an individual’s point of view, repaying credit requires that the borrower has to generate cash flow from selling additional output or other assets, but from an aggregate balance sheet point of view, which is called flow-of-funds approach, the increase in output (real assets) must be matched by an increase in liabilities and paying back old loans plus interest requires creating more money for the economy as a whole. If money is credit, debt will have to grow. At the core of this system stands the fact that money is a means of payment. In modern economies payments are largely made by banks transferring deposits, so that the mirror image of money held as an asset (a claim) are liabilities (debt) of the banking system, within which the central bank holds a special position. Once this is understood, the monetary economy can no longer be seen as a system of exchange, but must be seen as a system of claims, liabilities and credit contracts.

The claim theory of money is, therefore, consistent with property as claim-rights. It links money to financial assets which are debt, and debt is generated by contracts when people voluntarily make promises. This view explains the foundation of liberty from three perspectives: first, it acknowledges that money is embedded in social relations, which are built on communication and contracts, and define individuals as free and equal. But in itself this argument is insufficient for founding liberty on money, for a market model based on pure exchange could be seen as building on negotiation and contracts, too. However, this does not explain what drove the transition from ancient to modern liberty. The commodity theory must assume the desire of wealth as the main driver for the development of the modern economy. But this desire remains unexplained. Assuming that the desire for modern liberty is
determined by human nature is clearly contradicted by the records of ten thousand years of human history when ancient and holistic forms of liberty prevailed.\textsuperscript{113} By contrast, I propose that the transition from feudal command economies to monetary credit economies started in the Renaissance when the Church no longer enforced strict usury laws so that the interest-dynamic of debt could take over.

Second, the debt perspective recognizes that the monetary economy is constituted by credit contracts, which are formally recognized by law. With this fact arises the issue of who makes the law? This question links the institution of money to democracy. The political norms of sovereign, absolute and authoritarian governments are coherent with the view of property-rights as control-rights; but they are inconsistent with the contractual principal-agent relations of the monetary economy where the lender is the principal and the borrower the agent. Democracies mirror this logic because people think of themselves as the sovereign principal and the government is their agent. The well-known principal-agent problems of lenders monitoring borrowers in financial markets are also reflected in the difficulties of citizens controlling their representative governments in a democracy. Seeing money as a claim makes it therefore possible to view government not as a repressive institution for sanctioning norm-deviations, as Max Weber did, but as the agent and representative over which the owners exercise control.

Third, and most importantly, the interest-dynamics in monetary economies generates a tendency to crowd out holistic economic practices and to propagate liberty. Because money has utility as liquidity in the hands of those who possess it, giving it up when making loans has a price; Keynes called this price the liquidity premium, which justifies claiming interest for giving up liquidity. Liquidity means immediate access to assets and the liquidity premium reflects the preference for liquidity in an uncertain world. The liquidity premium is, therefore, exogenous to the functioning of markets. It is the linchpin on which the monetary economy hangs.

**The Normativity of Money**

We can now see how liberty is related to the growth of prosperity. The need to repay credit has two consequences. On the one hand, the logic of balance sheets requires that increases in money claims have to be balanced by increases in real assets. If money is credit, the system’s money supply must grow in the long-run equilibrium at the rate of the interest rate. On the other hand, the growth of financial assets generated by interest claims generates the continuous expansion of the sphere of credit contracts that anchors the norms of freedom and equality into daily practices. The implicit trust in credit relations contributes to the emergence of the general acceptance of political individualism. Thus, people will associate freedom with prosperity.

However, there is a drawback: the debt dynamics generate unequal distributions of wealth because creditors are remunerated by interest, while debtors must pay for it. Yet, the contractual normativity of political individualism claims freedom and equality. The monetary economy therefore produces a factual

\textsuperscript{113} (North, Douglass C.; Wallis, John Joseph; Weingast, Barry R., 2013, p. xii) would probably agree, given that they call a holistic community “a natural state”, and then write: “virtually every society before 1800 was a natural state so that 99 percent of recorded human history occurred in natural states”. Banalizing Hobbes, Milton Friedman (2002, p. 9) also wrote: “the typical state of mankind is tyranny, servitude and misery".
inconsistency with its own norms. The norms of modern liberty will therefore only remain valid if a
democratic government, controlled by all citizens, corrects the inherent tendency of monetary
economies to generate inequality. The monetary economy has to be bounded by democracy, but it can
be bounded only by democracy.

