

1	Chapter 3. Institutions and Rights	1
2	Creating Institutions	4
3	Speech Acts and the Constitution of Institutions	6
4	Why Constitutive Rules Require Status Function Declarations	7
5	The normativity of contracts	8
6	Incomplete Contracts and Power Relations	9
7	Social contract and the Law	11
8	Contracts and Rights	12
9	Rights and property	15
10	Ownership, possession, and property rights	17
11	Human rights and natural law	18
12	Discursive evidence	21

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14 Chapter 3. Institutions and Rights

15 Jean Monnet, the founding father of the European Union, famously remarked: “*Nothing can*
 16 *be done without people, but nothing will last without institutions.*” History confirms the
 17 insight. In 2011, millions filled Cairo’s Tahrir Square in celebration as Mubarak fell; within
 18 three years, General Sisi’s military dictatorship had re-established control. Myanmar’s
 19 democratic opening in 2015 dissolved back into military rule by 2021. Weimar Germany’s
 20 constitutional republic, founded in the wake of revolution, survived barely fourteen years
 21 before succumbing to Hitler’s seizure of power.

22 Why does individual liberty endure for centuries in some places, while in others it withers
 23 within a generation? The answer lies less in the courage of freedom-fighters than in the
 24 fickleness of public opinion and in the institutional architecture that sustains—or fails to
 25 sustain—the norms of individual freedom. Institutions stabilise collective intentionality and
 26 thereby render the acceptance of norms more durable. We shall see that they arise from
 27 status declarations that transform shared normative meta-discourses into binding legal
 28 structures.

29 However, I need to re-emphasise that our purpose is to explain how norms are generally
 30 accepted – not whether they are realised by facts. I will examine how the linguistic structure
 31 of speech acts shapes institutions. As I argued in the previous chapter, norms are inherent in
 32 all practices and are expressed by speech acts. General acceptance does not mean moral
 33 endorsement or enthusiastic approval. It means that individuals orient their behaviour to an
 34 institutional order in ways that reproduce it. In Weberian terms, an order is valid when actors
 35 treat it as binding in their practical reasoning, regardless of whether their motivation is belief,
 36 habit, interest, or fear (Weber 1947, 124-5). In Searle’s language, acceptance consists in

collectively recognising status functions—treating certain persons, offices, or rules as possessing deontic powers within a given context (J. Searle 2010).

Context matters, because there are no material or economic practices without normative context. Even practices such as profit-making or power-seeking presuppose rules about what counts as legitimate acquisition, authority, or success. An authoritarian ruler, a dictator, a tyrant – they all formulate rules that they find justifiable, even if they justify only their own immediate desires. These rules may not be universally approved, although they are often widely followed. Dictatorships often display highly coherent practices even when many citizens privately disapprove, because most people continue to act within the framework of the existing hierarchy.¹ This submission to hierarchical authority is what I call political holism.

However, when competing norms claim ultimate authority without institutional mediation, social order becomes fragile and conflict-prone. The fragility of such situations has long been observed. Thucydides (1628, 3.85) describes factional conflict (στάσις) between the rich and poor; Hobbes (1998, 69) spoke of the “war of every man against every man”. Locke (1988, p. 270 (II,6)) of a “state of licence.” All recognised that civil peace required some form of agreement, though they grounded it differently—Hobbes in fear, Locke in natural reason and religion. I argue that such rationality does not precede social life but emerges from the abstraction of task-specific practices into meta-discourses. Individuals may have good reasons to follow the norms of political holism as well as those of political individualism. Constant raised the decisive question: why accept the norm of individual liberty?

The answer cannot lie merely in interests nor in moral exhortation. It must be sought in the structure of the institutions through which norms become binding. Political holism stabilises order through directive authority: individuals orient their conduct to hierarchical commands. Modern liberty rests on a different institutional logic. It presupposes contracts - reciprocal self-binding agreements among formally equal agents - and generalises this structure into the constitutional form of the social contract.

Modern liberty requires directive authority to be normatively subordinated to claims and obligations among formally equal participants. Where this structural alignment holds, law is experienced not as the imposition of another’s will but as the generalisation of one’s own commitments. Where it fails, hierarchy reasserts itself and individual liberty becomes fragile. To understand how such alignment is possible, we must examine the linguistic structure of institutional acts themselves. The distinction between commissive and directive speech acts provides the analytical key.

Benjamin Constant recognised the institutional innovation of modern liberty in the form of individual legal rights.² This chapter will clarify how such rights emerged. Rights differ according to whether they are derived from the logic of directive commands or commissive

¹ In (Collignon 2026) I have shown that the Burmese military claims to be a legitimate protector of the unity of the State in the interest of the people. In a holistic cultural context this claim finds at least partial support. Contestation by minorities strengthens this claim.

² (Constant 1988, 320-22) and see Chapter 1 above.

speech acts. Directive speech acts express hierarchical authority. They are indispensable for regulative law, but when not grounded in commissive legitimacy, they become instruments of domination. Commissives, by contrast, generate contracts and claim-rights which are the foundation for civil liberty, democracy, and human rights.

In Chapter 1, I distinguished two dimensions of the liberty narrative. This distinction is not one of scale—micro versus macro—but of logical structure. The horizontal dimension refers to the mode through which claims and obligations arise in concrete interaction: reciprocal self-binding agreements among agents who recognise each other as free and equal. In contracts, promises, and exchanges, individuals generate task-specific obligations by consent, thereby generating claim-rights. The vertical dimension refers to the mode through which such claims and obligations are generalised and stabilised. Through status declarations, dispersed interactions are abstracted into collectively recognised rules, laws, offices, and rights that bind beyond immediate contexts.

Both dimensions exist in all societies. The difference between political holism and modern liberty lies not in the presence or absence of either dimension, but in their order of precedence. In holistic orders, vertical authority defines the rules of social interactions, and horizontal interactions remain subordinate to hierarchy. Individuals orient their conduct to directive commands that claim priority over private commitments. In modern liberty, by contrast, vertical directive authority becomes legitimate only insofar as it derives from and reflects prior horizontal commissive reciprocity. The social contract abstracts this structure: collective authority is authorised through reciprocal recognition among free and equal persons.

The institutional forms that expresses this structural alignment are claim-rights at the micro level and social contracts at the macro level. The people (all individuals together) are the principal of the social contract; the government is their agent to pass laws and regulate activities with the purpose of preserving wealth and security. This is the meta-discourse of democratic institutions. Habermas (2001, 65) made the point succinctly: “The democratic constitutional state, by its own definition is a political order created by the people themselves and legitimated by their opinion and will-formation, which allows the addressees of law to regard themselves at the same time as the authors of the law.” Hence, political holism and individualism are sustained by different institutions. In hierarchical societies, rules are top-down declarations; in modern societies they are freely chosen obligations that legitimise rules bottom-up. When institutionalised, these rules they become rights.

