



# Pointmaker

## SOME REFLECTIONS ON FREEDOM

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A society, in our case a nation state, needs to provide its people with certain basics. These include security, food and shelter of course. But a civilised society such as our own, should also provide freedom for its people. All this is obvious.

Freedom is lost or curtailed as a consequence of several different causes. Conquest is an example. Economic collapse is another. History is littered with such events.

It is not useful to attempt a precise definition of freedom. Basically it is a status which allows people to do what they want provided they do not interfere with the freedom of others. Thus, obviously, a society governed by Marxism cannot provide freedom for its people. A market economy, albeit with restraints laid down to prevent abuse, is a necessary basis for the freedom of the individual.

Freedom of the individual, backed by the rule of law (itself guaranteed in turn by a democratic constitution) is a privilege to be treasured. It is not, however, synonymous with an easy life. It includes the freedom to fail, as well as to succeed. It incorporates the necessity of making choices and living with the consequences.

It is not necessarily fair. Some individuals are born with greater ability than others. And while it may be consistent with equality of opportunity, it is not synonymous with equality itself. Indeed it is inconsistent with equality, since some will, with freedom, succeed and some will fail.

It is important to bear in mind the possibility of failure. For attempts to eliminate the consequences of failure involve a detriment to others. If the concept of *caveat emptor* is suppressed, and those who deal with businesses which fail because they are badly run are compensated, others will have to bear the cost of failure. A current example of how this can lead to undesirable consequences is mentioned below.

However it is observable that advanced industrialised nation states with market economies progressively curtail the freedom of their citizens by a process of salami slicing. This occurs as governments, seeking to prolong their popularity, give way to vociferous pressure groups by imposing laws or regulations which have the, incidental, effect of restricting freedom of others; such governments thereby frequently depart from



constant adherence to the principle of preserving freedom of the individual. There are countless examples of this in our own case, as regulations and restrictions have been extended into many areas of activity, far beyond the point at which freedom begins to be unnecessarily curtailed.

Any organisation seeking to make progress and avoid mistakes, or even seeking merely to retain stability, must have a clear sense of its purpose and direction. In other words, if an organisation is to succeed, it needs an ideology. If a clear sense of direction exists, those in charge can make all policy and management decisions by reference to this. A ship needs a heavy keel to keep on a straight course through all weathers.

Otherwise when confronted with issues and events which require decisions, there will be no clear guide posts and the result will be floundering.

Margaret Thatcher had an ideology and freedom was an important element of this. She saw that the power of the trade unions was encroaching seriously on the freedom of non-union citizens. She saw other events in the same way. The invasion of the Falklands was an invasion of freedom.

As a direct result of adhering to a clear sense of direction, the decisions which government has to take day in and day out all become easier, and blunders become rarer. Freedom of the individual should be that ideology.

You can see the need for a clear sense of purpose and direction in the contrast between the organisation of the Olympics, where those in charge had to take thousands of decisions but had a single clear goal, and the present Coalition, with no clearly visible ideology, making numerous blunders and u-turns. Issues

such as the privatisation of forests, decisions about airport expansion, decisions about changes to planning controls, about the taxation of charitable gifts, are but examples. There are many others. The Coalition's appetite for setting up Inquiries – banking, Heathrow and the media to name only three – is another sign of an ideological vacuum. The leader of any organisation or business knows that a clear sense of purpose and direction is essential for success. It is a prerequisite for successful government also.

Two particular areas of public policy deserve mention, because they show how a clear identification of ideology would make things simpler.

One is immigration. It is clear that the immigration of people who can contribute to our society is desirable and even sometimes essential. Everyone can see the enormous contribution to all aspects of our society which immigrants have made. However, it is also obvious that mass immigration infringes the freedom of the population already here through pressure on housing, jobs, school places, health facilities and so forth. The absence of any clear acceptance of the need to act by reference to this distinction, leads to real difficulty in the management of border control. People who should be allowed in without difficulty or delay are greatly inconvenienced by being treated as part of a group which merits stringent control. Apparently little advanced thought and planning has been applied over the years to the perfectly obvious migration trends which have inevitably followed globalisation. Freedom of trade and capital and easy travel facilities and the emergence of English as a lingua franca were obviously going to lead to migration and the pressures of immigration, but no policy of how to respond seems to have



been developed. Principle has been suppressed through fear of being accused of prejudice. This is particularly to be deplored, bearing in mind that because of the primacy of EU law, we have effectively lost control of our borders.