That money is the foundation of modern liberty may not seem self-evident. The complaint literature on
the evilness of money, on the inequality generated by capitalism, on the violation of justice by financial
crises, and on the dangers from moneyed elites for democracy, is countless. How can one claim that this
is the tree on which freedom and equality grow? It is not obvious, for the facts seem to contradict the
norm. I do not claim that the norms of modern liberty, or even of a monetary economy, are always
realized. Nothing would be further from the truth. Indeed, the factual violation of the norms of liberty
and equality is the dilemma of modern times. Yet, one cannot even see the gap between modern norms
and actual facts, unless the normative foundation of modern institutions is generally accepted and
broadly recognized.

Not distinguishing individual liberty from political holism is the greatest disservice one can render to men
and women aspiring to modern liberty. We must understand how the norms of liberty have gained their
validity, and only then will we be able to close the gap between the norms and facts of liberty. Of course,
the gap remains, and will always remain, a major concern for all those who believe in modern liberty.
Closing it must be the purpose for the struggle to liberate the oppressed. However, without clear ideas
what liberty means and what kind of freedom we want, this combat cannot be won.
IV. **Empirical Evidence**

The analysis I am proposing is highly abstract. In the following chapters I will dissect its logic by looking how the leading thinkers of European political philosophy have traced the path to the concept of modern liberty. Self-evident it has hardly ever been, despite what the Founders of American independence declared, and it still far from being generally accepted in many parts of the world. The great philosophers of the West have articulated individual freedom in the context of the growing monetization of the economy, and if my conjecture is right, setting up a properly functioning monetary economy anywhere in the world will anchor the normative idea that we are all born free and equal.

While remote history is one source for checking the validity of my conjecture, normative shifts from political holism to individualism (and back!) are still occurring in our time. Transition economies in formerly Communist countries are prominent testing grounds, but establishing liberty in a properly functioning monetary economy with minimal distortions by powerful elites remains the challenge for any society on the planet. These experiences are a source of evidence for testing the hypothesis of our model. However, we cannot directly observe the mental acceptance of modern norms of liberty, only the functional acceptance through the practices people follow. This is what the freedom indices presented at the beginning of this chapter measure. I will now present some econometric evidence on the role of contract-intensive money for the development of these liberty indices. The concept of contract-intensive money (CIM) was first developed by Clague et al. (1999), and serves us as an indicator for the use of financial contracts in the monetary economy. CIM is defined as the ratio of non-currency money to the total money supply, or (M2-C)/M2, where M2 is a broad definition of the money supply and C is currency held outside banks. 114 Thus, contract-intensive money is money generated by financial contracts between financial institutions and the public at large. It is a crucial variable for testing the thesis of this book. We want to know whether there is a correlation between the development of a modern monetary economy with credit contracts and the level of political and civil liberty. A positive answer could direct us towards designing economic strategies for laying the foundation of modern liberty, human rights and democracy. It would imply that the development of a well-functioning monetary economy will increase the probability of moving in the direction of more liberty. In other words, it would shift the transition probabilities in Table 1.1 in favor of more liberty.

**Econometric Evidence**

We will formally test our hypothesis that a contract-intensive monetary economy contributes to higher degrees of liberty. However, we must also pay heed to the alternative hypothesis, formulated by Milton Friedman (2002), whereby it is economic liberty in a broad neo-liberal sense that generates political and civil liberty. Economic liberty is measured by the Heritage Foundation Index (rescaled to values 0-10). Our dependent variables are the Freedom House indices for political and civil liberty. As was discussed above, political and civil liberties should develop together, but we also test for the impact of illiberal democracy (ID) and tolerant authoritarianism (TA).