Contracts are horizontal practices that generate expectations of reciprocity and autonomy; vertical institutions stabilise and universalise those expectations through law and constitutional structure. Where vertical authority overrides horizontal reciprocity, hierarchy dominates. Where horizontal self-binding agreements are generalised into institutional claim-rights, the probability that norms of modern liberty become generally accepted increases. However, normative incoherences occur frequently. In ancient Greece, tyrants used collective

resources privately, thereby threatening the security of survival for the many. As Plato put it, “the insatiable lust for wealth and the neglect of everything else for the sake of money-making” transforms “the protector into a perfect and finished tyrant” who pushes people into misery.³

The story becomes more complex in modern societies. The stochastic consensus, which generates the acceptance of valid meta-discourses, is volatile, even if the structure of contractual practices remains relatively stable. Uncertainty and shocks can shift the consensus in favour of the hierarchical provision of security by *authoritarian* rulers. They impose their rules primarily through directive command rather than through reciprocally grounded legitimacy. Democratic political institutions attempt to stabilise this alignment by embedding directive authority within constitutional constraints.

Even more dramatic is the *totalitarian* temptation. In Dumont’s reading, totalitarianism is not just stronger authoritarianism. It is a violent form of holism that occurs when a section of the community (often on racist grounds) makes “the attempt, in a society where individualism is deeply rooted and predominant, to subordinate it to the primacy of the society as a whole” (Dumont 1986, 158).

In modern societies, hierarchy becomes the fall-back position when insecurity rises and people fear losing their living standards. Nevertheless, when institutions provide new forms of security, the transition to modernity becomes more stable. For modern liberty to endure, institutions must provide forms of security compatible with reciprocal self-binding agreements. But when institutions fail to provide predictable security, hierarchical authority regains plausibility as an alternative mode of order. Such failures explain why liberty may flourish over centuries in one society yet collapse within a single political cycle in another.

The historical transformation of security provision illustrates this structural shift. Chapter 5 describes the institutions of ancient hierarchy as provider of security. However, the dramatic increase of insecurity during the Little Ice Age (1570-1720) generated a new model of individual security—first in the Netherlands, then in England. It culminated in the financial revolution. The emergence of credit-money made the provision of security transferable between individuals. These transfers were financial contracts carrying the full normativity of reciprocal self-binding agreements. The development of the monetary economy therefore diffused the norms of political individualism. I will show in the next chapter that an important institutional precondition for the gradual expansion of financial contracts was the transformation of usury prohibitions.

Creating Institutions

Status declarations create institutions, and meta-discourses provide the normative content from which institutions derive their meaning. Yet narratives and norms alone do not produce institutional facts. For that, rules are required — rules that do more than merely guide

³ See (Plato 2006), p. 305 and 323, Book VIII, section 562b and 566d.

behaviour. They must generate the protection of secure individual liberty. This brings us to an essential distinction for understanding how institutions are constituted through speech acts: the difference between constitutive and regulative rules. Rawls (1955/1999, 22) first formulated the distinction; Searle (1988, 27-28) later integrated it into the theory of institutional facts.⁴ The distinction clarifies why some rules create institutions while others merely organise existing behaviour.

Constitutive rules do not merely regulate behaviour; they create new social realities. They make possible practices that would not exist without them. The rules of chess are the classical example: without the rules, there is no such activity as *playing chess*. Constitutive rules therefore generate institutional facts by assigning meaning, powers, or statuses to objects or persons. They are therefore intrinsic to the facts they create and can define the framework within which ancient and modern liberty becomes possible.

Regulative rules, by contrast, presuppose an already existing activity. Traffic regulations order the flow of vehicles, but they do not create the activity of driving. Regulative rules are therefore extrinsic: they organise behaviour that is logically independent of their existence. Before we understand which constitutive rules create modern liberty, we must clarify the mechanism by which institutional facts are generated.

Searle's central insight is that institutions operate through status functions which always take the form:⁵

"X counts as Y in context C."

This is the logical structure of all constitutive rules. Physical objects or persons (the X-term) acquire new powers, called deontic powers. They are rights, duties, obligations, authorisations, entitlements, or identities described by the Y-term). They have power because a community collectively accepts their status. For example, the office of President of the United States exists only because the Constitution (a declaration of status functions) stipulated the rule under which certain individuals—George Washington, Abraham Lincoln, John F. Kennedy—counted as holders of the office under a collectively accepted constitutional rule. When John F. Kennedy died, the status automatically transferred to Lyndon Johnson. The persistence of the office does not depend on the biological individual but on the generally accepted rule.⁶ Trump's denial of the 2020 election result challenged the recognition of the status function, but collective intentionality supporting the Constitution prevailed. Similarly, money is an institution where a unit of account counts as means of payment in a given legal context.

⁴ For a critique, see (Giddens 1990).

⁵ (Searle 2010) (1995)

⁶ In 17th century England, the theory of "the King's two bodies" reflected this distinction between the function and its ontological base. In the trial against the Earl of Strafford, the key defender of the King's absolute powers, the Solicitor-General Oliver St John made the distinction between the King as a "*meere person*" and the king's "other person", his "*great bodie politicke*", which was constituted by the laws. See (Adamson 2007, 271).

Status functions are therefore the glue that holds societies together, because – contrary what utilitarianism claims - “they provide us with reasons for acting that are independent of our desires and inclinations” (J. Searle 2010, 8-9). There are two reasons for this. First, status functions make institutional facts epistemically objective, because everyone knows that everyone knows what Y means in context C. As we saw in the last chapter, this is collective intentionality. Second, no institutional fact can exist unless the underlying status function is collectively recognised. But when the status declaration is recognised as valid, the institution generates stable expectations, even if the stochastic consensus is volatile. The rules of the system are then challenged at the discursive level but pertain in daily practises.

Speech Acts and the Constitution of Institutions

With this mechanism clarified, we can now explain how linguistically created constitutive rules ground modern liberty. For this purpose, we need speech act theory. J. L. Austin (1962) distinguished different kinds of utterances according to their conditions of success; Searle (1969) refined this into a taxonomy of five basic types. For our purposes, three speech acts are crucial: assertives, directives, and commissives.

Assertive speech acts are statements where words are matching the world. They commit the speaker to the truth of a proposition. They have a word-to-world direction of fit: the world must match the statement if the statement is true. Assertives describe facts, but they are not themselves normative. They are nevertheless essential for institutions, because status function declarations *represent* the reality they simultaneously *create*.

Directive speech acts are commands. They attempt to make the hearer do something: “Close the door!”, “Stop at the red light!”, “Pay property tax if you buy this house.” They have a world-to-word direction of fit: the world is supposed to change to match the utterance. Two key features define directives. First, they impose the speaker’s will on the hearer. The hearer can obey or resist but cannot choose the propositional content of the order. Second, they presuppose hierarchy. The strength of the directive statement depends on the status of the speaker and hearer. The command of a person in a higher hierarchical position carries more weight and has therefore a stronger force in getting the message through. The more asymmetric the hierarchy, the stronger the directive force.

