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The Guarantees of Freedom

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### ABSTRACT

Hayek (1960) distinguishes the institutions of English freedom, which guarantee the independence of judges from political interference in the administration of justice, from those of American freedom, which allow judges to restrain law-making powers of the sovereign through constitutional review. We create a data base of constitutional rules in 71 countries that reflect these institutions of English and American freedom, and ask whether these rules predict economic and political freedom in a cross-section of countries. We find that the English institutions of judicial independence are strong predictors of economic freedom and weaker predictors of political freedom. The American institutions of checks and balances are strong predictors of political but not of economic freedom. Judicial independence explains half of the positive effect of common law legal origin on measures of economic freedom.

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## **1. Introduction.**

In his 1960 classic “The Constitution of Liberty,” Hayek defines freedom as the absence of coercion by the government, and describes the various institutions that guarantee it. He focuses on two clusters of institutions of free societies, which following his analysis we call English freedom and American freedom. Central to English freedom is the idea of rule of law, which refers to the equality of subjects before the law, and the impartial administration of justice. The coercion that English freedom restricts is the power of the sovereign – be it king or Parliament – to interfere with the administration of justice by the courts. Parliament makes the laws, but judges enforce them without interference from Parliament.

The American idea of freedom, according to Hayek, accepts the British notion of judicial independence, but goes further and holds that law-making itself is subject to restraints. The will of the majority, as expressed by the decisions of the executive or the Parliament, is itself limited by the constitution, and courts are able to strike down laws which they deem unconstitutional. Put very simply, English freedom refers to the inability of law-makers to interfere with the courts, while American freedom refers to the ability of the courts to interfere with the law-makers.

Both the English and the American conceptions of freedom are based on a common notion that the will of the sovereign -- even a democratically elected sovereign -- must be restrained. Both reject the idea -- articulated most clearly by Rousseau -- that the democratically elected sovereign can, on behalf of the people, legitimately act without constraints. Both the English and the American conceptions of freedom deal with the limits on government, but refer to different limits.

In order to restrain the sovereign, the architects of the English and the American freedom have invented a variety of institutions. These institutions have been widely adopted around the

world, and their merits discussed extensively. Yet despite extensive discussions, to our knowledge there has been no attempt to *measure* the institutional arrangements related to English and American freedom, and to ask *empirically* which of these arrangements are in fact successful guarantees of freedom. This is precisely what we do in this paper. We collect information on a variety of constitutional arrangements in 71 countries related to the organizing themes of English and American freedom. Although national constitutions sometimes change (and we consider separately the sub-sample of countries where constitutions have been very stable), we see them as largely determined by history and therefore possibly shaping subsequent economic and social outcomes.

We use these data to examine which constitutional arrangements are associated with measures of political and economic freedom in a cross-section of countries. Perhaps the key contribution of this paper is to collect data on *constitutional* variables in a large number of countries that reflect particular attempts by the framers of these constitutions to guarantee freedom.

As we see it, the English conception of freedom is most intimately focused on the prevention of arbitrary action of the government, which is accomplished through the separation of powers between the creators and the administrators of laws. Hayek credits Locke with an early statement of the doctrine of separation of powers,<sup>2</sup> although the development of this doctrine is typically associated with Montesquieu (1748). In constitutional terms, the doctrine of separation of powers is implemented through the guarantees of judicial independence, and of accountability of all subjects

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<sup>2</sup> Thus, John Locke (1690, Chapter 11; §137) writes “For all the power the government has, being only for the good of the society, as it ought not to be arbitrary and at pleasure, so it ought to be exercised by established and promulgated laws, that both the people may know their duty, and be safe and secure within the limits of the law, and the rulers, too, kept within their due bounds, and not be tempted by the power they have in their hands to employ it to purposes, and by such measures as they would not have known, and own not willingly.”

of a commonwealth, including government officials, before the law.<sup>3</sup>

In English history, various attempts at judicial independence begin in the 12<sup>th</sup> century, when Henry II introduces trial by jury, and thereby surrenders at least some powers over dispute resolution to lay judges (Dawson 1960). The importance of the jury expands over the following centuries, including through Magna Carta, although judges continue to be employed by the king. Several English monarchs, especially the Tudors, are unhappy with this loss of control over adjudication: they punish disagreeable juries for perjury and create jury-free courts of royal prerogative. The English Revolution confirms the principle of judicial independence. The 1701 Act of Settlement grants judges lifetime appointments as well as independence from Parliament.

Accordingly, we measure English freedom in terms of the constitutional mandates governing the appointment terms of judges in high courts. We focus both on Supreme Courts (the highest courts of the land), and the administrative courts, which address disputes between citizens and the government. We also look at a measure of independence of administrative courts. Lastly, we look at what some writers, including Hayek, regard as a crucial protection of judicial independence in England, namely precedent (or case law) as a source of law. On this theory, the ability of sovereign to influence judges is severely limited when prior judicial decisions constrain the sitting judges.

While restraints on Parliamentary or royal interference with judges are central to English freedom, the idea of limiting the law-making freedom of Parliament is foreign to the English constitution. In fact, in his classic statement of the subject, Dicey (1885) defined the English constitution in terms of the unconstrained law-making power of Parliament. Hayek in fact sees this

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<sup>3</sup>“The first maxim of a free state is, that the laws be made by one set of men, and administered by another; in other words, that the legislative and the judicial character be kept separate.” (William Paley as quoted by Hayek, page 173). Less clearly, John Locke (Chapter 11; §136) writes: “...so it serves not as it ought, to determine the rights and fence the properties of those that live under it, especially where every one is judge, interpreter, and executioner of it too...”.

feature of the English constitution as posing a severe risk to freedom from the tyranny of the majority or (to use the French term) the general will. For this reason, Hayek sees the United States as the great innovator in the development of freedom in the 19<sup>th</sup> century.

The American idea of freedom is most intimately related to the notion of checks and balances, referring especially to the power of the Supreme Court to check congressional law-making against a difficult-to-amend Constitution. We consider a variety of constitutional measures of American freedom from this general perspective. First, we measure the rigidity of a country's constitution in terms of the difficulty of modification. Second, we examine the ability of Supreme or constitutional courts to review the laws passed by parliaments. Third, and more tentatively, we consider federalist arrangements as a source of checks and balances.

We examine how these constitutional arrangements influence both economic and political freedom. Economic freedom is measured by assessments of the security of property rights in various countries as well as by an objective measure of the burden of government regulation, namely an estimate of the number of steps that an entrepreneur must take in order to legally open a business (Djankov et al. 2002). Political freedom is measured using indices of democracy, political rights, and human rights from different sources.

These data enable us to ask the key question: do the institutions of either English or American freedom, as reflected in a country's constitution, make the citizens of that country free? We find that, holding certain parameters constant, the institutions of English freedom contribute to both the economic and the political freedom in a country. The institutions of American freedom contribute to political freedom, but less clearly to economic freedom. It is perhaps not entirely surprising that judicial independence is especially important for economic freedom while judicial

checks on the legislature for political freedom, but it nonetheless is interesting to know that these results are confirmed by the data.

Earlier research finds that common law countries – those whose commercial laws derive from those of England – score better on various indicators of economic freedom, such as financial development and lightness of regulation – than do civil law countries (La Porta et al. 1997, 1998, 1999). Legal origin of commercial laws is an interesting predictor of economic and social outcomes because most countries have acquired these laws through conquest or transplantation from a relatively few “mother” origins, namely England, France, Germany and Soviet Russia. Legal origin is therefore largely exogenous. We do not know whether this evidence is explained by greater politicization of economic life in civil law countries (Damaska 1986, La Porta et al.1999), or by differences in the legal systems themselves (Coffee 2000, Johnson et al. 2000, Djankov et al. 2001). We confirm that English legal origin is a strong predictor of economic, but less so of political, freedom, and ask whether adding our measures of the institutions of English freedom “kills” this predictive power of legal origin. We find that our measures of English freedom reduce the effect of common law origin on economic freedom in half, which suggests that judicial independence may be an important reason why English legal origin is associated with greater security of property.

## **2. Data.**

### *Construction of the Database and Definition of the Variables.*

Our analysis is based on a data set of measures of freedom and its potential determinants in 71 countries. The sample covers all countries in the Maddex (1995) Encyclopedia of Constitutions, with the exception of transition economies. The Maddex sample generally includes the richer

countries, which in fact are the appropriate universe to examine the effectiveness of constitutional guarantees of freedom, since constitutions are more likely to be followed in these countries. We choose not to expand the country coverage to assure the compatibility of our coding with Maddex. We exclude from the Maddex sample transition economies (Bulgaria, Cambodia, Czech Republic, Hungary, Poland, Romania, Slovak Republic, and Russia) because their laws and institutions have been changing very rapidly in the 1990s. The sample does, however, include countries with socialist constitutions (China, Cuba, Vietnam, and North Korea). The actual number of observations varies between regressions depending on data availability. The data, however, are nearly complete for the constitutional variables, where we supplement the Maddex data with other variables from actual constitutions. Table 1 summarizes the definitions and sources for all variables in the paper.

Unlike our constitutional variables, which come from written laws, our measures of freedom generally come from survey assessments. We measure economic freedom in two ways. The first is an index of the security of property rights, developed by a think tank concerned generally with the protection of private property -- especially against infringement by the government. The second measure (which comes from rules rather than assessments) is the number of different steps that a start-up has to comply with in order to begin operating as a legal entity. This measure was developed by Djankov et al. (2002) as an objective estimate of regulatory interference by the government in private markets. We measure political freedom by an index of democracy, an index of political rights, and an index of human rights -- all taken from different data bases.

The correlations among the measures of freedom within the same category are high. In the economic freedom category, countries that score high on property rights tend to require few procedures to start a business (-0.57 correlation). In the political freedom category, countries that



score high on the index of political rights also score high on democracy (0.91 correlation) and high on human rights (0.90 correlation). Similarly, countries that score low on democracy tend to score low on human rights (0.82 correlation).

Economic and political freedom are also highly positively correlated. A few countries such as Kuwait, Saudi Arabia and Singapore score high on economic freedom but low on democracy. Other countries, like Haiti, score low on the former and high on the latter. But such countries are an exception not the rule, as economic and political freedom typically go hand-in-hand. Countries that score high on property rights also score high on democracy (correlation is 0.60), political rights (0.68 correlation), and human rights (0.71 correlation). Similarly, countries that require a large number of procedures to setup a new business tend to score low in democracy (-0.25 correlation), political rights (-0.33 correlation), and human rights (-0.42 correlation).

We relate freedom to two sets of its potential determinants: judicial independence (*English freedom*), and checks-and-balances (*American freedom*). Our principal contribution is to focus on *de jure* variables derived from national constitutions. These variables reflect the relatively permanent features of a country's institutional environment as compared to the *de facto* political outcomes, such as the turnover of politicians, for example. By collecting these data, we also provide a new source of information for the comparative study of institutions.

Recall that the essence of the *English* view is the enforcement of laws to an independent judiciary. We use three proxies for judicial independence. First, in some countries judges have life-long tenure whereas in others they are appointed for a short period of time or even serve at the pleasure of the president. When judges have life-long tenure, they are both less susceptible to direct political pressure and less likely to have been selected by the authorities currently in office. Because

the *English view of freedom* stresses the independence of judges adjudicating disputes between citizens and the state (in freedom of speech cases, contracts, etc.), we focus on the tenure of two sets of judges: those in the highest ordinary courts, and those in administrative courts.

