



Where the rule of law weakens, freedom wanes

Fred McMahon

February 15, 2018

For the first time in decades, basic human freedom is under attack globally.

Journalists and opposition leaders are killed in Russia. China's Communist Party stifles dissent on the mainland while threatening the rule of law in Hong Kong. Tens of thousands are arrested in Turkey on dubious grounds after a failed coup. Venezuela descends into desperation and suppression. Crucially, these governments and others are also tightening their clamps on the economy, weakening economic freedom.

That's why studies such as the annual Human Freedom Index (HFI), just released by Canada's Fraser Institute, the Cato Institute in the United States and Germany's Friedrich Naumann Foundation for Freedom, are so important. The HFI allows us to track the evolution of freedom globally to see if our intuitions match reality.

The index is the first to develop a broad measure of human freedom, employing 79 variables to capture the different dimensions of freedom, including economic freedom. Previous freedom indexes ignored economic freedom – the ability of individuals and families to make their own economic decisions. Given that we spend much of our time in economic activities (working, buying, selling), this was a huge oversight. And economic freedom indexes didn't measure civil freedoms such as speech, assembly and religion.

The HFI also looks at the necessary conditions for freedom: the rule of law, to protect the freedom of all equally, and personal security. If it's not safe to walk down the street, to express yourself, to attend a meeting and so on, freedom is diminished.

The HFI covers the period from 2008, when sufficient cross-national data became available, to 2015, the most recent year of available data. Freedom's losses during that period are spread globally.

So why everywhere at once?

Ironically a key reason is the delayed reaction to the fall of unfreedom – the authoritarian Soviet sphere.

It then seemed that countries had just two options: some version of the failed Soviet system or democracy, freedom and open markets. The first option disappeared for all but truly reprobate

countries such as North Korea and Cuba. The victory was so complete that Francis Fukuyama famously wrote of *The End of History?*, a more nuanced essay than the title suggests.

It seemed the battle was over. Freedom had won. All available measures from the time show a hardy uptick in freedom and democracy. A freedom stampede had begun and not just for former Soviet states. Many of the West's less respectable allies moved in the same direction. With Soviet communism gone, western countries had no need to turn a blind eye to repression and dictatorship and, with democracy and freedom the fad of the moment, internal pressure for a free future increased.

But it wasn't that simple. Freedom and democracy are not stand-alone structures. For stability, they require institutional infrastructure, in particular, the rule of law and tolerance. The rule of law is necessary to protect everyone's rights and freedoms equally, while tolerance is required to enable populations to reach the compromises necessary to maintain democracy.

But an effective and fair rule of law had been crushed by communism in many states, and in others it never evolved. Intolerance had simply been suppressed by communist and other dictators, not mitigated as in most truly free societies where people slowly began to learn to get along with each other.

In places lacking a strong rule of law and tolerance, shaky edifices of freedom and democracy emerged and so did an old monster from the past: populist nationalism as a third alternative to discredit communism on one hand and democracy and freedom on the other.

The rule of law in these nascent democracies was too weak to protect democratic freedoms and underlying tensions between differing groups, exploding into us-versus-them populism in former Soviet states such as Poland, Hungary and, of course, Russia. And as communism faded in China, a racially-tinged nationalism emerged.

In a separate development, economic change – as it always has – drove populism in many western countries, though for now its growth seems checked.

The famous political philosopher Samuel Huntington developed the idea of the three waves of democracy. In the first wave, by Huntington's count, 29 democracies emerged between the early 1800s and the early 1900s. The wave collapsed with the rise of fascism and communism. The second wave followed the end of the Second World War and crested in the early 1960s with 36 democratic countries. The third wave rolled in during the early 1970s and accelerated with the fall of communism to more than 100 free democracies. Now that wave is receding by all available measures.

This, perhaps oddly, is the hope for the future of freedom and democracy. Each peak is higher than the previous and, while the waters have receded, the number of free democracies today is much higher than the previous peak of the second wave.

All the evidence in the world shows that free countries produce better outcomes for their people. As un-free countries stall in growth, and outcomes become worse, hopefully the fourth wave will wash ashore.