When the speaker gives a command, his psychological mood is that he *wants* the action done, and this is called the sincerity condition.⁷ But while the speaker wants the hearer to act, the receiver of the command can only choose between conforming or resisting. She has no choice over the propositional content of the order. But non-conforming is likely to be sanctioned. The hearer is therefore not free. She is *dominated* by the speaker’s intention. For this reason, directives constrain individual liberty. They cannot constitute individual liberty.

⁷ Hart has expressed that like this: “It is unnecessary condition of an utterance constituting a command that the utterer wishes the person to whom the command is directed to do the act commanded”. He adds that this condition is normally satisfied, although exceptions are cases when the sincerity condition is not met.

Commissives, by contrast, are voluntary commitments that ground liberty. They commit the *speaker* to a future action: promises, vows, pledges. Like directives, they have a world-to-word direction of fit, but here the speaker commits herself, out of her own free choice, and becomes bound only once the promise is accepted.⁸ She has control over what she says. She is free to commit or not and will evaluate the reasons for doing so.

Promises are the prototype of commissives. The promise is about the propositional content and the intent of the promisor is the sincerity condition. The strength of the commitment does not depend on the speaker's hierarchical position but on her sincerity. However, and this is the crux, it is the speaker's choice to make a promise or not. While with directive speech acts, the speaker is free and the receiver is not, with commissive speech acts the speaker is free *ex ante*, but no longer free when the promise has been accepted.

Because contracts are promises, they are the archetype of commissive institutions. The normative content, which is the binding obligation, is freely negotiated and when the agreement is reached, the promisor accepts it out of free will. If the sincerity condition is not met, the speaker is simply not making a promise. She is cheating.⁹

This is the key philosophical point: Speech acts which articulate constitutive rules have a different structure from those that articulate regulative rules. With directives, the speaker is free and the hearer is not. With commissives, the speaker and the hearer are free *ex ante* and the speaker becomes bound *ex post* only by her own will when the agreement is reached.

Commissives embody *autonomy*: the agent binds herself through a voluntarily chosen obligation. Contracts institutionalise this logical structure. Hence, modern liberty is institutionally grounded in commissives and contracts, not directives.

Why Constitutive Rules Require Status Function Declarations

We can now connect the internal logic. Constitutive rules generate institutional facts by assigning status functions. Status functions become real only when expressed through status function declarations. Declarations have a double direction of fit. In authoritarian regimes, these declarations combine assertive and directive speech acts. Political individualism combines assertive with commissive elements. These statements represent a social reality (assertive component) and bring that reality into existence by the collective acceptance of a commitment (commissive component).

⁸ (J. L. Austin 1962, 157); (Searle 1977); (Fotion 2000).

⁹ Based on utilitarianism, economic theories of contract see the world through the lenses of costs and benefits and the incentives for self-interested agents to comply (Sen 1987). The norms of trust and honesty seem irrelevant for these discussions, even if Oliver Hart (2002, 180) rightly points out that societal norms have an important connection with task-specific contracts because "a society in which honesty is not taken very seriously is also one in which firms will have a lot of difficulty sustaining trust. However, he argued, norms at the societal level are pretty slow to change, and, for many purposes, they can be taken as exogenous. In contrast, norms in and between organisations are capable of being designed." In the context of liberty, we obviously focus on societal norms and their changes which are not exogenous.

Thus, status declarations appear almost as magic. They create facts through words. When the French mayor declares, “I pronounce you married,” the couple becomes married because the declaration *represents* them as married and *creates* the institutional fact of marriage in virtue of its official authority. That the mayor can do so is part of the legal context in which the wedding takes place. The same holds for the oath of office of a president. Modern monetary theory has recognised this as well. For example, Olivier Blanchard (1989) explains in his textbook: ““When banks extend loans, they create money.” Extending a loan requires a contract and the lender’s declaration to do so, and the borrower’s commitment to pay it back.

When constitutive rules are expressed through status declarations and collectively recognised, they acquire *deontic powers*. Because they give individuals reasons for acting independently of their personal desires. They limit the arbitrary interactions between individuals. Institutions with deontic powers also have the authority to issue regulative rules and laws, and they can set up other institutions. For example, a government obtains its power from the constitution which creates the legitimacy to regulate traffic, or to declare by law: “this piece of paper counts as legal money in our country” (a constitutive rule).¹⁰ The institutions of modern liberty, namely human rights, democratic government, contracts, and property rights are grounded in constitutive rules which embody the normative content of the meta-discourses of political individualism: persons are free and equal, obligations arise through consent, authority is legitimate only through procedures, and individuals possess rights independently of any particular ruler. These rules are not mere constraints on freedom; they establish the very framework within which free and equal persons can meaningfully act.

The normativity of contracts

Speech acts are necessary for economic transactions. Barter and spot exchanges require two independent (mostly silent) evaluations of utility, and the terms of trade reveal the relative intensity of preferences. No further communication is needed. Credit and debt, by contrast, are created by the single speech act of promising which generates simultaneously a legitimate claim and an obligation. Hence, barter and spot exchange follow a normative logic that is different from credit and intertemporal exchange. I will explain in the next chapter that this difference defines the exchange paradigm in neoclassical economics versus the contract paradigm of the monetary economy. We shall see that the contract paradigm describes the foundation of modern liberty, while the neoclassical exchange paradigm cannot do so.

What matters for our discussion of liberty here is that a *contract is an agreement of reciprocal promises, where each side is free to accept or reject the terms* of the agreement. They must

¹⁰ This is the simplistic example used by Searle (1995). We will see in the next chapter that the story is more complex. Credit money has at first emerged from the informal and even illegal practices between Renaissance bankers and has become fully recognized as legal means of payment only later. Nowadays, money is created when the central bank issues certificates of liability. Thus, when the central bank issues money, it implements the rule, usually defined by a monetary law, whereby its liability counts as money.

consider what the other party wants, for otherwise there will be no agreement. This is a constraint on their choice, but it does not prevent them from choosing freely. However, it implies not only trust but also respect for others. This trust shifts the meaning of human dignity from respect of status to respect of individuals. Human dignity then becomes the normative content of human rights. This normativity does not emerge in simple barter and exchange, because interpersonal utility comparisons make no sense. As Lionel Robbins (1932, 138–139) put it: “The theory of exchange does not assume that at any point it is necessary to compare the satisfaction which *I* get from the spending of 60p on bread with the satisfaction which *the Baker* gets by receiving it. The comparison is a comparison of entirely different nature.”

Contracts turn promises into institutions. At first, during the negotiating phase, different assertive, directive and commissive statements are made. One party makes an *offer*, by which she promises something and commits herself to doing something. The other party must *accept* the offer, and this is an assertive speech act. The contract is only valid if the promise of one side is matched by the counter-promise of the other side. When the terms of the contract are agreed, the contract is a declaration expressing two parallel sets of commissives with *the same propositional content*. Both parties declare being committed to executing their mutual promises. For example, in Roman law, a loan was a consensual agreement between lender and borrower that entailed the promise to pay back. Debt was constituted by public *stipulatio*, an formalized exchange of words (*verba*): the lender asked “do you promise to give me 100 *sesterces*” (*Promittisne mihi centum dare*)? And the debtor had to answer “I promise” (*promitto*). It was important that the answer would be given with the same word as in the question (Wesel, 2010, p. 82).