In England, the idea of decision-making by independent juries dates back to the 12<sup>th</sup> century, and the history of lifetime tenure of judges to the Act of Settlement in 1701. Over time, nearly all the countries following the common law legal tradition adopted this principle.<sup>4</sup> Its importance was summarized by Alexander Hamilton: “nothing can contribute so much to [the judiciary’s] firmness and independence as permanency in office, this quality may therefore be justly regarded as an indispensable ingredient” (Federalist 78). The approach of civil law countries to judicial tenure is quite different: a judge usually enters the judiciary at a low level and works his way up the hierarchy through promotions and assignments from either a council or the ministry of judges (Merryman 1969). Such promotions are influenced by the government. After World War II, many civil law countries introduced constitutional guarantees of the tenure of judges, at least for the higher ranked courts. Despite recent convergence, in a number of countries judges serve at the will of the president (as in Iraq), or their tenure does not exceed that of the legislature (as in Vietnam).

Second, in some countries, citizens can challenge administrative acts of the government only in administrative courts that form part of the executive branch. In other countries, in contrast, citizens can seek redress against administrative acts directly through ordinary courts and/or they can request the Supreme Court to review decisions made by administrative courts. Arbitrary government actions are less likely when the judicial branch can review administrative acts. In addition, the courts

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<sup>4</sup> Glaeser and Shleifer (2002) argue that the reason that England adopted a jury system, whereas France did not, was that England was a more peaceful country than France through most of the last millennium, and therefore did not need to worry as much as France did about protecting jurors from intimidation by the powerful local magnates interested in subverting justice.

ruling on administrative disputes are presumably more independent, the longer their tenure. Thus our administrative review variable is a dummy that takes the value of one when the Supreme Court has jurisdiction over administrative cases and judges ruling over these cases have lifelong tenure.

The historical development of judicial review of administrative cases in England dates back to the conflict between Parliament, backed by judges and lawyers, and Charles I, which ultimately led to the independence of the judiciary. A direct result of this conflict was the concept that ordinary courts can rule on the lawfulness of executive actions. As with other institutional features, this idea was also adopted by the countries in the common law tradition. In contrast, the French (strict) interpretation of the principle of separation of powers, did not allow judges to review administrative acts and decisions. In France, a parallel institution, Conseil d'Etat, was created following a basic structure laid down by Napoleon in 1799. This institution, which is part of the executive branch, has the power to rule over administrative decisions.

Third, in some countries courts merely interpret laws. In other countries, courts have “lawmaking” powers and, moreover, through the doctrine of *stare decisis*, judicial decisions are constrained by prior judicial decisions. Because the power of the precedent restricts the ability of the government to influence judges, it too serves as a useful measure of judicial independence.

In many countries, case law exists *de-facto* although not *de-jure* (Merryman 1969). The French revolution stripped all legislative (and power over administrative acts) from the judicial system. However, judges in civil law countries do pay attention to precedent (Glendon et al.1982, pp. 132-134, and Damaska 1986, p. 33). For example, the career incentives induced by the hierarchical judicial systems of civil law countries may lead judges to heed precedent even when case law is not explicitly recognized as a source of law. Thus, Damaska (1986, p. 37) writes that

“Firmly tied to the mast of the civil service, lower judges could hear the seductive music of freedom as Ulysses heard the singing of the sirens.”

Still, de-jure case law may be important for freedom for two reasons. First, “...the traditional conception that a single case has no binding effect seems to have hindered civil law judges and scholars alike from developing a workable system of precedent.” (Glendon et al. 1982, p. 134). Second, hierarchical review systems of civil law countries are less likely to allow case law to rule, thus reducing judicial independence. “The Continental judge does not weigh the symmetry of factual situations which, under the aegis of *stare decisis*, permits fine distinctions and thus assures the flexible growth of the law. Instead he seeks ever more concrete rules in prior decisions, disregarding the enveloping factual context. Assuming the binding nature of this progressive norm concretization, decisional standards would in time become intolerably rigid, each new decision a drop in the formation of an ever longer stalactite of norms. In short, while a judicial organization composed of loosely hierarchical judges may require a doctrine of binding precedent as an internal ideological stabilizer, a hierarchical career judiciary may well be better off without it.” (Damaska 1986, p. 37).

The *American* system, through a written Constitution, endows separate branches of government with limiting powers over each other. In this system of checks-and-balances, no branch is supreme. We use four variables to capture the importance of checks-and-balances in molding the political institutions of a country.

First, in some countries the legislature derives its power and authority from the constitution and is bound by it when making laws. In other countries, in contrast, there is no hierarchy of laws to restrain the power of the legislature either because there is no constitution or because the legislature can alter it in the same way as it writes new laws. Thus, a rigid constitution (*i.e.*, one that is difficult to modify) may constrain the power of the legislature.

Historically, the U.S. was the first country to introduce a rigid constitution. A proposed amendment to the American constitution requires either a two thirds majority in both chambers of congress or the organization of a convention called by at least two thirds of the states. In addition, the ratification by either the legislatures or conventions of three-fourths of the states is needed. In contrast, the U.K. has a flexible constitution since an Act of Parliament can make changes to all constitutional institutions and rules. In the 19<sup>th</sup> and 20<sup>th</sup> centuries, most countries that passed new constitutions opted for the American “rigid” approach. Thus, in most countries, the text of the constitution provides for a special procedure for changing it, which usually involves a combination of majority or supermajority in legislature, referendum by the population, approval of the head of state, or approval of a majority of sub-national legislatures. Finally, only under a rigid constitution is it possible to establish an institutional arrangement to control the conformity of legislation with the constitution, a concept that we turn to next.

Second, in some countries, the constitutionality of laws cannot be challenged. In other countries, however, laws are reviewed by specialized constitutional courts and/or by ordinary courts as they hear cases. The availability of constitutional review may constrain the power of the legislative branch to make laws.<sup>5</sup>

In practice, constitutional review may be carried out by the judiciary (as in the US) or by a special constitutional court outside of the judicial system (as in many continental European countries). The constitutional review performed by ordinary courts is typically specific, *a posteriori*

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<sup>5</sup> The importance of constitutional review was not lost to the framers of the constitution. For example, Alexander Hamilton writes (Federalist Papers, no. 78): "The complete independence of the courts of justice is peculiarly essential in a limited constitution. By a limited constitution, I understand one, which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex post facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice; whose duty it must be to declare all acts contrary to the manifest tenor of the constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing."

and, in principle, court decisions apply only inter-partes. In contrast, specialized constitutional courts are a relatively new phenomenon. They were first introduced in Austria in 1920 and spread throughout Europe after World War II as a response to the excesses of Nazi Germany. When constitutional review is carried out by specialized courts, it is typically abstract, *a priori* (although, a posteriori review is also possible), and has *erga omnes* effects. Importantly, judges in constitutional review courts are typically political appointees without life-long tenure. The two systems of constitutional review are not mutually exclusive. A few countries such as Chile and South Africa have both systems of review in place.

Independently of whether the Supreme or the Constitutional court performs the constitutional review, countries also differ in the scope of such review. In some countries, such the U.S., Germany, Japan, and Brazil, the institutions established to decide on the constitutionality of laws and actions enjoy the right of full review. As an example, the Japanese constitution stipulates that the Supreme Court is the court of last resort, with power to determine the constitutionality of any law, order, regulation, or official act. In other countries, the review of constitutionality is limited in the sense that it is only available to certain persons or entities, or is restricted to certain aspects of the constitution. In France, the Constitutional Council established in 1958 rules on the constitutionality of laws before they are promulgated, but only the president, premier, the presidents of the two legislative houses, or sixty members of either house can make a request for a review. Moreover, once the law has been enacted, the Constitutional Council has no power to nullify it. Finally, a number of countries, such as China, Finland, Iran, North Korea, or the U.K. have no review at all. In North Korea, the absence of the power of judicial review by the courts is the consequence of the concentration of all power in the leadership of the communist party, whereas in the U.K., the lack

of review derives from the absolute supremacy of Parliament.

Third, in some countries power is shared between a central government and the states in a federal system. In other countries, all power rests with the central government. A federal system may be an important element of a system of checks-and-balances if it introduces competition among different levels of government and impedes their ability to act unilaterally (Riker 1964).

The creation of a federal system as an instrument to restrain the power of the national legislature was another American constitutional invention. The founding fathers envisioned the sharing of power between national and state legislatures as an effective limit on all government. Looking at the U.S., Lord Acton considered this institutional setup “the most efficacious and most congenial of all checks on democracy” (quoted in Hayek 1960, p. 184). Despite the success of the American federal model, few countries have adopted a federal structure of their government in the last 200 years. In general, the vast majority of nation-states, including Belgium, France, Great Britain, the Scandinavian countries, and most of Latin American and African countries, have unitary systems of government.

As we have indicated in the introduction, one motivation for this paper is to relate our findings to those on the predictive power of legal origin. As a start, the next section organizes the data by legal origin of the country’s commercial laws. In section 4, we examine the relationship between the institutions we measure and legal origin.

### *Descriptive Statistics.*

Table 2 presents our data on the institutions of freedom. The variables are listed by country, and countries are organized by the legal origin of their commercial laws.

Consider our proxies for *English freedom* first. The results for the tenure of Supreme and Administrative Court judges are very similar and we only discuss the former. In 54 out of 70 countries for which we have the data, including the UK and the US, Supreme Court judges are appointed for life (SC tenure=2). In contrast, Supreme Court judges are appointed for terms of more than six years, but less than life, (SC tenure=1) in 9 countries, including Japan, Mexico, Korea, and Switzerland. Finally, Supreme Court judges are appointed for less than six years in Algeria, China, Cuba, Honduras, Iraq, North Korea, and Vietnam (SC tenure=0).

As these examples suggest, tenure of Supreme Court judges varies among legal origins. Supreme Court judges have life-long tenure in all countries of English (ELO) and Scandinavian legal origin (ScLO), but in only 71.9% of French-legal-origin (FLO) countries, 50% of German-legal-origin ones (GLO), and never in Socialist-legal-origin (SoLO) countries. Supreme Court judges are appointed for more than six years, albeit not for life, in 50% of GLO countries and 18.8% of FLO ones. Finally, the tenure of Supreme Court judges is shorter than six years (SC tenure=0) in 9.4% of FLO countries and in all SoLO countries.<sup>6</sup>

Our next variable deals with the nature of administrative review. Many key disputes in this area are adjudicated by administrative judges. However, whereas in 19 countries, including France, the rulings of administrative judges are final, in 51 countries, such as the UK and the US, they can be appealed to judges in ordinary courts. A key implication of the ability to appeal administrative sentences in ordinary courts is that, as a result, the Supreme Court has ultimate jurisdiction over the

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<sup>6</sup> Administrative Court judges always have life-long tenure in ELO and ScLO countries. However, Administrative Court judges have life-long tenure in only 62% of FLO countries, 50% of GLO countries, and never in SoLO countries. Administrative Court judges are appointed for more than six years, albeit not for life, in 50% of GLO countries and 18.8% of FLO ones. Finally, the tenure of Administrative Court judges is shorter than six years in 18.8% of FLO countries and in all SoLO countries.



rulings of the administrative courts.

Judges in ELO and ScLO countries have more power over administrative cases than judges in other legal origins. Whereas the Supreme Court has ultimate control over administrative cases in 91.3% of ELO and in 80% of ScLO countries, it only does so in 60.6% of FLO, and 66.7% of GLO and SoLO countries (only the ELO/FLO difference is statistically significant). The Supreme Court has jurisdiction over administrative cases even in Cuba. However, administrative review in Cuba, as in all other SoLO countries, is conducted by judges without life-long tenure.

The example of Cuba suggests that the ability of the Supreme Court to review sentences by administrative courts may not effectively restrain the power of the executive unless coupled with independent (*i.e.*, tenured) judges. For this reason, we combine the administrative review and tenure variables in our measure. We find that administrative review is conducted by judges with life-long tenure and subject to Supreme Court review (power of administrative judge = 1) in 91.3% of ELO countries, 80% of ScLO countries, 40.6% of FLO countries, 16.7% of GLO countries, and never in SoLO countries.