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114 Data are obtained from IMF International Financial Statistics.
We calculate a probit model, where the dependent variable is the dummy=1 for an improvement and zero for no improvement in political rights (PR) and civil liberties (CL).\textsuperscript{115} We cover 87 countries over the period 1975 to 2010, split into 5-year sub-periods. The regressors of our econometric model are lagged logGDP per capita (in PPP), the lagged Heritage Foundation indicator for economic liberty (ECL) and gaps between political and civil liberty, with two year lags. The lagged ECL variable allows us to test for the Friedman hypothesis that economic liberty as such, rather than money, would increase political and civil liberty.\textsuperscript{116} The gap between PR-CL estimates whether the effect of illiberal democracy and tolerant authoritarianism will improve liberty.\textsuperscript{117} Because the Freedom House Index gives low values to high liberty, a negative coefficient means that the probability of improving the liberty index is diminishing. A positive coefficient indicates better chances for more liberty.

Table 1.2 shows the results. Column 1 and 5 show the base model for political rights and civil liberty. The negative impact of lagged GDP is consistent with a catching up story whereby richer and economically free countries have already high levels of political and civil liberty so that the probability of improving liberty diminishes, while in poorer countries it is more likely that there will be an improvement.

Surprising effects are observed for the marginal impact of money, economic liberty and the gaps between political and civil liberty. First of all, money matters. On average a 10% increase in contract-intensive money will increase the probability of a positive improvement of political rights by 3-4 percentage points. Secondly, while the impact of the monetary economy (CIM) is always positive, this is not true for economic liberty in general (ECL). The sign of the ECL-coefficient is always negative and statistically significant. This would imply a clear rejection of the Friedman hypothesis.

However, it could be that the linear model hides some non-linearity as we saw in figure 1.3. In the other columns of Table 1.2 we report results which introduce non-linearity and interaction terms for ECL. Column 2 and 6 add the squared log of the ECL-term. Both variables have coefficients with negative signs, which imply upward concavity. By equalling the derivative to zero, the turning point is at -1.21 in mean deviation; given that the sample mean is 6.05, the impact of ECL is positive for ECL<6.05-1.21=4.85. This means that for values of less than 4.85 on the scale of the Heritage Foundation Index, the impact of improving economic liberty will actually improve political rights and civil liberty, but above this value it will lower it.\textsuperscript{118} Hence, for countries with repressive political regimes, economic opening would improve political rights and civil liberty, although in more advanced countries neoliberal reforms à la Friedman or Hajek would lead to a loss of political and civil liberty. On the other hand, the coefficient for contract-intensive money (CIM) is always positive, but it becomes statistically less significant when we introduce non-linearity for ECL. The effect is still significant at the 10% confidence level for political rights, but not for civil liberty. Thus, at low liberty levels, economic and monetary reforms work together,

\textsuperscript{115} I thank Piero Esposito for research assistance. We also checked a logit model, but the Log likelihood is slightly higher for the probit model.
\textsuperscript{116} The Heritage index assigns high values to high liberty.
\textsuperscript{117} The Freedom House index for these liberties ranges from 1 (totally free) to 7 (not free). By contrast, the Heritage Foundation index for economic liberty (ECL) goes from 0 to 100.
\textsuperscript{118} The list of countries, where increases in economic liberty would have raised political and civil liberty, is shown in the annex to this chapter.
but for more developed countries it is a well-functioning monetary economy and not neoliberalism that generates more liberty.

Column 3 and 7 look at the possible interactions between economic liberty (ECL) and illiberal democracy (ID) and tolerant authoritarianism (TA). Remember that these two regimes apply primarily to countries with intermediary liberty degrees. The ID and TA coefficients are the fixed effects of having one of the two regimes. The highly significant positive coefficients for illiberal democracy raise the probability for improving political and civil liberties, but the negative coefficient for civil liberty (column 7) in the regime of tolerant authoritarianism indicates that this regime lowers the likelihood of civil liberty improvements. However, because the coefficient is slightly lower for civil liberty than for political rights, there is a slow long-run tendency for illiberal democracy to correct itself.

On the other hand, tolerant authoritarianism has only weakly significant effects on political rights, but stronger effects on civil liberty. Yet, the coefficient for civil liberty is negative, which means that tolerant authoritarianism (which is a gap of PR-CL < 0) will increase civil liberties, thereby reinforcing tolerant authoritarianism. This explains why Table 1.2 found larger gaps for Tolerant Authoritarianism than for illiberal Democracy.