Incomplete Contracts and Power Relations

All contracts are a form of credit. While I promise now, my action will follow later. Fried (1981) is therefore right when he emphasizes trust as a condition for making contracts. Formal contracts write down the content of the agreement and the document counts as “the contract”. This document represents the status declaration. Contract law provides the legal framework which determines the conditions that must be satisfied for the contractual agreement to be valid. They then can be enforced if necessary. Many legal issues, such as whether the contract meets the formal requirements, or whether breach justifies compensation, arise from the applicability of the law to specific cases and they usually turn around the protection of the creditor.

Hobbes (1996, 93) rightly said, “nothing is more easily broken than a man’s word”. A huge economic literature has discussed moral hazard,¹¹ and theories of contract law have

¹¹ Two benchmark papers are: (Holmström 1979) who established the foundational model of moral hazard with unobservable effort and incentive contracts. (Hart and Moore 1994) discuss moral hazard in debt contracts and the implications for firm financing.

developed manifold arguments about interpersonal commitments which the law ought to enforce (Barnett 1986). For courts and lawyers, they have practical implications. Oliver Hart (1995) has shown how important these considerations are for the structure of firms. Yet contemporary social sciences seem more preoccupied with broken rules and how to deal with the deviation from norms than with the question how the norms come about in the first place.

However, contracts are never complete (O. Hart 2017). The risk of non-performance creates uncertainty. Parties cannot foresee all states of the world. Even if they could, writing and verifying all clauses would be too costly (O. Hart 1995). Incomplete contracts therefore leave gaps. When unforeseen situations occur, someone with authority must decide what to do. That authority determines the distribution of power, surplus, and incentives in unspecified circumstances. Hart says, such authority has residual control rights that decide how to use and control non-human assets in situations about which the contract remains silent. The terms of the contract allocate these rights. These are second-order grant-rights incorporated into the contractual agreement. Although control rights activate hierarchy, they are subordinated in the broader context of political individualism.

The cost of exercising these control rights is minimised when the contract or the legal framework stipulates a monetary penalty for defaults. Money then reduces contractual uncertainty. The co-evolution of contractual practices and monetary institutions is therefore central to understanding how modern individual liberty emerged.

In the context of political individualism, rights and laws are protections of individual liberty. Yet, one may object that the power relations in contractual negotiations are rarely equal. For instance, in wage negotiations employers often have stronger positions than employees. Nevertheless, negotiating a contract is meaningless if one party has the power to impose its will by force on the other. This insight gives rise to additional norms for sustaining equality. If workers have the right to strike, the norm of equality is recognised as valid, even if it is not factual.¹² Similarly, property rights protect the capacity to say No. They counterbalance the domination of hierarchical rulers. Meta-discourses about equality protect individual autonomy.

However, the enforcement of norms and rules - including the protection of individual liberty – requires an institution capable of action. This is the function of government. In the context of political holism, authoritarian governments enforce rights as grant-rights. But if political

¹² Marx (1972, 183) has described this by the expression of the “doubly free wage labourer”: they are free to negotiate the price of their labour force, and they are free from owning means of production. The German original makes this argument far clearer than the english translation: “Zur Verwandlung von Geld in Kapital muss der Geldbesitzer also den freien Arbeiter auf dem Warenmarkt vorfinden, frei in dem Doppelsinn, dass er als freie Person über seine Arbeitskraft als seine Ware verfügt, dass er andererseits andere Waren nicht zu verkaufen hat, los und ledig, frei ist von allen zur Verwirklichung seiner Arbeitskraft nötigen Sachen.”

individualism prevails, the legitimacy of government must emerge from individual choices of collectively accepted rules and laws. This bottom-up vertical relation is the social contract.

Social contract and the Law

Searles formula for describing status declarations emphasises that all institutions stand in some context. For contracts, this is the legal system. Laws are codified rules, and they create formal rights and obligations.¹³ Laws are legitimate when the lawgiver is recognised as such by the collective. In that case, the law is founded on the social contract.

I have so far described the basic structure of constitutive and regulative rules, but the social reality is often structured by a combination of several status functions. In societies where political holism dominates, the authority to prescribe regulative rules is usually exercised by a single person – the sovereign – who can delegate the deontic power to lower ranking representatives. In individualistic societies, the authority is given to the government (an institution) that counts as the representative of the general will of individuals.

The constitutional rule that assigns authority to the government is the social contract. The collective of individual citizens is the principal who temporarily lends the deontic power of making laws to the government. This implies a commissive speech act that reflects collective intentionality and is valid because it is generally accepted and fulfils the conditions of the constitutive rule. The social contract is therefore the description of a meta-discourse that people understand because they practise contracts in their daily lives. We must therefore look more closely at the vertical interaction between contractual practises and laws.

In the narrative of political holism the authority of the sovereign is derived from the ruler's claim of preserving the whole. One may be tempted to say such societies simply have a different social contract, but it would be anachronistic to use the term contract in this context for it ignores the fundamental logic of contracts Between free and equal individuals. In individualistic societies, the authority is given to a government (an institution) that counts as the representative of the general will of individuals.

Constitutional laws are formalised constitutive rules that define the functioning of rights, deriving their legitimacy from the meta-discourses with which they must be coherent. These laws generate the institutions of democratic states through commissive speech acts by which individual citizens declare themselves to be the owners, authors, and addressees of the laws. Constitutional rules in democracies therefore define individuals as free and equal citizens who jointly decide on collective action.

¹³ I shall use the word "*a right*" in the English sense as a specific moral or legal claim against one or more persons who have an obligation to satisfy the claim (Guyer 2014, 303).

Laws derive their validity and power from their collectively recognised statuses (J. Searle 2010, 176). Most laws are regulative rules — directive speech acts issued by governments that stipulate "Do Y, don't do Z". Authorities command; individuals submit to their will. However, in modern societies commissive speech acts generate claim-rights which derive from contracts. But if individuals can impose contractual obligations on themselves, they must be free to do so, and in contractual relations they recognise that others are equally free.

The logic of private contract extends to the political sphere through the meta-discourse. The latter declare individuals collectively to be the principal who appoints the government for a limited period. This declaration becomes the social contract by which people commit to respect and follow the laws made by the government. Because they are all parties to the social contract, each individual has the right to expect that all others will do the same. The acceptance of this obligation is a collective voluntary act and therefore consistent with the meta-discourses of individual liberty.

If the government acts as an agent authorised by the collective choice of individuals, it is itself bound by the norms, rules and laws of modern, democratic liberty. In this case, laws create rights that protect individual freedom. This is not to deny that laws often impose on individual free will and distort the norms of equality (Kennedy 2016). But as I argued earlier, recognising such norm distortions requires a valid norm in the first place. Otherwise judgement has no standard.