Another area is regulation of the banking sector. There is an overriding need to ensure the health of this sector as a provider of vital services, as an earner of foreign exchange, and as an employer: but this has to be reconciled with the need to keep banks as safe as possible so as to protect the taxpayer. There is an inconsistency automatically built into this, for banking is never without risks, and badly run banks can fail. For this reason some regulation of banks to limit excessively risky conduct has always been needed. But the search for safety can easily be carried too far. Too many restrictions, and demands for much greater capital, are liable to damage the efficiency of banks. This problem is with us now. Without an overriding principle, which should be the promotion of the health of the economy and the freedom of our citizens, this is a difficult inconsistency to resolve. To do so requires judgement, and the judgement should be based on the need to preserve as much freedom as possible.

Unfortunately the approach to bank regulation which has been taken since the 2007/8 crisis has been directed entirely to restriction. There has been no attempt to incentivise prudence. This is the case even with the recommendations of the Parliamentary Commission on Banking Standards apart from the suggestion that "if you do not behave, worse will follow". The damage done to efficiency, the flow of credit, is great, and it damages London as a financial centre also.

The approach stems from the idea that depositors must not lose their money, and the view that some banks are too big to fail.

However if depositors and other creditors do not have to worry about which banks are safe, they will obviously be tempted by better returns offered by riskier banks. The incentive to run a bank prudently diminishes. The increase in risky behaviour inevitably follows and this brings with it the need for restrictive regulation. But the cost of all this, which is large, and the enormous cost of bank failures, falls on the innocent public.

If only those in authority had had the foresight to stick with the principle of preserving as much freedom as possible, to allow *caveat emptor* to prevail, and to prevent banks from becoming too big and to let the badly managed ones to fail, a great deal of waste would have been avoided and rewards would have gone in the right direction. Preserving freedom would have provided the guideposts.

Rules governing health and safety are another example where regulations have also obviously intruded too far into freedom. It is easy for a bureaucrat to lay down rules requiring absolutely pure cleanliness of a restaurant kitchen, but the logical end result may be that cooking food is impossible.

No one would deny that a social security safety net is needed for those who fail; and clearly some regulations curtailing freedom are necessary. The test should be to restrict the ambit of regulation to the minimum needed to prevent abuse, so that as much freedom as possible is preserved. The idea that a purely pragmatic response to issues which emerge day by day is enough is misguided. The practice of responding to problems by



reference to populist opinion, as if constant popularity were a worthwhile goal, is never going to lead to good government. Indeed it is frequently the cause of misguided regulation. In any event popularity today, in the context of politics, leads almost inevitably to unpopularity tomorrow. This is because decisions based on trying to achieve instant popularity often turn out to be wrong and, therefore, become eventually unpopular.

Moreover it is important to remember that freedom has to be safeguarded by good government; democracy by itself does not safeguard freedom. The importance of democracy lies in the ability to throw out the government in power. But majority rule does not guarantee freedom for the minority. Indeed many philosophers and statesmen have noted that democracy can result in dictatorship by the majority, which is a sort of tyranny. But it is an essential long-stop safeguard because of the need to be able to vote down a government which has become unacceptable.

There are many examples which show how removing restrictions and restoring freedom can produce beneficial results. When government authority over spheres of activity is given up, and trust is placed in those running the activity, the result can often be good. Schools provide a good current example. If the governors of a school are trusted, and authority is given to them, the results are usually better than remote public authority control.

A contrary example is the creation and imposition of a body to control or influence admissions to universities. This is a decision which is inconsistent with the idea of freedom. Universities should decide on their own admissions and they should be trusted to recruit the best students for themselves. After all

it is in their own interests to recruit the best and they should be given the freedom to do so. They can do their own social adjustments in the process so that able but poor students (which all universities need) can still gain admission.

A reference to the history of universities in France and in Italy would make it clear that government control of university admissions leads inevitably to decline. No one who was guided by ideological attachment to the preservation of freedom could have made the decision to create an 'Admissions Tsar'. It can only have been a response to a populist call for 'equality'.

As already noted, in some circumstances regulation is necessary. Monopolies and cartels need to be controlled. And when two unequal parties contract with each other there have to be rules to safeguard the weaker party. Thus when a person purchases medicine from a pharmacist, the pharmacist is subjected to rigorous regulation to ensure the purity and efficacy of the product. Equally the health of a restaurant kitchen, the safety of factory machinery, and the workplace generally, need strict rules. However the right approach should be to ensure that regulation does what is necessary but no more than that.

