

“Does Human Freedom Need a Constitutional Foundation?”

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Human freedom is under attack in large parts of the world these years. On this background, we ask two questions in this paper. First, we study whether de facto protection of key aspects of human freedom is stronger if it is constitutionally protected. A follow-up question is whether human freedom, as reflected in statutory legislation and practice, came first followed by constitutional protection, or whether human freedom was constitutionally protected from the start. Our estimates, using a worldwide sample from 1970 to 2020, suggest that human freedom appears to increase when accompanying constitutional rights are introduced. However, when we account for the fact that additional constitutional rights are often introduced simultaneously with democratization, much of the evidence in favor of constitutional rights collapses. As such, the problem thus seems less a question of constitutional protection and more one of constitutional compliance and human freedom appears vibrant in many countries without any formal constitutional foundations.