Contracts and Rights

Rights provide the context for modernity's most important institutions: money, property, and human rights. They are rules formally created by law. The ancients had no notion of individual rights as Constant (1988, 312) pointed out. Individuals "were merely machines, whose gears and cogwheels were regulated by the law". No Greek word for a subjective right existed. Plato seems to have thought that "the law is what the *polis* lays down", provided it is fair and coherent with universal justice.¹⁴ For Aristotle (1939, p. 257; (1129a30)) "a man who breaks the law is a man who takes more than is his due" and "*just* means that which is lawful". The point here is that for the ancient Greeks, the law expressed communitarian morality.

Rights applying to individuals only appeared in Roman law with the notion of *ius*. A right was now understood as a person's capacity or power to do or have something.¹⁵ This resembles what Hohfeld (1917) later called *privileges* or Waldron *bare liberty* (Waldron 1984, 6). Such

¹⁴ In Plato, *Minos* 313e–314c (Perseus/Burnet edition), Socrates asks: "What, then, is law?" and his interlocutor answers: "Isn't it whatever the polis lays down?" (ΣΩ. τί ποτ' ἐστὶ νόμος; ΝΟ. οὐκοῦν ὃ ἂν ἡ πόλις θέσῃ). Socrates challenges this apparent legal positivism by insisting that laws must be "correct" (ὀρθοῖ) — they endure only because they express what is just. Yet discovering justice requires the Philosopher King and ultimately depends on God, the universal whole. The crucial point for the present argument is that even when Plato fills law with moral content, that content derives from a cosmic order, not from the claims of individuals. Law remains communitarian in origin and divine in justification; subjective rights play no part.

¹⁵ (Mommson, Paul and Schöll 1870–1895., D. 4.2.11 (Paulus)): "*ius est facultas rei aliquid faciendi vel habendi*".

right means the absence of a duty. A person *X* has no duty to any other person *Y* not to do *A*. Take the example of medieval tribute collection (*A*). A medieval lord (*X*) had no obligation *not* to collect tribute (*A*) from the peasant (*Y*) but he was free to collect payment in money or kind. This was his *privilege*. The lord was granted the right to collect tribute and the peasant had an obligation *not to interfere* with the lord collecting it.

In traditional societies, duty was derived from the dominant moral consensus. To challenge this consensus was unlawful, unless the law-giving authorities had granted the freedom of not being constrained.¹⁶ Hence, Roman individual rights were privileges granted by the community. In the Hohfeldian literature they are called liberties, but these were *ancient* liberties, not modern individual liberty: privileges were granted by a higher authority, and this violated the norm of equality. Political individualism later integrated the exemption of duty into the concept of freedom as non-interference.

Privileges permit what authority has not prohibited. The claims they justify I call *grant-rights*. Historically, feudal rights were grant-rights. Kings conquered villages and subdued peasants; feudal lords received their fiefs as grants from the crown. But even if serfs had no power to oppose the authorities, kings and lords had a moral duty to provide security. This duty arose not from contractual agreement but from the extension of reciprocal gift-giving in traditional societies.¹⁷ For people living close to subsistence levels, security was a good reason to surrender to the authority of the sovereign.

Grant-rights are potentially arbitrary: if the ruler is free to create privileges and obligations, nothing constrains their content. That is no recognised norm of equality. Ordinary people wished for a "good ruler" — and rebelled when security failed — but they could not claim human rights because the king was not bound by constitutional contract. In fact, Plato (2006) thought desires were unlimited and corrupted virtue and argued that only kings trained as philosophers could secure the right balance between might and right. In practice, however, his approach failed miserably (Romm 2025).

The Buddhist view of kingship also focused on the virtue of the ruler. As Aung San Suu Kyi (1990, 179) described: "[The king] is expected to observe the Ten Duties of the King, [...]: liberality, morality, self-sacrifice, integrity, kindness, austerity, non-anger, non-violence, forbearance and non-opposition (to the will of the people)." Yet she also observed that "the people of Burma have had much experience of despotic rule and possess a great awareness of the unhappy gap that can exist between the theory and practice of government". The gap between virtuous ideal and despotic reality is precisely the vulnerability of grant-rights: they

¹⁶ (Wenar 2023) has summarised Hohfeld's privileges in the formula: *A* has a privilege to ϕ if and only if *A* has no duty not to ϕ . In the context of political holism, every individual has the duty not to do what contradicts the system of hierarchical values.

¹⁷ See (Mauss 1966). I shall discuss reciprocity in chapter 4.

depend entirely on the character of the sovereign, and no institutional mechanism compels the ruler to honour them. Individual freedom is seen as arbitrary licence. Rulers who ignore the moral rules are tyrants who exercise their power arbitrarily.

By contrast, modern liberal societies function with claim-rights. Contracts enable individuals to negotiate their own obligations, generating the norms of autonomy, freedom, and equality. The obligations entitle the promisee of the contractual promise to make claims. These claim-rights arise when individuals voluntarily create self-imposed obligations (Atiyah 1986, 10). Thus, while grant-rights stem from sovereign authority, claim-rights are rooted in contracts — they require free and equal participation. This distinction is critical because political holism relies on grant-rights, whereas political individualism flourishes through claim-rights.

Grant-rights reflect the norms of political holism, claim-rights those of political individualism. Analysing rights as speech acts solves many confusions. Legal positivists like Bentham and Austin, treat right as directive speech acts issued by the sovereign. By contrast, claim-rights emerge from contracts. Note that equality is a constitutive norm of this contractual relation. The liberal theory of contract refers to the promise principle whereby autonomous individuals impose obligations on themselves by the exercise of their free will (Fried 1981), but the promisee has a right to expect that the promise will be fulfilled. However, even in modern societies grant-rights have not disappeared, because the government can regulate society by directives. However, regulative law is subordinated to constitutive law. Modern liberty says that the state and its courts are bound to respect the choices by individuals (Atiyah 1986, 121).

On what grounds are they bound? While individual contracts are dyadic (one-to-one), laws apply to everyone. They have universal validity in the context of a given society. But if we admit that the norms of making contracts are generalised in the meta-discourse of individual liberty, the question remains how the norm of individual freedom of choice can be articulated with respect to collective choices. The answer is that individuals accept the meta-discourses which inform the laws. However, for the meta-discourse of individual liberty to be accepted, it must be formulated in a way that is consistent with the practices in society. Holism is consistent with hierarchy; liberty is consistent with contracts. The narrative of a social contract corresponds to the meta-discourse of individual contracts in daily practises.

The contract principle therefore operates on two levels. Task-specific contracts are dyadic agreements regulated by private law. Every task-specific contract sets up a mini-game which generates the experience of liberty for private individuals. Economic liberals frequently oppose the interference of the state into the private domain because regulatory laws imply directive speech acts. But in a modern society individuals authorise governments through the social contract, and they have the right to withdraw or change directive laws. The meta-

discourse of political individualism therefore applies to constitutive rules and constitutional laws.