Interestingly, the interaction of economic liberty with illiberal democracy is insignificant, but it has a positive effect on both forms of liberty in a regime of tolerant authoritarianism. The interaction TA*ECL is positive and must be read as difference with the basic coefficient of ECL; so for example in column 3 the impact of ECL is -0.076 for the non-TA group while for the TA group it is -0.076+0.093=0.017. The same logic applies to column 7. We conclude that in tolerant authoritarianism the negative effect of economic liberty (ECL) is not present and if there is any, it is weakly positive; hence, economic and civil liberties increase the probability of higher political rights in TA-type regimes. However, the size of the coefficients for CIM is significantly higher than the combined ECL coefficients, and even if the statistical reliability is slightly weaker, the probability of liberty, especially political liberty, improving due to monetary economics is at least more than 8 times as high as that for neoliberalism.119

Finally, column 4 and 8 check whether it makes a difference if a country is partially free or unfree and measures the impact of economic liberalization. As before, the fixed effects alone imply a significantly increasing probability of improving both PR and CL for low liberty countries. However, this effect is diminishing as countries move up in the liberty index (coefficients for Unfree countries are higher than for Partially free); this is a typical catch up phenomenon. The interaction terms indicate that the overall effect (the non-interacted ECL term), is negative (-0.146), but in partially free countries it is null or slightly positive (-0.146 + 0.164 = 0.018 though probably not significant). An even weaker effect is exerted on CL in column 8 (-0.164 + 0.172 = 0.008). For Unfree countries the effect of ECL is negative or at best not significant. Thus, economic reforms improve liberty in partially free countries, but in unfree countries they are not enough to bring about regime change and they may even make things worse. By

119 While in column 3 the combined effect for ECL is 0.017, subtracting the standard error for CIM from the mean gives 0.333-0.194=0.239
contrast, monetary reforms, which generate contract intensive money will always improve political liberty.

Summing up, our various specifications provide solid support for the thesis that a monetary economy with high volumes of credit contracts is likely to generate political rights and civil liberties. The channel is stronger with respect to political rights. The traditional Friedman hypothesis finds some support for low partially free countries, but is clearly rejected for the higher and for very low degrees of liberty. The reason for this counterproductive performance of neoliberalism in advanced countries may well be due to the fact, that the Heritage Foundation/Wall Street Journal Index only focuses on economic liberty, which – if unconstrained – may increase inequality and thereby cause political backlashes that reduce overall liberty. Our results also put into question Zakaria’s (2007) thesis of growing illiberal democracy regimes.

THE PLAN OF THE BOOK
In the rest of this book, I will pursue the themes brought together in this introductory chapter. My purpose is to trace the broad trends in the evolution of political thinking in the context of the historically emerging monetary economy. In the next chapter, I will discuss some methodological foundations and present the formal model of stochastic consensus that explains normative change and the logic behind the emergence of modern liberty. Chapter 3 will discuss three concepts of money in detail. Chapter 4 elaborates on the relation of modern liberty and contracts, giving particular consideration to Benjamin Constant’s distinction of the liberty of the Ancients and the Moderns, and Isaiah Berlin’s distinction of negative and positive liberty. It presents a model for articulating simultaneously liberty as non-interference and as autonomy. In the second part of the book, I will show the emergence of modern discourses of individual liberty. Chapter 5 interprets Thomas Hobbes as the first radically individualistic thinker who has recognized the function of contracts to keep the modern world together. With John Locke in chapter 6 we will see the alternative paradigm of an exchange economy, where property is possession. I will also discuss the consequences of erroneous monetarism for modern liberty for which Locke is an early example. Chapter 6 will analyze the collective acceptance of modern norms by taking a fresh look at Jean-Jacques Rousseau’s social contract. The final chapter concludes by discussing the role of liberty in modern political discourses. It seeks to develop an alternative to Friedman’s and Hayek’s neoliberalism, which has separated liberty from equality, and draws some conclusion for the re-integration of money, liberty and equality in the transition from traditional to modern societies.
Table 1.2 Marginal impacts from Probit estimates

