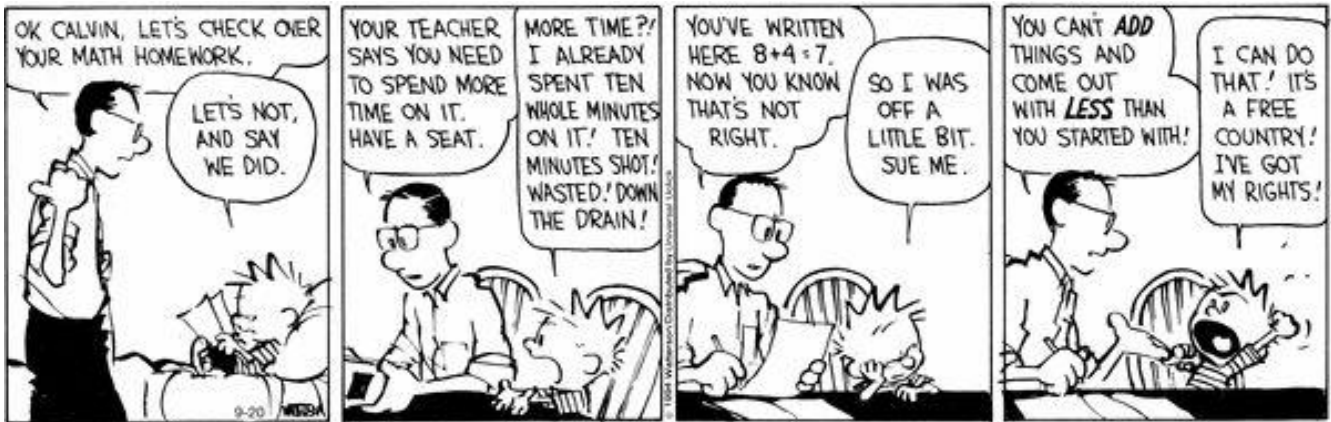


WHAT IS A RIGHT?



What is a right?

Where do rights come from?

Are rights nothing more than a legal construct, or do universal, natural human rights exist?



I am Tamerlan.
You will OBEY

For much of history, people had no rights that were not subject to the will of their Sovereign. The Rulers ruled, and the masses obeyed. Majorities, or powerful minorities, dominated the few or the weak. But there have likewise always been standards for describing just and unjust rulers. The concept of the *tyrant*- the ruler who uses his power oppressively and unjustly- goes back to antiquity. Have *rights* always been present but seldom respected? Or are rights a more recent construct of the human mind, determined by the laws of a particular time and place?

I. RELATIVIST VIEWS ON RIGHTS

Rights are concepts created by humans. They are not based on anything universal, therefore the definition itself is subjective. Rights are whatever a person or society believes they are. The word usually is used to describe allowances, titles, or powers of people or groups. What specific rights a person or group actually has is dependent upon LOCATION: each society has its own standards; and TIME: rights are gained or lost over time.

Generally, rights refer to claims or allowances that people have, according to their government.

There are no "Natural Rights" because the concept, to be real, must be agreed upon- bringing us back to the above examples.



That which has no existence cannot be destroyed — that which cannot be destroyed cannot require anything to preserve it from destruction. Natural rights is simple nonsense: natural and imprescriptible rights, rhetorical nonsense — nonsense upon stilts.

[Rights are] “the fruits of the law, and of the law alone. There are no rights without law—no rights contrary to the law—no rights anterior to the law.”
-Jeremy Bentham



LEGAL POSITIVISM

Idea that rights only exist through and come from government (legal) action. The only basis for authority that is the source of rights is a governmental system. There are no truly "inalienable" rights, except those that a society considers such. As long as the society and/or government recognize the rights, they are "inalienable"...until opinions change. In America, this is the basis of the advocacy of JUDICIAL ACTIVISM- using the Judicial Branch to expand rights in American society. One only has those rights acknowledged by law. Constitutions, legislatures, presidents, kings, and courts (through judicial interpretation), give us rights.