In the context of modern liberty, it is logically impossible for a government to grant regulative laws unless it represents the collective choices implied by the social contract. In holistic societies, we saw, the sovereign alone issues directives. In modern democratic (non-holistic) societies, citizens have the right to choose the policies of their governments. The fundamental rights articulated by the meta-discourse in the constitution must protect the space for individual task-specific contract-making practises. Hence, the normative meta-discourse, which is derived from purpose-specific contracts, is the source of the legitimacy for regulative laws made by democratic governments.

Rights and property

Early narratives of social contracts (or covenants, as they were called) combined the notion of contract with natural law, political power, and property. Thomas Hobbes (1996, 101) wrote that “the erection of a Common-wealth” reflected the “Propriety, which by mutuall Contract men acquire, in recompense of the universal Right they abandon”. By universal right, he meant the right to do what one wants in the lawless state of nature. Thus, freedom could be traded off for security. John Locke (1988, II §87) saw rights as a protection of liberty: “Man being born (...) with a Title to perfect Freedom, and an uncontrolled enjoyment of all the Rights and Privileges of the Law of Nature, (...) has by nature a power not only to preserve his property, that is his Life, Liberty and Estate...”. For these authors rights required the existence of the state which protected property as a space of individual liberty. It derived its legitimacy from natural law.¹⁸ I will argue below, however, that natural laws are inconsistent with modern individual liberty. This is obvious when we read that Aristotle thought slaves were “by nature” useful tools like domestic animals.¹⁹

David Hume (1978 [1739], 526) observed “three fundamental laws of nature, *that of the stability of possession, of its transference by consent, and of the performance of promises*. For Charles Fried (1981, 2) these are the principles of modern contract law, which he said “respects the dispositions individuals make of their rights, [and] carries to its natural conclusion the liberal premise that individuals have rights. And the will theory of contract, which sees contractual obligations as essentially self-imposed, is a fair implication of liberal individualism.”

This may be the fundamental norm of political individualism, but the facts of the legal system are more complex. Atiyah (1986, 147) observed that “no modern contract scholar would deny that respect for individual free choice remains an important value of Western societies, but I

¹⁸ (T. Hobbes 1996, 100): “the Validity of Covenants begins not but with the Constitution of a Civill Power, sufficient to compell men to keep them: And then it is also that Property begins.”

¹⁹ See (Aristotle 1932, p.22-3, 1254b)

suspect most of these scholars would argue that the law must also accommodate countervailing values deriving from the pursuit of collective goals and from paternalistic beliefs that collective judgments about the best interests of individuals are sometimes more likely to be correct than the individuals' own judgement." He concluded that "ever since the reign of Elizabeth I, the common law of contract has, to varying degrees, recognised collective and paternalistic as well as individual values". In other words, the legal system reflects what Dumont has observed for societies in general, namely that holism and individualism always coexist.

Property bridges holism and individualism because it combines grant-rights and claim-rights. Economists like John Locke, Adam Smith, Karl Marx have discussed the importance of property. (Barzel 1997) distinguished between legal property rights which are defined by what the state assigns to a person, and economic property rights which are the ability to enjoy a piece of property.²⁰ The first are grant-rights and the second user rights over possessions. As I shall explained in the next chapter this is consistent with the exchange paradigm in economics, but it neglects the role of uncertainty and claim rights.

Institutional economics and North (1990) define institutions as rules, norms, and enforcement mechanisms that govern human interactions, and property rights as institutions that determine how resources are owned, used, and transferred. Clear and secure property rights, it is claimed, are essential for markets to function efficiently, as they provide individuals with the incentive to invest and use resources productively.²¹ The property rights school argues that property evolves incrementally as societies recognize the benefits of ownership and enforcement. As societies become more complex, better institutions are created to manage and enforce property rights. Yet, what complexity means, and how institutions improve, requires further explanations.

Why do some societies not recognise the advantage of property rights, while others do? North introduced the concept of path dependence, meaning that past institutional choices shape future economic outcomes, so that societies with historically weak property rights may struggle to develop strong ones in the future. Major events ("critical junctures") can shift elite interests and lead to stronger property rights. North and Weingast (2013) refer to the Glorious Revolution in England where the agents of change were fractions of elites that perceived economic net benefits from more reliable property rights, but clearly, there were also retarding elites who held the process back. Robinson and Acemoglu (2013) argue that inclusive institutions promote secure property rights and economic growth, while extractive

²⁰ (Barzel 1997) explains: "The term 'property rights' carries two distinct meanings in the economic literature. One, primarily developed by Alchan (1965, 1987) and Cheung (1969) is essentially the ability to enjoy a piece of property. The other, more prevalent and much older, is essentially what the state assigns to a person. I designate the first 'economic (property) rights' and the second 'legal (property) rights'".

²¹ (De Soto 2000). For a critical evaluation, (Kennedy 2011).

institutions weaken property rights because elites seek to maintain control. The choice between inclusive and extractive rights depends on the strength of different benefiting groups. This theory explains why history advances in jumps and bumps, but progress seems to be the accumulation of random shocks.

I argue that the institutional shifts reflect the cumulative change in economic practices. Critical junctures occur when the distribution of the new practises has reached a critical point, where new narratives find sufficient acceptance to shift to a new meta-discourse. The new practices of making contracts break up old and create new relations between individuals and that is reflected in the new meta-discourse. This means that property rights stand in a broader context than utilitarian exchange. When the law reflects claim rights based on contractual practises, we need to distinguish between possessions and ownership.

Ownership, possession, and property rights

The focus on exchange makes economic explanations one-dimensional. As I will explain in the next chapter, economic calculus takes place in a two-dimensional space, where one dimension is the satisfaction of unlimited wants and the other is the avoidance of risk and uncertainties. If we reason in such two-dimensional space, we must distinguish between ownership and possession rights. This goes back to Roman law which differentiated between “having something (*possessio*)” and “owning it (*dominium*)”. Someone could have *possessio* without *dominium* (e.g., a tenant or borrower), and someone could have *dominium* without *possessio* (e.g., a landlord who owns land but does not live or work on it). This distinction between *possession* and *propriété*, between *Besitz* and *Eigentum*, is fairly clear in European continental law but more muddled in the Anglo-Saxon tradition, although the practices do not vary significantly.

The narrow concept of ownership is *possession*. It implies that a person has actual, immediate, and physical control over resources. Control allows the enjoyment of utility and all the benefits neoclassical economists are fond of. However, the broader concept of *ownership* refers to the *claim* of possessing a thing.²² This includes the possibility of giving up the possession for a limited period and preserving a claim of property. Because the two forms of rights do not fully overlap, the separation of possession and property is a source of uncertainty. It is precisely in this gap that money’s utility unfolds. But more about that in the next chapter.