<table>
<thead>
<tr>
<th></th>
<th>Probability of a positive change in PR</th>
<th>Probability of a positive change in CL</th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP/cc (ppp)</td>
<td>-0.060</td>
<td>-0.066</td>
</tr>
<tr>
<td>CIM</td>
<td>0.412 0.336 0.333 0.345 0.342 0.283 0.278 0.292</td>
<td>0.195 0.197 0.194 0.192 0.172 0.174 0.175 0.166</td>
</tr>
<tr>
<td>ECL</td>
<td>-0.055 0.174 0.076 0.345 0.342 0.283 0.278 0.292</td>
<td>0.022 0.024 0.026 0.039 0.020 0.022 0.023 0.045</td>
</tr>
<tr>
<td>high ID</td>
<td>0.346 0.269 0.314 0.269 0.241</td>
<td>0.145 0.116 0.144 0.116</td>
</tr>
<tr>
<td>low ID</td>
<td>0.129 0.119 0.121 0.119 0.113</td>
<td>0.055 0.045 0.055 0.045</td>
</tr>
<tr>
<td>low TA</td>
<td>0.047 0.038 0.121 0.121 0.127</td>
<td>0.047 0.047 0.047 0.046</td>
</tr>
<tr>
<td>high TA</td>
<td>0.174 0.149 0.077 0.077 0.098</td>
<td>0.095 0.093 0.093 0.093</td>
</tr>
<tr>
<td>Lecl_sq</td>
<td>-0.027 0.012 0.024 0.024</td>
<td>[0.095] 0.093 0.093 0.093</td>
</tr>
<tr>
<td>ID</td>
<td>0.151 0.056 0.14 0.14 0.098</td>
<td>[0.094] 0.044 0.044 0.044</td>
</tr>
<tr>
<td>TA</td>
<td>0.079 0.02 0.017</td>
<td>[0.052] 0.042</td>
</tr>
<tr>
<td>ID*ECL</td>
<td>-0.02 0.02 0.017</td>
<td>[0.052] 0.042</td>
</tr>
<tr>
<td>TA*ECL</td>
<td>0.093 0.074</td>
<td>[0.039] 0.038</td>
</tr>
<tr>
<td>Partially Free</td>
<td>0.29 0.056 0.345 0.345</td>
<td>[0.064] 0.375 0.375</td>
</tr>
<tr>
<td>Unfree</td>
<td>0.375 0.064 0.375 0.375</td>
<td>[0.063] 0.071 0.071</td>
</tr>
<tr>
<td>PF*ECL</td>
<td>0.164 0.172</td>
<td>[0.046] 0.050</td>
</tr>
<tr>
<td>UF*ECL</td>
<td>0.103 0.057 0.106</td>
<td>[0.057]</td>
</tr>
</tbody>
</table>

Standard errors in brackets; * significant at 10% level, **significant at 5% level; ***significant at 1% level. GDP/cc=per capita GDP in PPP; CIM=contract intensive money; ECL-economic and civil liberties index; High ID=high level of illiberal democracy (difference between PR and CL=2); Low ID=low level of illiberal democracy (difference between PR and CL=1); High TA=high level of tolerant authoritarianism (difference between PR and CL=2); Low TA=low level of tolerant authoritarianism (difference between PR and CL=1); Partially Free=average between PR and CL between 2.5 and 5; Unfree=average between PR and CL above 5;
ANNEX TO CHAPTER 1

List of countries where increases in economic liberty would have generated increases in political and civil liberty. The Heritage Foundation Index is shown after the relevant year. In all other countries and years would have an increase in neoliberal reforms lowered the overall probability of increasing liberty.

Bangladesh 1985: 3.34, 1990: 3.64, 1995:4.5;
Benin 1990: 4.64;
Bolivia 1985:4.1, 1990:3.47;
Bulgaria: 2000: 4.65,
China: 1995: 4.09;
Colombia: 1985: 4.59;
Gabon: 1985: 4.48;
Ghana: 1985: 2.89, 1990: 3.16;
Guyana: 1990: 3.29;
Hungary: 1990: 4.48;
Kuwait: 1985: 3.78;
Malawi: 1985: 4.52, 2000: 4.31;
Mexico: 1990: 4.67;
Morocco: 1985: 4.42;
Niger: 2000: 4.31;
Pakistan: 1985: 4.3;
Peru: 1985: 3.72, 1990: 2.47, 1995: 3.87;
Poland: 1995: 3.54;
Rwanda: 1985: 4.6, 2000: 3.95;
Senegal: 2000: 4.48;
Togo: 1985: 3.99;
Turkey: 1985: 3.72, 1990: 4.78;
Uganda: 1990: 2.82, 1995: 2.8;