POSITIVE RIGHTS

are powers, claims, or entitlements provided by government to its citizens. Positive rights- what government does **for** its citizens- are juxtaposed with “negative rights” – the list of what government is prohibited from doing **to** its citizens (such as taking away the right to free speech). But the idea that government can be prohibited from doing certain things is also based on the legislative or legal system. In other words, government can’t do it only because the law forbids it. If the law is changed, then it’s OK for government to do it...

II. COLLECTIVIST VIEW OF RIGHTS

The collectivist view of rights is based on legal positivism, and is closely associated with the concept of positive rights.

Rights are a **gift** from society to its members.

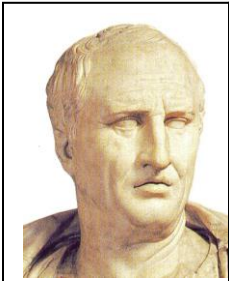
Called: **group rights** / positive rights / social rights / economic rights/ collective rights.

Being part of society, every individual enjoys the rights of society, as long as she acts in the interests of society. These rights are achieved through government, and include whatever government declares to be a right. From this view, needs and rights are synonymous. Often these include social and economic rights- for example a declared **right to a job, right to housing, right to a vacation**, and much more. In the name of social harmony and the general welfare, individuals do not have the right to pursue selfish ends, or to speak or think ideas that contract the Public Good. Instead, those whose ideas are socially acceptable have the right not to be offended or aggrieved.

Group rights theory contradicts, and is incompatible with, the concept of natural or individual rights. Individuals, as cells in the Body Politic, have no rights separate from the group. Only society as a whole has rights.



III. NATURAL RIGHTS



In this statement, my Scipio, I build on your own admirable definition, that there can be no community, properly so called, unless it be regulated by a combination of rights. And by this definition it appears that a multitude of men may be just as tyrannical as a single despot and indeed this is the most odious of all tyrannies, since no monster can be more barbarous than the mob, which assumes the name and mask of the people. –Cicero

Do not hold the delusion that your advancement is accomplished by crushing others. –Cicero

Natural Law and Mutual Individualism

provide the foundations of Natural Rights theory. From this point of view, *the idea that rights come from government or society; that rights are allowances, gifts, or permissions, reflects a slave mentality. Only the enslaved look to others for the authority to act.* Rights are not created by societies or governments; they have always been part of our existence. Indeed, for much of human history, this truth has been at least partially ignored or contradicted, which is why human history is often a story of oppression.

DIFFERENT KINDS OF RIGHTS

Natural rights theory identifies different categories of rights. Some examples we call rights are not rights at all, but *privileges*.

1. NATURAL RIGHTS DEFINED

In nature, without all the artificial rules and regulations imposed by organized societies, we have the **power** to do whatever we can. In this sense, a "right" is another word for a "freedom" or a "power". Therefore,

a natural right is a power or claim one has by nature; a power one gives oneself.

In nature we have the power/freedom/RIGHT to do anything we are able to do. For this reason the famed State of Nature was considered a place of extreme freedom and danger.

The only rules stopping you from something are

- A). Truth, the facts of reality, or the Laws of Nature (ex gravity) and
- B). your own limitations.

In the purest sense, or the "plentitude of its extent", natural rights mean YOU HAVE THE RIGHT TO DO ANYTHING YOU CAN: "**MIGHT MAKES RIGHT**". Example: you have the natural right to swim, if you know how to swim. If you don't know how you at least have the natural right to TRY to swim. *You have claim over the results of whatever you do.*

TWO CATEGORIES OF NATURAL RIGHTS

A). ALIENABLE RIGHTS. AKA jungle rights. These are the immoral acts that we as civilized beings have "left in the jungle." When exercised, these powers that you give yourself destroy the life and dignity, or **natural equality**, of other people. Famous Jungle Rights: the rights to rape, steal, kill, pillage, and burn. **PURE INDIVIDUALISTS**, seeing no valid limits on their self-interest, see fit to exercise jungle rights when convenient. However, Natural Equality means *might* does not automatically make **moral right**...

