



Short Article

# Freedom and the Rule of Law

Ojel L. Rodríguez Burgos

University of St. Andrews, School of International Relations, St. Andrews, United Kingdom  
[olrb1@st-andrews.ac.uk](mailto:olrb1@st-andrews.ac.uk)

## Article Information

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### Article history:

Received 6 July 2021  
Revised 15 July 2021  
Accepted 16 July 2021  
Available online 10 September 2022

### Keywords:

Civil state  
Rule of law  
Individual freedom  
Economy

### DOI:

<https://doi.org/10.53095/13582005>

### URL:

<https://institutodelibertadeconomica.org/en/programs/education/free-market/freedom-and-the-rule-of-law/>

## Citation:

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Rodríguez Burgos, O. L. (2022, September 10). *Freedom and the rule of law*. Instituto de Libertad Económica.  
<https://doi.org/10.53095/13582005>

## Takeaways

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The civil state preserves the individuality and freedom of the individual because it recognizes that there are different ways, objectives, and life purposes of its members.

The rule of law exists within a civil association as a tool that allows individuals to pursue their wishes and ends, and to cooperate with each other.

The rule of law is neutral with respect to the conceptions of the good life, which allows us to enjoy the pluralistic society in which we live.

The importance of the rule of law is reflected in the freedom for the individual to acquire property and establish businesses, among other things.

## Article

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The word freedom is a term that is used a lot in the daily life and political narrative of Puerto Rico; It is a word that generates passion and debate, because many have a notion, but little understanding of it. The conceptualization of this noun in political philosophy is of a vast range; however, we can simplify it by focusing on freedom as choice and responsibility.

Freedom should not be seen as a license for the individual to act in a way that is self-pleasing. The freedom must be viewed from the perspective of how the individual should act. This way of seeing freedom reveals the importance of the Rule of Law, as an essential tool and relationship in the exercise of individual freedom.

The thought of the political philosopher Michael Oakeshott is informative in the task of analyzing the State and its relationship with the individual. He argued in his work *On Human Conduct* that the State must be seen as an association of individuals; and for him, this can be of two types: business and civil.<sup>1</sup>

The business association is one in which individuals have a common goal; examples of it are churches, universities, businesses, where all work for the same purpose. This type of association requires the same management policy and poses a fundamental problem for freedom, if we extrapolate it to the State.

The State as a business association requires a common goal, purpose and desire about the way of life of the human being. This universalization tries to harmonize the individual in an imaginary community thus robbing a person's individuality; in addition, it requires the use of the coercive power of the State affecting the freedom of the individual, in the interest of the common objective of the State. The former Soviet Union and their common goal of a Marxist society is a model of an entrepreneurial state.

The other type of association, predominant in our modern world, is the civil one; This is a free association in which individuals agree to follow some common rules. In it, the State has the role of enforcing the laws that the individual has accepted and, consequently, they are legitimate and there is an obligation to follow them. The State as a civil association is for Oakeshott one in which there is no common goal or way of living.

The civil state preserves the individuality and freedom of the individual, because it recognizes that there are different ways, objectives and life purposes of its members. The role of individuals is to obey the laws they have consented to and modify their conduct as responsible members of the association; This means that there is a complementary relationship between freedom and individual responsibility. If the individual does not act responsibly within the rules of the association, he cannot exercise its freedom. If irresponsibility becomes the norm for most individuals, the political space is created for the state to intervene and rectify the situation, thus diminishing the freedom of everyone within the association.

Some readers of this article may wonder how the freedom of the individual is preserved if he is obliged to follow the laws of the State. Oakeshott said in this regard that the civil state does not present a single way of living; the individual is free to pursue his conception of the good life, within the framework of the laws of the association; consequently, freedom cannot exist or be exercised, if there is no rule of law as a whole.

The rule of law exists within a civil association as a tool that allows individuals to pursue their wishes and ends, and to cooperate with each other. The rule of law is neutral with respect to the ends, desires or

conceptions of the good life, which allows us to enjoy the pluralistic society in which we live. This neutrality generates loyalty of the individual and forges the legitimacy of the Rule of Law.

The importance of the rule of law is reflected in the freedom for the individual to acquire property and establish businesses, among other things. Likewise, the rule of law generates confidence in individuals to act, for example, investing local capital in the economy or attracting

foreign investment; in other words, the rule of law not only has a role in freedom, it is also a tool for public policy.

This connection between the rule of law and public policy can be seen in the area of business, for example, in the fulfillment of contracts for confidence in capital investment. The fulfillment of contracts requires a rule of law, where every individual is responsible before the law, and an independent judicial system is applied to all equally.

In the past decades, the rule of law in Puerto Rico has been brought to a breaking point, by the constant indifference on the part of individuals and the government. The consequences on the trust and loyalty of local and foreign investors have been economically disastrous. It is of utmost importance for the future of the Island to regain this vital rule of law for the freedom of the individual and economic growth.

## Notes

<sup>1</sup> M. Oakeshott, (1975), *On human conduct*, Clarendon Press.

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