The availability of case law as a legitimate source of law is our final proxy for *English freedom*. As expected, case law is a source of law in all ELO countries but Thailand, which is difficult to classify anyhow (see La Porta et al. 1998). Case law is also a source of law in all ScLO countries and in 83.3% of GLO countries. On the other hand, case law is never a source of law in SoLO countries. FLO countries occupy an intermediate position: case law is a source of law in 28.1% of the FLO countries (many of them are Latin American countries which modeled their constitutions after the US one). These differences in case law across legal origins are magnified when combined with the previous results on the tenure of the Supreme Court judges (*i.e.*, of those

who ultimately interpret the law). For example, not only do Supreme Court judges have law-making power in ELO and ScLO countries but they also have life-long tenure. Conversely, Supreme Court judges in SoLO countries lack both lawmaking power and life-long tenure.

Turning to the *American view of freedom*, begin with the rigidity of the constitution. The constitution can be changed by a simple law (Rigidity = 1) in countries such as Israel and the U.K. In Sweden (Rigidity = 2) a proposal to amend the constitution needs the approval of the majority of legislature (1 point) twice, the second time after a new parliament is elected (1 point). Changing the constitution is harder in Australia (Rigidity = 3), where a majority (1 point) in both houses (1 point) have to pass the amendment and a referendum has to be organized (1 point). In Japan (Rigidity = 4), constitutional changes can be made often after the approval of a supermajority of two thirds of members (2 points) in each house (1 point) of parliament, and a referendum (1 point). The rigidity of the constitution shows little variation among legal origins, and the differences are never statistically significant.

The nature of the judiciary review is our second *American freedom* proxy. As we have indicated earlier, countries vary greatly in the scope of constitutional review. Our variable ranges from full review (value of 2), such as in Austria, Germany, Ghana, and the U.S., to limited review (value of 1) in countries such as Belgium, France, Honduras, and Jordan, to no review (value of 0) in China, Cuba, the Netherlands, and the U.K.

A few patterns emerge from these data. Although there is no review of the constitution in SoLO countries, it exists in roughly 80-85% of the countries of each of the remaining four legal origins.<sup>7</sup> Differences in the incidence of constitutional review among legal origin are not statistically

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<sup>7</sup> Specialized courts are common in FLO and GLO, but rare in ELO and ScLO, countries.

significant except with regards to SoLO countries which have sharply lower levels of review. Perhaps this is to be expected in light of the fact that constitutional review, as an American innovation, is less tied to legal origin than are the *English* freedom variables.

Defining a federation involves many judgement calls (Riker 1964). Some countries, such as Uruguay, have a unitary form of government and are clearly not federations. Other countries, such as the United States, are clearly federations as they have both a federal government and local governments with substantial autonomy. Still other countries, such as Argentina, are nominally federations although local governments are weak. In what follows, a country is defined as a federation when sub-federal units have “substantial” fiscal authority. Following this definition, federations turn out to be rather rare: there are only eight of them in our sample of 71 countries. There are no federal governments among ScLO and SoLO countries. Federations are relatively rare in FLO countries (6.1%; Belgium and Chile) and ELO countries (17.4%; Australia, Canada, South Africa, and the United States), but more likely in GLO countries (33.3%; Germany and Switzerland).

Not surprisingly, *English* and *American* freedom capture different aspects of the data. *English freedom* varies with legal origin. Supreme Court judges in ELO and ScLO countries are most independent and powerful: they are appointed for life, their decisions are sources of law, and they tend to have power to control administrative acts. In contrast, Supreme Court judges in SoLO countries are least independent and powerful: they have short appointments and lack lawmaking power. The independence and power of judges in FLO and GLO takes intermediate values between these extremes. Unlike *English freedom*, *American freedom* is not consistently related to legal origin. The rigidity of the constitution and the incidence of constitutional review do not vary much across legal origins (SoLO countries are different from other groups as they don't have constitutional

review). Federalism also yields a different ranking of legal origins than *English freedom* variables. Federations are most likely in GLO countries and least likely in ScLO and SoLO countries.

The correlations among the various guarantees of freedom are presented in Table 2a. The data show that the correlations among the institutions of English freedom are generally high and statistically significant, whereas those among the three institutions of American freedom we measure are low and insignificant (except that between judiciary review and the rigidity of constitution). The correlations between the institutions of English and American freedom are also generally low and insignificant, except that judiciary review is strongly correlated with tenure of supreme and administrative courts. Even these correlations, however, are on the order of .33-.34. These data confirm the evidence in Table 2 that our measures of English and American freedom do indeed reflect different aspects of the data, and are not just raw measures of institutional goodness. Furthermore, we have run regressions of our guarantees of freedom on the logarithm of per capita income. The regressions show that these measures are not higher in richer countries.

### **3. Regression Results.**

In this section we present regressions of the determinants of freedom. Following our earlier work (La Porta et al. 1999), we include both latitude and ethnolinguistic fractionalization as controls in all regressions. We include latitude because temperate zones have more productive agriculture and healthier climates, which might have enabled them to develop better economies and institutions (Landes 1998, Acemoglu et al. 2001).<sup>8</sup> We include ethnolinguistic fractionalization because both

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<sup>8</sup> Acemoglu et al. (2001) argue that settler mortality is a better variable for thinking about the influence of geography on institutions than latitude, especially for colonies. We have only 27 colonies with data on settler mortality in our sample, and hence stick with the more conventional geographic control.

the available evidence (e.g., Easterly and Levine 1997) and theory (e.g., Alesina et al. 1999) suggest that ruling groups in ethnically heterogeneous societies may fashion government policies that expropriate (or kill) ethnic losers, restrict their freedom of opposition, and limit the production of public goods. As a result, both economic and political freedom may suffer when ethnic heterogeneity is high.

We present each regression with and without controlling for the logarithm of per-capita income. The appropriateness of including per capita income control in these regressions is questionable. We have gone to great lengths to focus on the arguably exogenous independent variables, derived from national constitutions. In contrast, per capita income is obviously endogenous. The motivation for including per-capita income is that development itself improves the performance of the institutions guaranteeing freedom. For example, courts may only be able to restrain governments when they are adequately funded and employ well-trained judges (and both of those conditions are more likely to hold when per-capita income is high). The arguments for excluding per capita income are also powerful. We have checked that our constitutional measures of English and American freedom are not themselves higher in richer countries. Including per-capita income may also cause estimation problems if restraints on the government as reflected in English or American freedoms themselves enhance output. For example, if independent judiciaries boost per-capita income, which in turn benefits economic freedom, then controlling for per capita income inappropriately reduces the overall estimated effect of independent judiciaries on freedom. We present the results both ways, but remain quite skeptical that income belongs in the regressions.

While results vary among regressions, we generally find, not surprisingly, that both economic and political freedom are higher in richer countries, and in countries further away from the equator.

Perhaps more surprisingly, we do not find that ethnolinguistic fractionalization is associated with lower levels of freedom; in most regressions, the coefficient on this variable is insignificant. Perhaps most importantly for the discussion to follow, the effects of the constitutional variables that we are interested do not disappear when we introduce controls in the regressions. As a consequence, our discussion on the effects of the guarantees of freedom will generally ignore these controls.

### *English freedom.*

We present the results regarding tenure of the Supreme and administrative courts, administrative review, and case law (*i.e.*, our *English freedom* proxies) in Tables 3 through 6. The results on the effects of longer tenure for administrative and Supreme court judges are similar and we discuss them jointly (Tables 3 and 4). Longer tenure for judges in either court has a beneficial effect on both economic and political freedom. The estimated coefficients typically imply that tenure for judges has a large impact on freedom. For example, going from no-tenure to life-long tenure for Supreme Court judges is associated with an increase of 1.98 points in property rights and 4.15 points in democracy. These are large numbers given that property rights is measured on a 1-5 scale and has standard deviation of 1.31 while democracy is measured on a 0-10 scale and has a 4.18 standard deviation. To make these estimates more concrete, note that Egypt, India, and Mexico have a property-rights score of 3 (2 points away from a perfect score), and that Zambia has a democracy score of 6 (4 points away from a perfect score).

Recall that our measure of the power of the administrative law judges takes the value of 1 if the Supreme Court has control over administrative cases and judges ruling over administrative cases have life-long tenure, and 0 otherwise. The results for this measure are presented in Table 5.

Administrative review by independent judges has strong benefits for both economic and political freedom. These results suggest that administrative review has a large effect on freedom when carried out by judges with life-long tenure. The estimated coefficients imply that going from no-review to review-cum-tenured-judges is associated with an increase of 0.96 points in property rights and 2.23 points in democracy.<sup>9</sup>

Table 6 shows that case law has a statistically significant positive effect on economic freedom and democracy, but not on political and human rights. The estimated coefficients suggest that giving judges law-making power is associated with an increase of 1.05 points in property rights and 2.06 points in democracy.

In summary, proxies for judicial independence are associated with more economic and political freedom, with and without per capita income controls. These results support the hypothesis that judicial independence fosters both economic and political freedom.

### *American freedom.*

We present regressions using the rigidity of constitutions, constitutional review and federalism as independent variables (*i.e.*, our *American freedom* proxies) in Tables 7 through 9. Consistent with the findings in Section 2, the results on the rigidity of the constitution are mostly insignificant. The results for judiciary review are more interesting. Recall that such review may be carried out by the judiciary (as in the U.S.) or by a special constitutional court outside of the judicial system (as in many continental European countries). Table 8 shows that judiciary review is

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<sup>9</sup> To put these estimates in perspective recall that the standard deviation of property rights is 1.31 while that of democracy is 4.18. Italy, Spain, and Turkey are examples of countries that have a property-rights score of 4 (*i.e.*, 1 point away from a perfect score). France, India, and Venezuela are examples of countries that have a democracy score of 8 (*i.e.*, 2 points away from a perfect score).

a powerful predictor of all measures of political freedom. There is weaker evidence that judiciary review is associated with more secure property rights, whereas the coefficient on the judiciary review in the number of procedures regression is of the “wrong” sign. The effect on political freedom is large. Moving from a regime of no judiciary review to full review raises the score by 4.09 for democracy (std of 4.18), and 2.39 for political rights (std of 2.27), and 27.12 for human rights (std of 24.77) in the regressions that do not include per-capita income.<sup>10, 11</sup>

Table 9 presents the results on federalism. Federations appear not to have better measures of economic freedom, but they generally do have higher scores on political freedom. In this respect, the general pattern of results is similar to those for judiciary review.

In summary, the results in Tables 7-9 support the hypothesis that the institutions of checks and balances are associated with political, but not economic, freedom.

### *A Horse Race*

We next investigate whether the institutions of English and American freedom have differential effects on the political and economic outcomes by including in each regression one measure of each type of freedom. Judiciary review is our preferred measure of American freedom, and the power of administrative judge of English freedom. (Other measures yield similar results.)

The results in Table 10 confirm our previous findings. They show that, in a horse race, the

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<sup>10</sup> To make the effect of judiciary review on democracy, political rights, and human rights concrete note that Nicaragua, Thailand, and Zambia have democracy scores of 6 (i.e., 4 points away from a perfect score); Nepal, Pakistan, and Zambia have political-rights scores of 5 (i.e., 2 points away from a perfect score); and Nicaragua and Venezuela have human rights scores of 75 (i.e., 24 points away from the highest score in the sample).

<sup>11</sup> We also examined the role of tenure in judiciary review (defined the same way as the other tenure variables) and found that tenure for the judge ruling over constitutional matters is associated with more property rights and less burdensome regulation of entry (with and without per-capita income). We do not report these results.



power of the administrative judge predicts economic, but less clearly political, freedom. Judiciary review predicts political, but not economic, freedom.