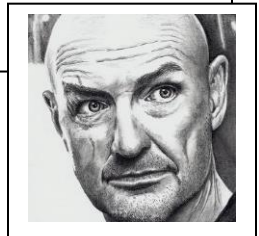
B). UNALIENABLE RIGHTS. AKA moral rights. When exercised, these powers that you give yourself recognize the equal rights and intrinsic worth and dignity of other people. The powers are considered "moral" or "just" because they allow life, happiness, and autonomy for others. The most famous Moral Rights are LIFE, LIBERTY, PROPERTY, and THE PURSUIT OF HAPPINESS. Usually, philosophers refer to moral rights simply as Natural Rights, meaning powers or claims that should never be denied by any person or government (as opposed to alienable rights which we should give up, and governments should prohibit). *It is impossible to exist and prosper without exercising these rights*, at least fundamentally. All living beings tend to want these rights for themselves. This is why philosophers have called them UNALIENABLE, coming from God or Nature. **MUTUAL INDIVIDUALISTS** recognize these as the valid rights of all people, and reject both "jungle rights" and the notion of group rights.



"The people cannot delegate to government the power to do anything which would be unlawful for them to do themselves."
~ John Locke

The state of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions... (and) when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind, and may not, unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another.

-John Locke, *Two Treatises on Government*

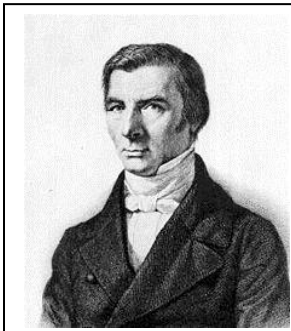


Our basic rights do not come from government or society, but gov can:

1. protect our Natural rights
2. try to stop our exercise of these rights
3. punish those who exercise these rights

POSITIVE RIGHTS DESTROY INDIVIDUAL RIGHTS.

For a society to give everyone an "economic right", it must have claim over each individual's property, and the power to redistribute it. The idea of group rights institutionalizes dependence and is incompatible with individual freedom. The terms "negative and positive" regarding rights are seen as a sneaky way statists and collectivists have sand bagged this question. In the tradition of natural rights, we all agree to live and let live; that our pursuit of needs and of happiness is limited by the equal recognition of everyone else's humanity. Therefore in a natural rights approach, we can do nothing "negative" to the rights of others. The concept of collective or positive rights, when applied through government, is in fact negative: it cannot be achieved without negating the rights of the individual. To guarantee an "economic right" you have to "rob Peter to pay Paul."



M. de Lamartine wrote me one day: "Your doctrine is only the half of my program; you have stopped at liberty; I go on to fraternity." I answered him: "The second half of your program will destroy the first half." And, in fact, it is quite impossible for me to separate the word "fraternity" from the word "voluntary." It is quite impossible for me to conceive of fraternity as legally enforced, without liberty being legally destroyed, and justice being legally trampled underfoot. —Frederic Bastiat

2. PRIVILEGES

A privilege is similar to a right but is the mirror opposite. It is a POWER ONE HAS THAT WAS GIVEN BY ANOTHER PERSON, OR BY SOCIETY / GOVERNMENT. Privileges cease to exist when they are no longer provided or allowed. To have a privilege, one must depend on others who have complete authority to give or not give them. Slaves have few or no rights, but can have many privileges.

CIVIL RIGHTS

Civil rights are also called legal rights. They are only possible by and through government. But CIVIL LAW (human made) is often based on Natural Law. Most civil rights are government recognitions of Natural Rights. Example: you have the civil right to free speech, and the natural right to free speech. Civil Rights can also be important powers that facilitate Natural Rights. Example: voting is a civil right that can help protect our Natural Right to liberty. The Right to an attorney is another civil right that helps protect liberty. Of course, in the state of Nature there is no voting and there are no attorneys. It is important to remember, however, that we have many civil rights because we recognize pre-existing natural rights: not the other way around.



I REFUSE TO TAKE OUT THE GARBAGE! I HAVE THE RIGHT TO DO WHATEVER I WANT, ALL THE TIME!