An *asset* is a *property title* that formally recognises a claim on valuable resources. Its value is determined by the price someone is willing to pay for getting access to the object and the services it provides. However, the facility of access may affect its value. Liquid assets are a

²² As the German Civil Code says, the owner of a thing may, “to the extent that a statute or third-party rights do not conflict with this, deal with the thing at his discretion and exclude others from every influence”. See the German Civil Code (§ 903): <https://www.gesetze-im-internet.de/bgb/BGB.pdf> [accessed in April 2019]

form of possession, for having the asset in my possession gives me the highest degree of certainty that I can access benefits from it. But if I have transferred my asset temporarily to someone else, it is an illiquid asset. I am then less certain that I am able to access it when I wish to do so. The timing matters. Having given away my assets, its expected utility is reduced. I will therefore only transfer my asset if I receive a compensation (or a discount) for this loss of utility. Hence, the degrees of uncertainty affect the value of assets. The more certain property rights are, the higher is the value of assets. But only when possession and property coincide, can the owners of an object control it with a high degree of certainty. Money fulfils this condition, so that liquidity constitutes the highest degree of security in a monetary economy. This distinction will become important when we look at it modern credit money and interest rates in the next chapter.

My point here is that if we understand property rights as ownership rights, they are claims for accessing resources. Thus, property rights are claim-rights, not grant-rights, and they develop with and within the contract economy. This development does not take place in barter exchange economies. In the traditional economy, property rights were entitlements granted by the ruler. This is consistent with the exchange paradigm of the Property Rights School as I shall explain in the next chapter.

Human rights and natural law

Human rights are the second set of rights, after property, that define modernity. Questions of enforcement tend to obscure the more fundamental question of how human rights norms originate. The Burmese General, mentioned in the introduction, had no idea what human rights meant. How can one enforce a norm that is not recognised as valid?²³ Imposing human rights onto such communities violates the very principle of individual liberty that human rights claim to protect. The first question is therefore: what conditions generate the acceptance of human rights norms?

My conjecture is that human rights have emerged from the normative structures generated by contractual practice within the monetary economy. If this is true, the development of a stable, expanding monetary economy is a necessary condition for the global diffusion of human rights. To develop this argument, I will first examine standard theories of human rights and then explain why contracts are the foundation for them.

Documents that count as precursors to human rights — the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration of the Rights of Man (1789), the American Declaration of Independence — declared individual liberty a right but functioned as normative declarations rather than enforceable law. The Universal Declaration of Human Rights (1948) initiated the transformation of these claims into binding legal obligations,

²³ Hence sanctions cannot by themselves generate norms. This was Coleman's (1990) explanation.

subsequently codified in the International Covenants of 1966 (Cruft 2012). The UDHR was, in Searle's sense, a status declaration: the United Nations claimed to articulate the social contract of humankind. For such a claim to hold, the rights must be universal and inalienable (Nickel and Etison 2024). Yet they have remained largely unenforceable — not primarily because the institutions charged with their enforcement lack power, but because no global collective intentionality underwrites them. Even the United States, founded on a declaration of individual rights, has refused to ratify the Rome Statute establishing the International Criminal Court. The Trump administration went further, sanctioning ICC judges directly.

Human rights function as claim-rights: individuals demand that states respect them, typically through civic associations in societies where political individualism has become dominant. Where this normative framework is absent, such claims carry little force. On what grounds, then, are they justified?

Natural law has played an important role in developing human rights. Blackstone taught in the 18th century that "the law of nature, being coeval with mankind and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times" (Blackstone 1765, 1.41). This meta-discourse powerfully defends human rights—but unrealistically. We would now regard such claims as articles of faith rather than demonstrable propositions. Yet even in secular form, the idea that human rights are natural persists.

Allan Buchanan (2013) identified a tradition he calls the "mirroring view": an international legal human right is justified only if a corresponding moral human right can be shown to exist. The mirroring view typically grounds these moral rights in natural law — the claim that every person possesses them by virtue of being human. On this account, legal rights merely recognise pre-existing moral truths rather than constituting new obligations through enactment.

Kant ([1785] 1996) claimed to have established universally valid moral principles entailing individual freedom and equality. Much of the neo-Kantian tradition in human rights theory has since grounded the validity of human rights in this moral framework. But the distinction between ancient and modern liberty, formulated by Constant, undermines the Kantian project. The prevailing moral norm in ancient societies was subordination of the individual to the community; in modern societies it is individual freedom. No universally valid concept of liberty exists.

Joseph Raz (2010) therefore adopts a political conception of human rights: their defining function is to limit state sovereignty. Human rights are not primarily timeless moral claims but standards whose violation justifies external scrutiny and, in some cases, international intervention. By ratifying human rights conventions, governments formally accept these limits and subject themselves to review by international tribunals. Why would sovereign states voluntarily curtail their own authority? For millennia, rulers claimed supremacy within their

territories and resisted external accountability. What has changed such that governments now bind themselves to legal constraints enforceable beyond their borders?

One natural starting point for answering this question is legal positivism, which treats human rights as grant-rights — rights that allow individuals to make claims of immunity in the Hohfeldian sense. As Hart (1955, 157) observed, such rights "reflect the conception of moral rules as not only prescribing conduct but as forming a kind of moral property of individuals". These rights have what we may call epistemic objectivity: they are generally known, accepted, and shared within the community where they are valid. The logic of grant-rights is straightforward: a recognised authority declares, "I grant you the right to make a claim that X." This was the logic of feudal rights. Modern legal positivism inherits it, asserting that institutions, not moral content, determine the existence of rights. Rights are valid because legitimate authorities enact them and society accepts them.

J. Austin, ([1832] 1995) stated the foundational positivist principle: "The existence of law is one thing; its merit or demerit is another." For legal positivists, the validity of law derives from its source in recognised authority rather than from moral content. This account works for grant-rights but cannot explain the foundations of claim-rights. The positivist separation of norms and facts treats the preference for liberty as an exogenous given — precisely what needs explanation. Extending positivism to the international level only deepens the problem: it requires governmental agreement on standards that presuppose the very norms positivism refuses to ground.

Legal positivism places the United Nations and other international agencies in the position of rights grantor (Sieghart 1983), and the UN's legitimacy as universal lawmaker is not accepted everywhere. As Cranston (1973, 69) observed: "to speak of a universal right is to speak of a universal duty. (...) Indeed, if this universal duty were not imposed, what sense could be made of the concept of universal human rights?" The issue is not the content of human rights, but whether they are grant-rights commanded from above or claim-rights emerging from contractual relations.

Neo-Kantian philosophy provides the conceptual reversal of legal positivism. The early neo-Kantians²⁴ argued that normativity (Geltung) cannot be reduced to social fact; validity belongs to the sphere of practical reason, not empirical existence. For Hermann Cohen (1904) and Heinrich Rickert (1904), law, as a system of enacted rules, presupposes a prior moral order grounding its authority. Gustav Radbruch (1946, 107) later drew the consequence: extreme injustice forfeits legal validity. The legitimacy of positive law thus depends on its conformity with principles that are conceptually anterior to it. For Habermas (1997), law's legitimacy depends on rational acceptability, and for Rawls (1999) the "original position" generates principles prior to legislation.

The neo-Kantian tradition thus reasserts the priority of practical reason over institutional facts. My approach is to ground the normativity of modern liberty in the rationality of

²⁴ Hermann Cohen (1904) and Heinrich Rickert (1904)

contractual practices that prevail in the modern monetary economy and define individuals as free and equal. Human rights are founded in the practice of making contracts. As contracts become more frequent, claim-rights emerge as a dominant practice. When this process reaches a critical mass, abstract meta-discourses articulate the normative content of these practices as constitutional laws and human rights. The next chapter will inquire how this critical mass comes about. But first let me present some evidence for the changing salience of the concepts of authority, contracts and freedom.