The interpretation of this evidence is intuitively plausible. Economic freedom in general, and the security of property rights from government abuse and regulation in particular, are likely to depend on the ability of courts to resolve commercial disputes without government intervention, and on the accountability of government officials in such disputes to ordinary courts. These are, of course, precisely the institutions of judicial independence we use to measure English freedom. Political freedom depends additionally on limiting coercion by the government, accomplished to a large extent through checks and balances. The institutions of American freedom in general, and judiciary review in particular, aim precisely to check such coercion.

#### **4. Legal Origins.**

As mentioned in the introduction, recent research shows that the origin of a country's commercial laws is a strong predictor of many economic and social outcomes. Some studies have attributed this effect to the greater political centralization of socialist and civil law countries than that of common law countries; others focused on the attributes of the legal systems themselves.

In Table 11, we present the results of regressions similar to those reported in La Porta et al. (1999), but using this paper's five measures of freedom as dependent variables. The omitted "dummy" in the regression is French legal origin. Table 11 documents two facts. First, compared to French legal origin (FLO) countries, SoLo countries lag in both the security of property rights and all measures of political freedom. This finding is unsurprising, and we do not develop it. Second, compared to FLO countries, ELO countries regulate entry less heavily (see also Djankov et al. 2002)

and have higher property rights scores (see also La Porta et al. 1999). In contrast, the positive effect of the ELO on political rights is not statistically significant.

The results in Table 11 raise the question of whether the institutions of judicial independence that we have associated with English freedom are the source of the beneficial effect of English legal origin on economic freedom. We examine this question empirically in Table 12, where we use as independent variables both legal origins and the institutions of English freedom. In Panel A, the dependent variable is the property rights index; in Panel B, it is the number of procedures. The results in both panels show that the addition of our measures of judicial independence reduces the magnitude of the coefficient on English legal origin roughly in half, but does not eliminate its statistical significance. In the two panels, 5 out of 8 coefficients on our measures of judicial independence are statistically significant at a 10% or better level.

What can we make of these results? We have shown in Section 3 that our measures of judicial independence are strong predictors of economic freedom. Table 12 suggests that judicial independence is part of the reason why common law is associated with greater economic freedom, but not the whole story. The possibility that some other aspect of the legal system is crucial, such as the ability of judges to use “smell tests” rather than bright line rules (Coffee 2000, Johnson et al. 2000), remains open. So does the possibility that broader political factors correlated with common law are responsible for greater economic freedom (Glaeser and Shleifer 2002, La Porta et al. 1999).

## **5. Robustness.**

One issue in our analysis is whether constitutional rules are exogenous. After all, some countries occasionally change their constitutions in response to political circumstances that may

themselves be captured by our measures of freedom. To address this problem, we repeat the analysis using a sample of 44 countries that have not changed their constitutions since 1980. All of our basic results survive, except the influence of the Supreme Court tenure variable becomes weaker. These results indicate that our findings are driven by pre-determined constitutional variables, and alleviate the concern that constitutions accommodate rapidly changing political circumstances.

A closely related objection is that both the levels of freedom and constitutional rules are then determined by some omitted permanent factors, giving rise to spurious correlations. We note that we control for geography, ethno-linguistic fractionalization, and per capita income in our regressions, which should at least partially deal with this problem. Another way to possibly address it is by focusing on former colonies, many of which have borrowed significant parts of their constitutional and other rules from their former colonizers (see La Porta et al. 1998, Djankov et al. 2001). For these colonies, it may be more convincing to treat constitutional rules as exogenous. We repeat our analysis for the 43 countries in the sample that are former colonies. All of our results survive and if anything become stronger. This evidence mitigates the concern that the results are driven by omitted factors shaping both the freedoms and their constitutional guarantees. Needless to say, however, this concern cannot be removed entirely within our empirical framework.

Finally, we have presented the results in this paper using individual measures of English and American freedom – largely to understand which constitutional guarantees appear to matter. One can alternatively make composite indices of English and American freedom respectively, by averaging for each country its scores on each dimension of freedom. We have done that, and repeated the analysis for the resulting indices of English and American freedom. Not surprisingly, the results work as well or better for the indices as they do for the components.

## **6. Conclusion.**

In this paper, we consider two conceptually distinct ideas of how the will of the sovereign – even a democratically elected sovereign – must be restrained to guarantee economic and political freedom of the subjects. The English idea of freedom holds the separation of powers between the creators and the administrators of laws, implemented through the independent judiciary, to be the crucial source of such guarantees. The American idea of freedom sees checks and balances, and in particular constraints on the lawmakers by the judiciary, as a key source of such guarantees. By examining the constitutions of 71 countries, we attempt to measure the institutional arrangements that capture the English and the American ideas of freedom in different countries, and to assess the consequences of these arrangements for economic and political freedom.

The data show that the institutions of English freedom are associated with both greater economic and political freedom, whereas those of American freedom are important primarily for political freedom. These results are consistent with the intuition that dispute resolution by independent judges are key for economic law and order, whereas political freedom is achieved additionally through a system of checks on governmental power.

We then go on to address the puzzle of a strong predictive power of common law legal origin for economic freedom. We find that our measures of judicial independence reduce the common law effect in half, but do not wipe it out. We take this evidence to suggest that judicial independence is a potentially important source of economic freedom, which might explain at least part of the persistent finding of greater such freedom in the common law countries.

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## Table 1: Description of the variables

This table describes the variables collected for the 71 countries included in our study. The information that is provided is the name of the variable, the range of values, and the sources from which the variable was collected. For convenience some variables are assigned a label, which appears in parentheses next to the name of the variable.

### 1. Dependent variables:

#### Property rights index:

A rating of property rights in each country in 1997 (on a scale from 1 to 5). The more protection private property receives, the higher the score. The score is based, broadly, on the degree of legal protection of private property, the extent to which the government protects and enforces laws that protect private property, the probability that the government will expropriate private property, and the country's legal protection of private property. Source: *Holmes et al. (1997)*.

#### Number of procedures:

This variable measures the number of different steps that a start-up has to comply with in order to obtain a legal status, i.e. to start operating as a legal entity. The number of procedures ranges in the sample from 2 to 19. Source: *Djankov et al. (2000)*.

#### Democracy index:

Democracy score for the year 1994, except for Liberia where the latest available year (1989) was used. Ranges from 0 to 10, with lower values indicating a less democratic environment. Source: *Gurr and Jagers (1996)*.

#### Political rights index:

Index of political rights in 1996 (on a scale from 1 to 7). Higher ratings indicate countries that come closer to the ideals suggested by the checklist questions of: (1) free and fair elections; (2) those elected rule; (3) there are competitive parties or other competitive political groupings; (4) the opposition has an important role and power; and (5) the entities have self-determination or an extremely high degree of autonomy. Source: *Freedom House (1996b)*.

#### Human rights index:

A measure of 37 criteria based on the rights enumerated in the three major UN treaties: 1948 Universal Declaration of Human Rights, 1966 International Covenant on Civil and Political Rights, International Covenant on Economics, Social, and Cultural Rights. Ranges from 17 to 99 in the sample, with higher scores indicating better human rights. Source: *Humana (1992)*.

### 2. Independent Variables:

#### Legal origin (LO):

Identifies the legal origin of the Company Law or Commercial Code of each country. There are five possible origins: (1) English Common Law; (2) French Commercial Code; (3) German Commercial Code; (4) Scandinavian Commercial Code; and (5) Socialist/Communist laws. Source: *La Porta et al. (1998)*, extended using *Reynolds and Flores (1989)*; and *Central Intelligence Agency (1996)*.

#### Tenure of Supreme Court judges (SC tenure):

This variable measures the tenure of Supreme Court judges (highest court in any country). The variable takes three possible values: 2 - if tenure is lifelong, 1 - if tenure is more than six year but not lifelong, 0 - if tenure is less than six year. Source: collected mainly from the constitutions of countries as well as secondary sources.

#### Tenure of administrative court judges (AC tenure):

This variable measures the tenure of the highest ranked judges ruling administrative cases. The variable takes three possible values: 2 - if tenure is lifelong, 1 - if tenure is more than six year but not lifelong, 0 - if tenure is less than six year. Source: collected mainly from the constitutions of countries as well as secondary sources.

Supreme Court control over administrative cases (SC control AC):

This variable measures whether the Supreme Court in a country has control over administrative issues. The variable takes two possible values: 1 - if the administrative court is the Supreme Court or if cases judged by administrative courts can be appealed to the Supreme Court, 0 - if an administrative court exists but the Supreme Court has no power over it, or if there is no court that rules over the acts of the administration. Source: collected mainly from the constitutions of countries as well as secondary sources.

Power of administrative law judges over executive (Power of admin. judge):

This variable combines the Tenure of administrative court judges variable with a variable measuring Supreme Court control over administrative cases. The variable is a dummy taking value 1 if administrative law judges have lifelong tenure and if either the administrative court is the Supreme Court or if cases judged by administrative courts can be appealed to the Supreme Court, 0 otherwise. Source: collected mainly from the constitutions of countries as well as secondary sources, and *Maddex (1995)*.

Case law:

This variable is a dummy taking value 1 if judicial decisions in a given country are a source of law, 0 otherwise. Source: *Rene (1973)*.

Rigidity of Constitution:

This variable measures (on a scale from 1 to 4) how hard it is to change the constitution in a given country. One point each is given if the approval of the majority of the legislature, the chief of state and a referendum is necessary in order to change the constitution. An additional point is given for each of the following: if a supermajority in the legislature (more than 66% of votes) is needed, if both houses of the legislature have to approve, if the legislature has to approve the amendment in two consecutive legislative terms or if the approval of a majority of state legislature is required. Source: *Maddex (1995)*.

Judiciary review:

This variable measures the extent to which judges (either Supreme Court or constitutional court) have the power to review the constitutionality of laws in a given country. The variable takes two values: 2- if there is full review of constitutionality of laws, 1 - if there is limited review of constitutionality of, 0 - if there is no review of constitutionality of laws. Source: *Maddex (1995)*.

Federalism:

This variable is a dummy for federalism. The variable takes value 1 if sub-federal units in a state have substantive fiscal authority, 0 otherwise. Source: *Henisz (1998)*.

Ethnolinguistic fractionalization:

Average value of five different indices of ethnolinguistic fractionalization. Its value ranges from 0 to 1. The five component indices are: (1) index of ethnolinguistic fractionalization in 1960, which measures the probability that two randomly selected people from a given country will not belong to the same ethnolinguistic group (the index is based on the number and size of population groups as distinguished by their ethnic and linguistic status); (2) and (3) probability of two randomly selected individuals speaking different languages; (4) percent of the population not speaking the official language; and (5) percent of the population not speaking the most widely used language. Sources: *Easterly and Levine (1997)*; the sources of the components of the average index are: (1) *Bruk (1964)*; (2) *Muller (1964)*; (3) *Roberts (1962)*; (4) *Gunnemark (1991)*; (5) *Gunnemark (1991)*.

Latitude:

The absolute value of the latitude of the country, scaled to take values between 0 and 1. Source: *Central Intelligence Agency (1996)*.

Ln GDP per capita:

Logarithm of gross domestic product per capita in US dollars for 1998. Ranges from 4.5 to 10.5 in the sample. Source: *United Nations (2000)*.

**Table 2: Independent variables by country and Legal origin**

This table classifies countries by Legal origin and shows the value of each independent variable for each country. Panel A shows the values for English Legal origin countries; Panel B shows the values for French Legal origin countries; Panel C shows the values for German, Scandinavian, and Socialist Legal origin countries; and Panel D shows the tests (t-statistics) of differences in means for the different legal origins. Variables are further defined in Table 1.