An example of what can go wrong if the principles of good government are ignored can be seen in the operation of the Financial Services Compensation Scheme, as it applies to investment intermediaries. This is a specialised field, but an important one. And it is an example which is paralleled by countless other similar cases.

Under the FSCS scheme, operated by the FSA, all firms in this category who sell investment products to retail investors are grouped into a class, and if one firm fails owing money to investors because of negligence or fraud,



*caveat emptor* no longer applies. The losing investors can claim compensation for losses up to £50,000 (or £85,000 in some cases) which has to be paid out of contributions paid by the other members of the class. This not only casts the burden onto entirely innocent firms, thereby penalising prudence, but it also encourages risky behaviour by aggressive firms which whet the appetite of investors seeking a higher but riskier return. It is clearly inconsistent with any concept of freedom. No one who devised this arrangement, without at the same time policing the whole class effectively to suppress the risk of loss, could possibly have had the importance of freedom in mind. It undermines directly the incentive for prudent management, discourages new entrants into the field and rewards buyers who should have taken more care but knew that *caveat emptor* no longer applied and went for the risky product advertising the highest return. The parties who pay for this are prudent firms and their clients. The freedom of the innocent is thereby curtailed.

The idea of mutualisation of losses can be made to work to great advantage; but only if the basic principle is adhered to. This requires that the class of businesses involved are all running the same type of risk, that the class is subject to properly enforced rules governing risk, and also that the regulator governing the scheme is accountable to the businesses which have to underwrite the risk.

This particular example is a specialised one. If the correct principles were applied throughout the regulatory field many burdensome regulations could be done away with and some quangos abolished.

The question of the UK's relationship with the EU is perhaps the most difficult of all the

issues facing the UK Government, but it becomes easier to approach if the overriding importance of freedom is kept in mind.

Although many would prefer the UK to resign its membership of the EU altogether, a calmer appraisal reveals that membership brings advantages in several spheres: the single market is but one. However in some areas the handing over of control to the EU is inconsistent with the freedom of our own citizens. The European arrest warrant is a clear example. There are others. More generally, conceding sovereignty on an irrevocable basis is in principle inconsistent with the preservation of freedom of the individual safeguarded by the law laid down by our own government. And to justify such sacrifice of sovereignty it is necessary to show the attainment of a counterbalancing advantage. These difficult and intricate questions should be addressed having due regard also for the fact that the EU has no democratic basis. UK citizens have no power, even when combined with the votes of the citizens of other EU members, to throw out the EU Commission.

Thus it becomes imperative for a UK government, in defence of the freedom of its own citizens, to approach the issue of renegotiation of our relationship with the EU by seeking arrangements which preserve to the maximum possible extent the freedom of the individual. For infringement of freedom must be justified by the attainment thereby of some other permanent advantage. Hitherto the EU negotiations have too often been governed by intricate give and take exchanges without adequate and constant regard to the effect on freedom of the individual.

Equality has recently re-emerged as an issue, which is not surprising since the gulf between



the richest and the average person has widened since this century began and has reached extremes not seen since 1914. This has occurred not only in developed Western economies but in Asian economies also. The reasons why this has happened are manifold and include the technological advances which change fundamentally the use of labour in manufacturing. The growth of 'agency' ownership of equity capital leading to loss of sensible control of executive compensation is also a factor; but the reasons for increasing divergence are not important except in pointing a way to meet the problem.

The disparity, of which the public is much more aware today than was the case a century ago, has led to calls for a policy based on reducing economic inequality. However, while equality of opportunity is highly important, a policy aimed at achieving equality itself is dangerous ground. For it is liable to be inconsistent with the preservation of freedom of the individual. Obviously, however, extremes are dangerous; and before inequality reaches such levels that it provokes social unrest, action is needed. But this action to avoid the risk of unrest is itself needed to preserve order and liberty. So there is no inconsistency. There have been plenty of examples of legislation to limit the extremes of inequality for this reason. The important principle is that suppression of freedom is not justified to achieve equality. Thus to finance government expenditure, taxation has long since been regarded as acceptable: and progressive rates have been accepted for generations. On the other hand punitive taxation designed to achieve equality is certainly not.

Steps which remove barriers so that anyone can rise according to their merits and efforts are to be welcomed. This most certainly includes good education. Such steps to

promote equality of opportunity are consistent with the basic principle of preserving freedom of the individual.

This should be the constant keystone.



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