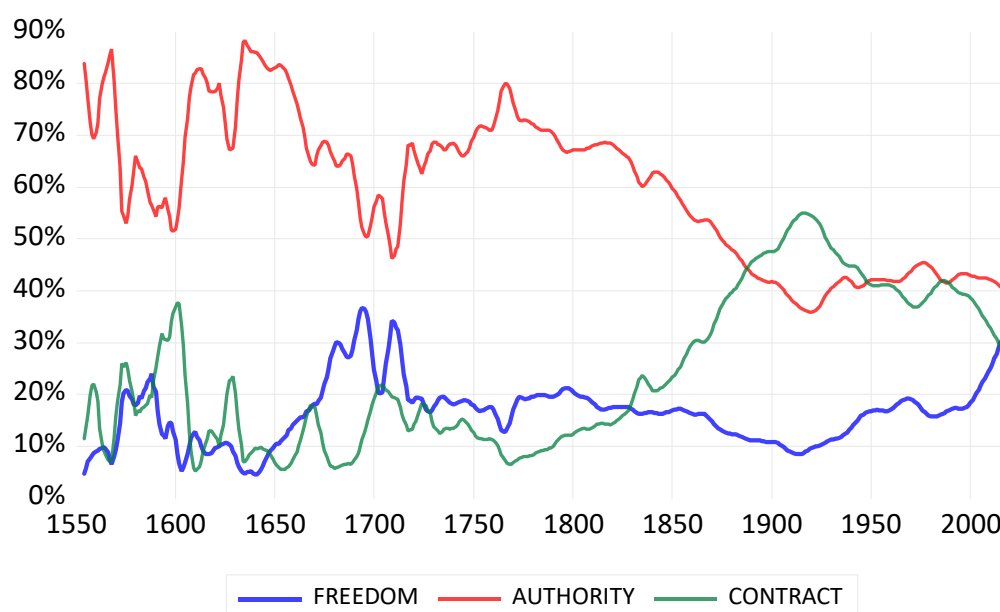
Discursive evidence

The long-run evolution of linguistic usage provides suggestive evidence for the sequencing developed in this chapter. First, we look at the emergence of the terms “authority,” “contract,” and “freedom” in the English Google Books corpus from 1550 to 2019. I then look at Chinese evidence.

Figure 3.1 plots the relative frequency shares of the early modern English discourses. They were dominated by authority-based vocabulary, consistent with a social order structured primarily through hierarchy and directive speech acts, in which obligations are imposed through commands and hierarchical relations. From the late eighteenth century onward, the relative importance of “authority” declines, while “contract” rises sharply and becomes the dominant term during the nineteenth century. This shift reflects the expansion of commissive structures, in which agents bind themselves through mutual commitments. Coordination is increasingly achieved horizontally rather than imposed vertically. The term “freedom” increases more gradually and primarily in the twentieth century, indicating the emergence of a more abstract normative vocabulary.

712 **Figure 3.1**

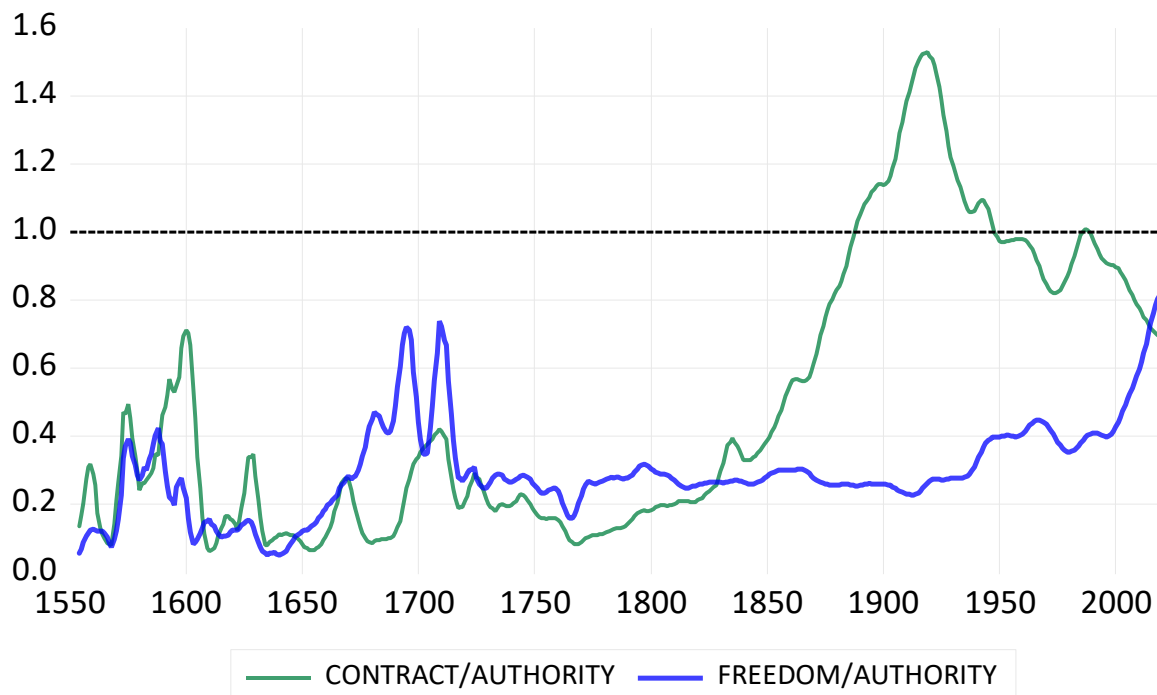
**Relative frequency shares of “authority,” “contract,” and “freedom”
in the Google Books corpus, 1550–2019**



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714 This pattern becomes clearer when expressed in relative terms. Figure 3.2 plots the frequency
 715 of “contract” and “freedom” relative to “authority.” The contract-to-authority ratio rises
 716 strongly during the nineteenth century and exceeds unity around the turn of the twentieth
 717 century, indicating that commissive forms of coordination overtake directive ones in
 718 discourse. By contrast, the freedom-to-authority ratio increases only gradually and
 719 approaches parity much later. Interpreted in Searle’s framework, this suggests a further step
 720 in which institutionalized commissive relations are stabilized and generalized through
 721 declarative speech acts that assign status functions and generate deontic powers. In this
 722 sense, the rise of “freedom” reflects not the origin of social order, but the articulation of a
 723 meta-discourse that presupposes an already established institutional structure of mutual
 724 commitments. While these patterns are descriptive and do not establish causality, they are
 725 consistent with the view that modern liberty emerges from prior institutional transformations
 726 grounded in shared practices.

**Ratios of “contract” and “freedom” relative to “authority”
in the Google Books corpus, 1550–2019 (5-year moving average).**



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