<b>Panel A: Data for countries of English Legal origin</b>									
Country	<b>ENGLISH FREEDOM</b>					<b>AMERICAN FREEDOM</b>			
	SC tenure	AC tenure	SC control	AC	Power of admin. judge	Case law	Rigidity of Constitution	Judiciary review	Federalism
Australia	2	2	1		1	1	3	2	1
Bangladesh	2	2	1		1	1	2	2	0
Canada	2	2	1		1	1	3	1	1
Ghana	2	2	1		1	1	2	2	0
India	2	2	1		1	1	3	2	0
Ireland	2	2	1		1	1	3	2	0
Israel	2	2	1		1	1	1	0	0
Kenya	2	2	1		1	1	1	2	0
Liberia	2	2	1		1	1	3	2	0
Malaysia	2	2	1		1	1	2	1	0
Nepal	2	2	1		1	1	3	2	0
New Zealand	2	2	1		1	1	1	0	0
Nigeria	2	2	1		1	1	4	2	0
Pakistan	2	2	1		1	1	4	1	0
Saudi Arabia	2	2	0		0	1	1	0	0
Singapore	2	2	1		1	1	2	2	0
South Africa	2	2	1		1	1	2	2	1
Thailand	2	2	0		0	0	4	1	0
Uganda	2	2	1		1	1	2	2	0
United Kingdom	2	2	1		1	1	1	0	0
United States	2	2	1		1	1	3	2	1
Zambia	2	2	1		1	1	2	1	0
Zimbabwe	2	2	1		1	1	3	1	0
<b>English LO average</b>	<b>2.00</b>	<b>2.00</b>	<b>0.91</b>		<b>0.91</b>	<b>0.96</b>	<b>2.39</b>	<b>1.39</b>	<b>0.17</b>

**Panel B: Data for countries of French Legal origin**

Country	ENGLISH FREEDOM					AMERICAN FREEDOM		
	SC tenure	AC tenure	SC control AC	Power of admin. judge	Case law	Rigidity of Constitution	Judiciary review	Federalism
Algeria	0	0	1	0	0	4	1	0
Argentina	2	2	1	1	1	2	2	0
Belgium	2	2	1	1	0	3	1	1
Brazil	2	2	1	1	0	2	2	1
Chile	2	2	1	1	0	3	1	0
Colombia	1	1	0	0	0	2	2	0
Ecuador	2	2	1	1	1	3	2	0
Egypt, Arab Republic	2	2	1	1	0	3	2	0
Ethiopia	2	2	1	1	0	3	1	0
France	2	0	0	0	0	3	1	0
Greece	2	2	0	0	0	2	2	0
Haiti	1	1	1	0	0	4	1	0
Honduras	0	0	1	0	1	3	1	0
Indonesia	2	2	1	1	1	2	0	0
Iran, Islamic	2	0	0	0	0	1	0	0
Iraq	0	0	0	0	0	1	0	0
Italy	2	2	0	0	0	2	2	0
Jordan	2	2	1	1	1	3	1	0
Kuwait	2	2	0	0	0	3	1	0
Lebanon	2	2	0	0	0	3	1	0
Libya	.	.	1	.	.	1	0	0
Mexico	1	1	0	0	0	3	2	0
Mozambique	2	2	0	0	0	2	2	0
Netherlands	2	2	1	1	0	4	0	0
Nicaragua	1	1	1	0	0	2	1	0
Panama	1	1	1	0	0	2	2	0
Peru	2	2	1	1	1	2	2	0
Philippines	2	2	1	1	1	2	2	0
Portugal	2	0	0	0	1	2	2	0
Spain	2	2	1	1	0	3	1	0
Syrian Arab Republic	2	2	0	0	0	3	1	0
Turkey	2	2	0	0	1	2	1	0
Venezuela	1	1	1	0	0	2	2	0
<b>French LO average</b>	<b>1.63</b>	<b>1.44</b>	<b>0.61</b>	<b>0.41</b>	<b>0.28</b>	<b>2.48</b>	<b>1.27</b>	<b>0.06</b>

**Panel C: Data for countries of German, Scandinavian, and Socialist Legal origin**

Country	ENGLISH FREEDOM					AMERICAN FREEDOM			
	SC tenure	AC tenure	SC control	AC	Power of admin. judge	Case law	Rigidity of Constitution	Judiciary review	Federalism
Austria	2	2	0		0	0	2	2	0
Germany	2	2	0		0	1	3	2	1
Japan	1	1	1		0	1	4	2	0
South Korea	1	1	1		0	1	3	2	0
Switzerland	1	1	1		0	1	2	0	1
Taiwan	2	2	1		1	1	2	2	0
<b>German LO average</b>	<b>1.50</b>	<b>1.50</b>	<b>0.67</b>		<b>0.17</b>	<b>0.83</b>	<b>2.67</b>	<b>1.67</b>	<b>0.33</b>
Denmark	2	2	1		1	1	3	2	0
Finland	2	2	1		1	1	2	0	0
Iceland	2	2	1		1	1	4	2	0
Norway	2	2	1		1	1	3	2	0
Sweden	2	2	0		0	1	2	1	0
<b>Scandinavian LO average</b>	<b>2.00</b>	<b>2.00</b>	<b>0.80</b>		<b>0.80</b>	<b>1.00</b>	<b>2.80</b>	<b>1.40</b>	<b>0.00</b>
China	0	0	1		0	0	2	0	0
Cuba	0	0	1		0	0	2	0	0
North Korea	0	0	.		0	.	2	0	0
Vietnam	0	0	0		0	0	2	0	0
<b>Socialist LO average</b>	<b>0.00</b>	<b>0.00</b>	<b>0.67</b>		<b>0.00</b>	<b>0.00</b>	<b>2.00</b>	<b>0.00</b>	<b>0.00</b>

**Panel D: Tests (t-statistics) of differences in means**

Comparison Groups	ENGLISH FREEDOM					AMERICAN FREEDOM		
	SC tenure	AC tenure	SC control AC	Power of admin. judge	Case law	Rigidity of Constitution	Judiciary review	Federalism
English vs. French LO	2.7181 <sup>a</sup>	3.3602 <sup>a</sup>	2.6659 <sup>b</sup>	4.3686 <sup>a</sup>	6.5996 <sup>a</sup>	-0.3918	0.5855	1.3464
English vs. German LO	4.6275 <sup>a</sup>	4.6275 <sup>a</sup>	1.5712	5.1878 <sup>a</sup>	1.0437	-0.6266	-0.7612	-0.8391
English vs. Scandinavian LO	.	.	0.7209	0.7209	-0.4594	-0.8571	-0.0220	0.9887
English vs. Socialist LO	.	.	1.2454	6.2361 <sup>a</sup>	7.8053 <sup>a</sup>	0.7793	3.4977 <sup>a</sup>	0.8830
French vs. German LO	0.4353	-0.1823	-0.2737	1.1049	-2.7554 <sup>a</sup>	-0.5132	-1.2110	-2.0856 <sup>b</sup>
French vs. Scandinavian LO	-1.2556	-1.5523	-0.8231	-1.6597	-3.4766 <sup>a</sup>	-0.8208	-0.3581	0.5528
French vs. Socialist LO	4.8627 <sup>a</sup>	3.5453 <sup>a</sup>	-0.2005	1.6077	1.0521	1.2042	3.4964 <sup>a</sup>	0.4941
German vs. Scandinavian LO	-2.0226 <sup>c</sup>	-2.0226 <sup>c</sup>	-0.4523	-2.4552 <sup>b</sup>	-0.9045	-0.2667	0.5169	1.4302
German vs. Socialist LO	5.3666 <sup>a</sup>	5.3666 <sup>a</sup>	0.0000	0.8000	3.4157 <sup>b</sup>	1.6000	4.0000 <sup>a</sup>	1.2649
Scandinavian vs. Socialist LO	.	.	0.3693	3.5277 <sup>a</sup>	.	1.8856	3.0867 <sup>b</sup>	.

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 2a: Correlations of English and American freedom**

Correlations of English and American freedom variables for the sample of 71 countries around the world. Variables are further defined

	ENGLISH FREEDOM					AMERICAN FREEDOM		
	SC tenure	AC tenure	SC control AC	Power of admin. judge	Case law	Rigidity of Constitution	Judiciary review	Federalism
SC tenure	1.0000							
AC tenure	0.8325 <sup>a</sup>	1.0000						
SC control AC	0.0114	0.2097 <sup>c</sup>	1.0000					
Power of admin. judge	0.5683 <sup>a</sup>	0.6393 <sup>a</sup>	0.7029 <sup>a</sup>	1.0000				
Case law	0.3554 <sup>a</sup>	0.3778 <sup>a</sup>	0.4156 <sup>a</sup>	0.5255 <sup>a</sup>	1.0000			
Rigidity of Constitution	0.0313	0.0975	0.1513	0.0718	-0.0786	1.0000		
Judiciary review	0.3356 <sup>a</sup>	0.3447 <sup>a</sup>	0.0699	0.1952	0.1887	0.2920 <sup>a</sup>	1.0000	
Federalism	0.1128	0.1430	0.1183	0.1395	0.1149	0.0683	0.0984	1.0000

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 3: Freedom and Tenure of Supreme Court judges**

The table presents the results of OLS regressions. In Panel A, the dependent variables are two proxies for economic freedom: (1) Property rights index; and (2) Number of procedures. In Panel B, the dependent variables are three proxies for political freedom: (1) Democracy index; (2) Political rights index; and (3) Human rights index. In both panels, the independent variables are: (1) Tenure of Supreme Court judges; (2) Ethnolinguistic fractionalization; (3) Latitude; and (4) Ln GDP per capita. Variables are further defined in Table 1. Robust standard errors are shown below the coefficients in parentheses.

<b>Panel A: Results for economic freedom</b>						
Dependent Variables	SC tenure	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	0.9912 <sup>a</sup> (0.2239)	-0.8383 (0.5389)	2.0276 <sup>a</sup> (0.7180)		1.5090 <sup>a</sup> (0.4002)	0.4422 67
	0.6616 <sup>a</sup> (0.1986)	0.3954 (0.4765)	-0.2016 (0.4798)	0.5312 <sup>a</sup> (0.0620)	-1.8697 <sup>a</sup> (0.4889)	0.6655 67
Number of procedures	-1.9430 <sup>b</sup> (0.7992)	-2.8278 (2.2747)	-10.1709 <sup>a</sup> (2.6659)		16.5348 <sup>a</sup> (1.5942)	0.2901 54
	-1.0022 (0.8823)	-7.0781 <sup>a</sup> (1.7924)	-5.3473 <sup>c</sup> (2.9598)	-1.4518 <sup>a</sup> (0.4514)	26.7269 <sup>a</sup> (3.3477)	0.4114 54
<b>Panel B: Results for political freedom</b>						
Dependent Variables	SC tenure	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Democracy index	2.0749 <sup>a</sup> (0.7304)	-3.6265 <sup>c</sup> (2.1681)	7.0857 <sup>a</sup> (2.5111)		1.2687 (1.4366)	0.3394 70
	1.5714 <sup>b</sup> (0.7664)	-1.7547 (2.3863)	3.9585 (3.1334)	0.7702 <sup>c</sup> (0.4050)	-3.6599 (2.8107)	0.3832 70
Political rights index	1.2209 <sup>a</sup> (0.4047)	-1.0687 (1.0804)	4.8699 <sup>a</sup> (1.1865)		1.3587 <sup>c</sup> (0.7389)	0.3937 69
	0.8317 <sup>b</sup> (0.4036)	0.4029 (1.1484)	2.3191 (1.4812)	0.6171 <sup>a</sup> (0.1940)	-2.5795 <sup>c</sup> (1.3200)	0.4890 69
Human rights index	14.1100 <sup>a</sup> (5.0876)	-19.7762 <sup>c</sup> (11.1764)	44.9745 <sup>a</sup> (14.2311)		34.2196 <sup>a</sup> (8.6970)	0.3902 64
	9.3509 <sup>c</sup> (4.8041)	-2.0528 (11.9309)	16.8000 (15.2647)	7.3130 <sup>a</sup> (1.9098)	-13.5567 (14.6281)	0.5006 64

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%



**Table 4: Freedom and Tenure of administrative court judges**

The table presents the results of OLS regressions. In Panel A, the dependent variables are two proxies for economic freedom: (1) Property rights index; and (2) Number of procedures. In Panel B, the dependent variables are three proxies for political freedom: (1) Democracy index; (2) Political rights index; and (3) Human rights index. In both panels, the independent variables are: (1) Tenure of administrative court judges; (2) Ethnolinguistic fractionalization; (3) Latitude; and (4) Ln GDP per capita. Variables are further defined in Table 1. Robust standard errors are shown below the coefficients in parentheses.

<b>Panel A: Results for economic freedom</b>						
Dependent Variables	AC tenure	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	0.9192 <sup>a</sup> (0.2034)	-0.7492 (0.5178)	2.3569 <sup>a</sup> (0.6771)		1.5781 <sup>a</sup> (0.3900)	0.4731 67
	0.7016 <sup>a</sup> (0.1752)	0.3803 (0.4654)	-0.1108 (0.4614)	0.5405 <sup>a</sup> (0.0591)	-1.9746 <sup>a</sup> (0.4904)	0.7155 67
Number of procedures	-2.3610 <sup>a</sup> (0.7478)	-2.1598 (2.3092)	-10.1651 <sup>a</sup> (2.5530)		16.9135 <sup>a</sup> (1.5156)	0.3453 54
	-1.8361 <sup>c</sup> (0.9323)	-5.9900 <sup>a</sup> (1.8825)	-5.2164 <sup>c</sup> (2.9964)	-1.3740 <sup>a</sup> (0.4475)	27.0731 <sup>a</sup> (3.4089)	0.4585 54
<b>Panel B: Results for political freedom</b>						
Dependent Variables	AC tenure	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Democracy index	1.7865 <sup>a</sup> (0.6709)	-3.3077 (2.0892)	7.8816 <sup>a</sup> (2.3816)		1.5609 (1.4238)	0.3375 70
	1.4293 <sup>b</sup> (0.6570)	-1.4966 (2.2680)	4.2463 (3.1295)	0.8228 <sup>b</sup> (0.3933)	-3.8911 (2.8097)	0.3900 70
Political rights index	0.9287 <sup>b</sup> (0.3942)	-0.7575 (1.0382)	5.4418 <sup>a</sup> (1.1562)		1.6568 <sup>b</sup> (0.7381)	0.3683 69
	0.6561 <sup>c</sup> (0.3607)	0.6664 (1.0975)	2.4800 (1.4934)	0.6603 <sup>a</sup> (0.1926)	-2.7041 <sup>b</sup> (1.3474)	0.4829 69
Human rights index	11.5435 <sup>b</sup> (4.8332)	-17.0519 (10.7864)	51.1354 <sup>a</sup> (13.5910)		36.8237 <sup>a</sup> (8.4768)	0.3750 64
	8.1801 <sup>c</sup> (4.4160)	-0.0846 (11.7793)	18.7246 (15.0699)	7.6951 <sup>a</sup> (1.9542)	-15.1398 (15.0740)	0.5039 64

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 5: Freedom and Power of administrative law judges over executive**

The table presents the results of OLS regressions. In Panel A, the dependent variables are two proxies for economic freedom: (1) Property rights index; and (2) Number of procedures. In Panel B, the dependent variables are three proxies for political freedom: (1) Democracy index; (2) Political rights index; and (3) Human rights index. In both panels, the independent variables are: (1) Power of administrative law judges over executive; (2) Ethnolinguistic fractionalization; (3) Latitude; and (4) Ln GDP per capita. Variables are further defined in Table 1. Robust standard errors are shown below the coefficients in parentheses.

<b>Panel A: Results for economic freedom</b>						
Dependent Variables	Power of admin. judge	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	0.9565 <sup>a</sup> (0.3228)	-0.7498 (0.6193)	2.6548 <sup>a</sup> (0.7325)		2.4067 <sup>a</sup> (0.4075)	0.3302 67
	0.6693 <sup>b</sup> (0.2550)	0.5267 (0.5525)	-0.1039 (0.5489)	0.5924 <sup>a</sup> (0.0661)	-1.6991 <sup>a</sup> (0.5478)	0.6285 67
Number of procedures	-4.2658 <sup>a</sup> (1.1900)	-0.7862 (2.2970)	-10.4104 <sup>a</sup> (2.6101)		15.2125 <sup>a</sup> (1.3886)	0.4528 54
	-3.5463 <sup>a</sup> (1.0338)	-4.2637 <sup>b</sup> (1.8711)	-6.0772 <sup>b</sup> (2.6766)	-1.1814 <sup>a</sup> (0.3369)	24.3003 <sup>a</sup> (2.7103)	0.5343 54

<b>Panel B: Results for political freedom</b>						
Dependent Variables	Power of admin. judge	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Democracy index	2.2319 <sup>b</sup> (1.0003)	-3.6649 <sup>c</sup> (2.1636)	8.2633 <sup>a</sup> (2.3937)		3.1259 <sup>b</sup> (1.3656)	0.3057 70
	1.7310 <sup>c</sup> (1.0032)	-1.5971 (2.3499)	4.2195 (3.2613)	0.8980 <sup>b</sup> (0.4114)	-3.1639 (3.0611)	0.3696 70
Political rights index	1.3343 <sup>b</sup> (0.5265)	-1.1140 (1.0952)	5.5472 <sup>a</sup> (1.1572)		2.4532 <sup>a</sup> (0.6465)	0.3550 69
	0.9879 <sup>b</sup> (0.4890)	0.4110 (1.1309)	2.4195 (1.5869)	0.6834 <sup>a</sup> (0.1951)	-2.3096 (1.4089)	0.4806 69
Human rights index	17.2851 <sup>a</sup> (5.8543)	-21.4115 <sup>b</sup> (10.3634)	53.0525 <sup>a</sup> (13.4686)		45.9589 <sup>a</sup> (7.3984)	0.3624 64
	13.5099 <sup>b</sup> (5.1725)	-3.6114 (10.7122)	17.7614 (16.1917)	8.0899 <sup>a</sup> (2.0952)	-11.7258 (16.2995)	0.5107 64

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 6: Freedom and Case law**

The table presents the results of OLS regressions. In Panel A, the dependent variables are two proxies for economic freedom: (1) Property rights index; and (2) Number of procedures. In Panel B, the dependent variables are three proxies for political freedom: (1) Democracy index; (2) Political rights index; and (3) Human rights index. In both panels, the independent variables are: (1) Case law; (2) Ethnolinguistic fractionalization; (3) Latitude; and (4) Ln GDP per capita. Variables are further defined in Table 1. Robust standard errors are shown below the coefficients in parentheses.

<b>Panel A: Results for economic freedom</b>						
Dependent Variables	Case law	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	1.0492 <sup>a</sup> (0.3066)	-0.7499 (0.5497)	2.4296 <sup>a</sup> (0.7665)		2.4374 <sup>a</sup> (0.3919)	0.4040 66
	0.7879 <sup>a</sup> (0.2435)	0.4371 (0.4998)	-0.0520 (0.4839)	0.5394 <sup>a</sup> (0.0643)	-1.3338 <sup>b</sup> (0.5609)	0.6394 66
Number of procedures	-3.7405 <sup>a</sup> (1.2713)	-1.1487 (2.4984)	-9.2081 <sup>a</sup> (2.8016)		14.6612 <sup>a</sup> (1.4071)	0.4015 54
	-2.9035 <sup>b</sup> (1.1463)	-4.8299 <sup>b</sup> (2.1769)	-5.0741 <sup>c</sup> (2.8098)	-1.2193 <sup>a</sup> (0.3776)	24.1038 <sup>a</sup> (3.0569)	0.4867 54

<b>Panel B: Results for political freedom</b>						
Dependent Variables	Case law	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Democracy index	2.0583 <sup>b</sup> (0.9516)	-3.4213 <sup>c</sup> (1.9954)	8.0665 <sup>a</sup> (2.4761)		3.2578 <sup>b</sup> (1.4352)	0.3295 69
	1.6634 <sup>c</sup> (0.9505)	-1.7378 (2.1191)	4.8436 (3.3379)	0.7243 <sup>c</sup> (0.3999)	-1.8562 (2.9605)	0.3678 69
Political rights index	0.8722 (0.5269)	-0.6915 (1.0372)	5.6782 <sup>a</sup> (1.2111)		2.5836 <sup>a</sup> (0.6671)	0.3493 68
	0.5562 (0.5049)	0.7395 (1.1096)	2.8227 <sup>c</sup> (1.6162)	0.6307 <sup>a</sup> (0.1952)	-1.8486 (1.4466)	0.4486 68
Human rights index	10.3310 (6.3883)	-16.3091 (10.8021)	55.2031 <sup>a</sup> (13.9512)		48.0300 <sup>a</sup> (7.4357)	0.3441 63
	7.7503 (5.8601)	-0.0081 (11.3493)	22.5495 (16.0923)	7.4064 <sup>a</sup> (1.9928)	-5.3860 (16.0239)	0.4622 63

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 7: Freedom and Rigidity of Constitution**

The table presents the results of OLS regressions. In Panel A, the dependent variables are two proxies for economic freedom: (1) Property rights index; and (2) Number of procedures. In Panel B, the dependent variables are three proxies for political freedom: (1) Democracy index; (2) Political rights index; and (3) Human rights index. In both panels, the independent variables are: (1) Rigidity of Constitution; (2) Ethnolinguistic fractionalization; (3) Latitude; and (4) Ln GDP per capita. Variables are further defined in Table 1. Robust standard errors are shown below the coefficients in parentheses.

<b>Panel A: Results for economic freedom</b>						
Dependent Variables	Rigidity of Constitution	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	0.2667 (0.2050)	0.2830 (0.5532)	3.1335 <sup>a</sup> (0.7858)		1.7974 <sup>a</sup> (0.5983)	0.2461 68
	0.3925 <sup>b</sup> (0.1722)	1.3939 <sup>a</sup> (0.4835)	-0.2075 (0.5482)	0.6585 <sup>a</sup> (0.0634)	-3.0799 <sup>a</sup> (0.7015)	0.5994 68
Number of procedures	0.3244 (0.5270)	-4.2612 <sup>c</sup> (2.2152)	-11.9934 <sup>a</sup> (2.7238)		13.2645 <sup>a</sup> (1.9085)	0.2485 54
	0.0945 (0.5389)	-8.1052 <sup>a</sup> (1.7602)	-5.7932 <sup>c</sup> (3.0951)	-1.5684 <sup>a</sup> (0.4489)	26.1232 <sup>a</sup> (3.9837)	0.4006 54

  

<b>Panel B: Results for political freedom</b>						
Dependent Variables	Rigidity of Constitution	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Democracy index	0.3886 (0.5429)	-1.2997 (1.9014)	9.3715 <sup>a</sup> (2.3477)		2.3245 (1.8640)	0.2496 71
	0.5913 (0.5422)	0.5640 (2.0370)	4.2123 (3.2748)	1.0555 <sup>b</sup> (0.4083)	-5.6172 (3.5263)	0.3378 71
Political rights index	0.2227 (0.3063)	0.3084 (0.9669)	6.2387 <sup>a</sup> (1.1487)		1.9762 <sup>b</sup> (0.9870)	0.2884 70
	0.3593 (0.2898)	1.6425 (1.0197)	2.4656 (1.5465)	0.7651 <sup>a</sup> (0.2018)	-3.7230 <sup>b</sup> (1.8060)	0.4435 70
Human rights index	5.6146 (3.5466)	-4.4592 (9.6413)	58.5946 <sup>a</sup> (13.6988)		34.9543 <sup>a</sup> (11.0848)	0.2871 65
	6.3220 <sup>c</sup> (3.2781)	11.7232 (10.3075)	17.1477 (16.0457)	9.0377 <sup>a</sup> (2.1205)	-31.9017 (19.3675)	0.4693 65

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 8: Freedom and Judiciary review**

The table presents the results of OLS regressions. In Panel A, the dependent variables are two proxies for economic freedom: (1) Property rights index; and (2) Number of procedures. In Panel B, the dependent variables are three proxies for political freedom: (1) Democracy index; (2) Political rights index; and (3) Human rights index. In both panels, the independent variables are: (1) Judiciary review; (2) Ethnolinguistic fractionalization; (3) Latitude; and (4) Ln GDP per capita. Variables are further defined in Table 1. Robust standard errors are shown below the coefficients in parentheses.

<b>Panel A: Results for economic freedom</b>						
Dependent Variables	Judiciary review	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	0.5241 <sup>b</sup> (0.2017)	0.2472 (0.5342)	3.6745 <sup>a</sup> (0.7121)		1.6286 <sup>a</sup> (0.5459)	0.3161 68
	0.3638 <sup>b</sup> (0.1691)	1.2472 <sup>a</sup> (0.4640)	0.7374 (0.6423)	0.5771 <sup>a</sup> (0.0659)	-2.1791 <sup>a</sup> (0.5431)	0.5832 68
Number of procedures	0.4902 (0.6614)	-4.0728 <sup>c</sup> (2.2392)	-11.1291 <sup>a</sup> (3.0134)		13.0340 <sup>a</sup> (2.1075)	0.2523 54
	0.9534 <sup>c</sup> (0.5445)	-8.0479 <sup>a</sup> (1.7344)	-3.9117 (3.0765)	-1.7026 <sup>a</sup> (0.4413)	25.5083 <sup>a</sup> (3.2520)	0.4271 54

<b>Panel B: Results for political freedom</b>						
Dependent Variables	Judiciary review	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Democracy index	2.0429 <sup>a</sup> (0.5066)	-1.5073 (1.6553)	11.1444 <sup>a</sup> (2.0515)		0.1528 (1.3075)	0.3885 71
	1.8112 <sup>a</sup> (0.4967)	-0.1149 (1.8625)	7.3493 <sup>b</sup> (3.0087)	0.7624 <sup>b</sup> (0.3800)	-4.9167 <sup>c</sup> (2.6711)	0.4335 71
Political rights index	1.1947 <sup>a</sup> (0.2812)	0.1726 (0.8152)	7.2414 <sup>a</sup> (0.9645)		0.7228 (0.6544)	0.4499 70
	1.0243 <sup>a</sup> (0.2543)	1.2658 (0.8787)	4.2015 <sup>a</sup> (1.3765)	0.6068 <sup>a</sup> (0.1768)	-3.3071 <sup>a</sup> (1.2519)	0.5457 70
Human rights index	13.5585 <sup>a</sup> (3.3518)	-4.6834 (8.5670)	75.1405 <sup>a</sup> (11.7588)		26.0351 <sup>a</sup> (8.0147)	0.4413 65
	11.6614 <sup>a</sup> (2.9294)	8.8060 (9.6021)	39.6463 <sup>a</sup> (13.6556)	7.4326 <sup>a</sup> (1.7810)	-24.7509 (14.9406)	0.5612 65

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 9: Freedom and Federalism**

The table presents the results of OLS regressions. In Panel A, the dependent variables are two proxies for economic freedom: (1) Property rights index; and (2) Number of procedures. In Panel B, the dependent variables are three proxies for political freedom: (1) Democracy index; (2) Political rights index; and (3) Human rights index. In both panels, the independent variables are: (1) Federalism; (2) Ethnolinguistic fractionalization; (3) Latitude; and (4) Ln GDP per capita. Variables are further defined in Table 1. Robust standard errors are shown below the coefficients in parentheses.

<b>Panel A: Results for economic freedom</b>						
Dependent Variables	Federalism	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	0.7038 <sup>b</sup> (0.2773)	0.1651 (0.5589)	3.0184 <sup>a</sup> (0.7447)		2.4387 <sup>a</sup> (0.4254)	0.2453 68
	-0.0955 (0.2538)	1.3952 <sup>a</sup> (0.4808)	0.3002 (0.5734)	0.6296 <sup>a</sup> (0.0760)	-2.0367 <sup>a</sup> (0.6271)	0.5374 68
Number of procedures	-1.9128 (1.3908)	-3.9022 <sup>c</sup> (2.2623)	-10.8181 <sup>a</sup> (2.9538)		13.8550 <sup>a</sup> (1.5069)	0.2706 54
	-0.2701 (1.3988)	-7.9958 <sup>a</sup> (1.7541)	-5.6939 <sup>c</sup> (2.9635)	-1.5437 <sup>a</sup> (0.4444)	26.1231 <sup>a</sup> (3.4596)	0.4008 54

  

<b>Panel B: Results for political freedom</b>						
Dependent Variables	Federalism	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Democracy index	3.3031 <sup>a</sup> (0.6738)	-1.8794 (1.7929)	8.0669 <sup>a</sup> (2.2415)		3.4860 <sup>a</sup> (1.2885)	0.3028 71
	2.2927 <sup>a</sup> (0.7706)	-0.2460 (2.0606)	4.7161 (3.0669)	0.8062 <sup>c</sup> (0.4247)	-2.3304 (3.2909)	0.3496 71
Political rights index	1.8499 <sup>a</sup> (0.3768)	-0.0148 (0.8618)	5.5135 <sup>a</sup> (1.0829)		2.6363 <sup>a</sup> (0.6060)	0.3453 70
	1.0319 <sup>b</sup> (0.4036)	1.2714 (0.9914)	2.8139 <sup>c</sup> (1.4497)	0.6419 <sup>a</sup> (0.2082)	-1.9636 (1.5781)	0.4438 70
Human rights index	15.3198 <sup>a</sup> (5.0333)	-6.9911 (9.5040)	54.4341 <sup>a</sup> (13.8130)		48.5642 <sup>a</sup> (7.1904)	0.2918 65
	4.9910 (5.0078)	10.1303 (10.5413)	21.9468 (15.7721)	8.3375 <sup>a</sup> (2.2997)	-12.7184 (18.3752)	0.4296 65

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 10: Freedom, Judiciary review, and Power of administrative law judges over executive**

The table presents the results of OLS regressions. In Panel A, the dependent variables are two proxies for economic freedom: (1) Property rights index; and (2) Number of procedures. In Panel B, the dependent variables are three proxies for political freedom: (1) Democracy index; (2) Political rights index; and (3) Human rights index. In both panels, the independent variables are: (1) Judiciary review; (2) Power of administrative law judges over executive; (3) Ethnolinguistic fractionalization; (4) Latitude; and (5) Ln GDP per capita. Variables are further defined in Table 1. Robust standard errors are shown below the coefficients in parentheses.

<b>Panel A: Results for economic freedom</b>							
Dependent Variables	Judiciary review	Power of admin. judge	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	0.3854 <sup>b</sup> (0.1786)	0.8373 <sup>a</sup> (0.3012)	-0.6512 (0.6426)	2.9898 <sup>a</sup> (0.7438)		1.8450 <sup>a</sup> (0.5318)	0.3832 67
	0.2347 (0.1430)	0.6094 <sup>b</sup> (0.2366)	0.5301 (0.5560)	0.2224 (0.6012)	0.5661 <sup>a</sup> (0.0667)	-1.8591 <sup>a</sup> (0.5414)	0.6475 67
Number of procedures	0.4113 (0.4894)	-4.2454 <sup>a</sup> (1.1892)	-0.6351 (2.2837)	-9.8534 <sup>a</sup> (2.7333)		14.3932 <sup>a</sup> (1.7232)	0.4580 54
	0.7792 <sup>c</sup> (0.4198)	-3.4370 <sup>a</sup> (1.0292)	-4.3184 <sup>b</sup> (1.8180)	-4.5973 <sup>c</sup> (2.6675)	-1.2972 <sup>a</sup> (0.3288)	23.6388 <sup>a</sup> (2.6447)	0.5520 54

  

<b>Panel B: Results for political freedom</b>							
Dependent Variables	Judiciary review	Power of admin. judge	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Democracy index	1.7578 <sup>a</sup> (0.4851)	1.6275 <sup>c</sup> (0.9211)	-3.1965 (1.9825)	9.9650 <sup>a</sup> (2.2094)		0.5028 (1.3435)	0.4076 70
	1.5573 <sup>a</sup> (0.4735)	1.2966 (0.9152)	-1.5994 (2.2209)	6.5431 <sup>b</sup> (3.1352)	0.7168 <sup>c</sup> (0.3968)	-4.2184 (2.7589)	0.4470 70
Political rights index	1.0306 <sup>a</sup> (0.2703)	0.9987 <sup>b</sup> (0.4766)	-0.8656 (1.0082)	6.5178 <sup>a</sup> (1.0505)		0.9281 (0.6680)	0.4755 69
	0.8759 <sup>a</sup> (0.2438)	0.7521 <sup>c</sup> (0.4350)	0.4042 (1.0462)	3.6911 <sup>b</sup> (1.4903)	0.5858 <sup>a</sup> (0.1816)	-2.9255 <sup>b</sup> (1.2571)	0.5651 69
Human rights index	11.4438 <sup>a</sup> (3.0046)	13.9660 <sup>a</sup> (5.2043)	-18.3961 <sup>c</sup> (9.9873)	66.0296 <sup>a</sup> (12.2515)		28.0959 <sup>a</sup> (7.9502)	0.4934 64
	9.7322 <sup>a</sup> (2.6072)	11.1741 <sup>b</sup> (4.5450)	-3.3429 (10.5849)	33.3498 <sup>b</sup> (14.4421)	7.0464 <sup>a</sup> (1.8822)	-19.4765 (15.1976)	0.6030 64

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 11: Freedom and Legal origin**

The table presents the results of OLS regressions. In Panel A, the dependent variables are two proxies for economic freedom: (1) Property rights index; and (2) Number of procedures. In Panel B, the dependent variables are three proxies for political free

<b>Panel A: Results for economic freedom</b>									
Dependent Variables	English LO	Socialist LO	German LO	Scandinavian LO	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	1.0645 <sup>a</sup> (0.3488)	-2.0653 <sup>a</sup> (0.3283)	1.3088 <sup>a</sup> (0.2518)	-0.6748 <sup>c</sup> (0.4022)	-0.9183 (0.6525)	2.1264 <sup>a</sup> (0.7803)		2.7325 <sup>a</sup> (0.3595)	0.5433 68
	0.8443 <sup>a</sup> (0.2705)	-1.2815 <sup>a</sup> (0.3667)	0.9233 <sup>a</sup> (0.2688)	0.5279 (0.3440)	0.1298 (0.6035)	0.3440 (0.5318)	0.4325 <sup>a</sup> (0.0804)	-0.4237 (0.7185)	0.6665 68
Number of procedures	-5.9878 <sup>a</sup> (1.2173)	1.4577 (1.9811)	-1.4986 (1.0694)	-5.2365 <sup>a</sup> (1.1031)	2.0168 (2.3996)	-6.5578 <sup>b</sup> (2.6973)		13.0464 <sup>a</sup> (1.3254)	0.5985 54
	-5.1767 <sup>a</sup> (1.1408)	-0.7244 (1.8947)	-0.6398 (1.0587)	-4.8626 <sup>a</sup> (1.1133)	-1.4142 (2.4180)	-3.4046 (2.6977)	-1.0308 <sup>b</sup> (0.4012)	21.3653 <sup>a</sup> (3.3295)	0.6445 54

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%



**Panel B: Results for political freedom**

Dependent Variables	English LO	Socialist LO	German LO	Scandinavian LO	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Democracy index	1.2845 (1.1112)	-6.1652 <sup>a</sup> (0.9017)	2.2393 <sup>a</sup> (0.8573)	1.0206 (1.1247)	-3.3933 (2.2174)	7.3810 <sup>a</sup> (2.7082)		4.1605 <sup>a</sup> (1.4104)	0.4051 71
	1.0772 (1.1576)	-5.3563 <sup>a</sup> (1.0926)	1.7836 <sup>c</sup> (0.9135)	0.8515 (1.0654)	-2.3064 (2.4059)	5.6482 (3.4032)	0.4403 (0.3818)	0.9091 (2.9149)	0.4173 71
Political rights index	0.5515 (0.5959)	-3.6059 <sup>a</sup> (0.4929)	1.2957 <sup>a</sup> (0.4836)	0.4511 (0.6273)	-0.7511 (1.1504)	5.1566 <sup>a</sup> (1.3409)		3.0632 <sup>a</sup> (0.6488)	0.4567 70
	0.3298 (0.6112)	-2.7455 <sup>a</sup> (0.5542)	0.8842 <sup>b</sup> (0.4292)	0.2883 (0.5632)	0.4059 (1.2437)	3.2763 <sup>b</sup> (1.5915)	0.4676 <sup>b</sup> (0.1783)	-0.3784 (1.3736)	0.5036 70
Human rights index	5.5523 (6.8361)	-43.3675 <sup>a</sup> (6.3501)	10.4564 (8.4148)	13.8583 <sup>c</sup> (7.2439)	-17.0199 (12.1046)	43.5134 <sup>a</sup> (15.2648)		55.7871 <sup>a</sup> (6.9490)	0.4716 65
	3.7557 (6.5900)	-32.5717 <sup>a</sup> (6.3137)	6.1820 (7.4921)	12.1566 <sup>c</sup> (6.7145)	-3.7990 (12.5960)	22.8380 (15.6424)	5.4581 <sup>a</sup> (1.7346)	14.4861 (14.4979)	0.5235 65

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Table 12: Economic freedom with English freedom and Legal origin**

The table presents the results of OLS regressions. In Panel A, the dependent variable is Property rights index. In Panel B, the dependent variable is Number of procedures. In both panels, the independent variables are: (1) Tenure of Supreme Court judges; (2) Tenure of administrative court judges; (3) Power of administrative law judges over executive; (4) Case law; (5) Legal origin dummy variables; (6) Ethnolinguistic fractionalization; (7) Latitude; and (8) Ln GDP per capita. Variables are further defined in Table 1. Robust standard errors are shown below the coefficients in parentheses.

**Panel A: Results for Property rights index**

Dependent Variable	SC tenure	AC tenure	Power of admin. Judge	Case law	English LO	Socialist LO	German LO	Scandinavian LO	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Property rights index	0.5012 <sup>c</sup> (0.2882)				0.6299 <sup>b</sup> (0.2583)	-0.5848 (0.6008)	1.0196 <sup>a</sup> (0.3031)	0.4336 (0.3229)	-0.1752 (0.6168)	-0.2060 (0.5773)	0.4299 <sup>a</sup> (0.0800)	-0.9050 (0.8035)	0.7340 67
		0.5493 <sup>b</sup> (0.2258)			0.4849 <sup>b</sup> (0.2146)	-0.5711 (0.5205)	0.8546 <sup>a</sup> (0.2797)	0.1914 (0.2878)	-0.0562 (0.5440)	0.0044 (0.5049)	0.4521 <sup>a</sup> (0.0768)	-1.1400 (0.7634)	0.7607 67
			0.5675 <sup>c</sup> (0.3135)		0.5527 <sup>c</sup> (0.2917)	1.1897 <sup>a</sup> (0.3925)	1.0676 <sup>a</sup> (0.2904)	0.2706 (0.2609)	-0.2541 (0.6543)	0.0780 (0.5395)	0.4297 <sup>a</sup> (0.0840)	-0.3801 (0.7332)	0.7306 67
				0.4291 (0.3088)	0.4966 (0.3296)	-1.2196 <sup>a</sup> (0.4372)	0.5869 <sup>b</sup> (0.2721)	0.1277 (0.3723)	-0.0026 (0.5842)	0.2074 (0.5200)	0.4486 <sup>a</sup> (0.0792)	-0.5150 (0.7194)	0.6972 66
	-0.0077 (0.4051)	0.5314 (0.3212)	0.0738 (0.3042)	0.4101 (0.2921)	0.2019 (0.3397)	-0.4774 (0.6363)	0.6484 <sup>c</sup> (0.3353)	-0.1426 (0.3721)	-0.1758 (0.5803)	0.0178 (0.5906)	0.4478 <sup>a</sup> (0.0822)	-1.1804 (0.7990)	0.7590 66

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

**Panel B: Results for Number of procedures**

Dependent Variable	SC tenure	AC tenure	Power of admin. judge	Case law	English LO	Socialist LO	German LO	Scandinavian LO	Ethnolinguistic fractionalization	Latitude	Ln GDP per capita	Intercept	Adj. R <sup>2</sup> [N]
Number of procedures	-1.4130 (1.4984)				-5.0578 <sup>a</sup> (1.1520)	-3.2959 (3.4795)	-1.1813 (1.1475)	-4.9085 <sup>a</sup> (1.1321)	-0.8813 (2.2787)	-2.3752 (2.5774)	-1.0425 <sup>b</sup> (0.3999)	23.6251 <sup>a</sup> (4.2923)	0.6536 54
		-1.7038 <sup>c</sup> (1.0007)			-4.7191 <sup>a</sup> (1.0822)	-3.6928 (2.6518)	-0.8119 (0.9202)	-4.3015 <sup>a</sup> (0.9967)	-0.9424 (2.1278)	-2.6599 (2.6669)	-1.1208 <sup>a</sup> (0.3672)	24.6013 <sup>a</sup> (3.5135)	0.6768 54
			-2.5673 <sup>b</sup> (0.9648)		-4.4907 <sup>a</sup> (0.9966)	-1.5946 (2.0315)	-1.6557 (1.0395)	4.2985 <sup>a</sup> (1.0014)	0.1555 (2.0178)	-3.8082 (2.5610)	-0.8280 <sup>b</sup> (0.3546)	20.8097 <sup>a</sup> (2.8866)	0.7002 54
				-1.2708 (1.1069)	-4.5591 <sup>a</sup> (1.2253)	-1.1073 (2.0100)	0.0144 (1.1897)	-3.9646 <sup>a</sup> (1.1950)	-0.8948 (2.2747)	-3.4807 (2.6927)	-1.0119 <sup>b</sup> (0.3926)	21.5612 <sup>a</sup> (3.3826)	0.6562 54
	0.8781 (1.8367)	-1.1592 (1.2324)	-1.9618 <sup>b</sup> (0.8723)	-0.6161 (1.0501)	-4.1157 <sup>a</sup> (1.2878)	-1.9964 (3.5647)	-0.8795 (1.3030)	-3.5858 <sup>a</sup> (1.2690)	0.0270 (1.9779)	-3.8829 <sup>c</sup> (2.2898)	-0.9206 <sup>a</sup> (0.3418)	21.8329 <sup>a</sup> (3.9116)	0.7091 54

**Note:** <sup>a</sup> Significant at 1%; <sup>b</sup> Significant at 5%; <sup>c</sup> Significant at 10%

### Appendix: Dependent variables by country and Legal origin

This table classifies countries by Legal origin and shows the value of each dependent variable for each country. Panel A shows the values for English Legal origin countries, Panel B shows the values for French Legal origin countries, and Panel C shows the values for German, Scandinavian, and Socialist Legal origin countries. Exact definitions of each of the dependent variables can be found in Table 1.

<b>Panel A: Data for Countries of English Legal origin</b>					
Country	<b>DEPENDENT VARIABLES</b>				
	Property rights index	Number of procedures	Democracy index	Political rights index	Human rights index
Australia	5	2	10	7	91
Bangladesh	2	.	9	5	59
Canada	5	2	10	7	94
Ghana	3	10	1	4	53
India	3	11	8	4	54
Ireland	5	3	10	7	94
Israel	4	5	9	7	76
Kenya	3	9	0	1	46
Liberia	.	.	0	1	.
Malaysia	4	7	8	4	61
Nepal	3	.	8	5	69
New Zealand	5	3	10	7	98
Nigeria	3	9	0	1	49
Pakistan	4	8	8	5	42
Saudi Arabia	5	.	0	1	29
Singapore	5	6	2	3	60
South Africa	3	9	8	7	50
Thailand	5	8	6	5	62
Uganda	4	11	0	3	46
United Kingdom	5	4	10	7	93
United States	5	3	10	7	90
Zambia	3	5	6	5	57
Zimbabwe	3	5	0	3	65
<b>English average</b>	<b>3.95</b>	<b>6.32</b>	<b>5.78</b>	<b>4.61</b>	<b>65.36</b>

**Panel B: Data for Countries of French Legal origin**

Country	DEPENDENT VARIABLES				
	Property rights index	Number of procedures	Democracy index	Political rights index	Human rights index
Algeria	3	.	0	2	66
Argentina	4	13	8	6	84
Belgium	5	7	10	7	96
Brazil	3	11	10	6	69
Chile	5	10	9	6	80
Colombia	3	17	9	4	60
Ecuador	.	16	9	6	83
Egypt, Arab Republic	3	11	0	2	50
Ethiopia	2	.	2	4	.
France	4	15	8	7	94
Greece	4	15	10	7	87
Haiti	1	.	8	3	.
Honduras	3	.	6	5	65
Indonesia	3	11	0	1	34
Iran, Islamic	1	.	0	2	22
Iraq	1	.	0	1	17
Italy	4	11	10	7	90
Jordan	4	12	4	4	65
Kuwait	5	.	0	3	33
Lebanon	3	9	2	2	.
Libya	1	.	0	1	24
Mexico	3	15	1	4	64
Mozambique	2	19	6	5	53
Netherlands	5	6	10	7	98
Nicaragua	2	.	6	4	75
Panama	3	7	8	6	81
Peru	3	6	2	3	54
Philippines	4	9	8	6	72
Portugal	4	10	10	7	92
Spain	4	10	9	7	87
Syrian Arab Republic	2	.	0	1	30
Turkey	4	12	9	3	44
Venezuela	3	14	8	5	75
<b>French average</b>	<b>3.16</b>	<b>11.57</b>	<b>5.52</b>	<b>4.36</b>	<b>64.80</b>

**Panel C: Data for Countries of German, Scandinavian, and Socialist Legal origin**

Country	DEPENDENT VARIABLES				
	Property rights index	Number of procedures	Democracy index	Political rights index	Human rights index
Austria	5	8	10	7	95
Germany	5	8	10	7	98
Japan	5	11	10	7	82
South Korea	5	11	10	6	59
Switzerland	5	7	10	7	96
Taiwan	.	8	6	.	.
<b>German average</b>	<b>5.00</b>	<b>8.83</b>	<b>9.33</b>	<b>6.80</b>	<b>86.00</b>
Denmark	5	3	10	7	98
Finland	5	3	10	7	99
Iceland	5	.	10	7	.
Norway	5	4	10	7	97
Sweden	4	4	10	7	98
<b>Scandinavian average</b>	<b>4.80</b>	<b>3.50</b>	<b>10.00</b>	<b>7.00</b>	<b>98.00</b>
China	2	10	0	1	21
Cuba	1	.	0	1	30
North Korea	1	.	0	1	20
Vietnam	1	16	0	1	27
<b>Socialist average</b>	<b>1.25</b>	<b>13.00</b>	<b>0.00</b>	<b>1.00</b>	<b>24.50</b>