

UNIT 4

SECTION A

NATURAL RIGHTS

Natural rights and **Legal rights** are two types of **rights**.

Natural rights are those that are not dependent on the laws or customs of any particular culture or government, and so are universal and inalienable (they cannot be repealed by human laws, though one can forfeit their enforcement through one's actions, such as by violating someone else's rights).

Legal rights are those bestowed onto a person by a given **legal system** (they can be modified, repealed, and restrained by human laws).

The concept of **natural law is related to the concept of natural rights.**

Natural law first appeared in **ancient Greek philosophy** and was referred to by **Roman philosopher Cicero**.

The idea of **human rights** is also closely related to that of natural rights: some acknowledge no difference between the two, regarding them as synonymous, while others choose to keep the terms separate to eliminate association with some features traditionally associated with natural rights.

Natural rights, in particular, are considered beyond the authority of any government or **international body** to dismiss. **The 1948 United Nations Universal Declaration of Human Rights is an important legal instrument enshrining one conception of natural rights into international soft law.**

Natural rights were traditionally viewed as exclusively **negative rights, whereas human rights also comprise positive rights.** Even on a natural rights conception of human rights, the two terms may not be synonymous.

Background to the concept

The existence of natural rights has been asserted by different individuals on different premises, such as **a *priori* philosophical reasoning** or religious principles. For example, **Immanuel Kant** claimed to derive natural rights through reason alone. The United States Declaration of Independence, meanwhile, is based upon the "**self-evident**" truth that "all men are ... endowed by their Creator with certain unalienable Rights".

Likewise, different philosophers and statesmen have designed different lists of what they believe to be natural rights; **almost all include the right to life and liberty as the two highest priorities.** **H. L. A. Hart** argued that if there are any rights at all, there must be the right to liberty, for all the others would depend upon this. **T. H. Green** argued that "if there are such things as rights at all, then, there must be a right to life and liberty, or, to put it more properly to free life." **John Locke** emphasized "life, liberty and property" as primary. However, despite Locke's influential defense of the **right of revolution**,

17th-century English philosopher [John Locke](#) discussed natural rights in his work, identifying them as being "life, liberty, and estate (property)", and argued that such fundamental rights could **not be surrendered in the social contract**.

Another 17th-century Englishman, [John Lilburne](#) (known as *Freeborn John*), who came into conflict with both the monarchy of [King Charles I](#) and the [military dictatorship](#) of [Oliver Cromwell](#) governed republic, argued for level human basic rights he called "***freeborn rights***" which he defined as being rights that every human being is born with, as opposed to rights bestowed by government or by human law.

In discussion of [social contract](#) theory, "**inalienable rights**" were said to be those rights that could not be surrendered by citizens to the sovereign. Such rights were thought to be *natural rights*, independent of positive law. Some social contract theorists reasoned, however, that in the [natural state](#) only the strongest could benefit from their rights. Thus, people form an implicit [social contract](#), ceding their natural rights to the authority to protect the people from abuse, and living henceforth under the legal rights of that authority.

Meanwhile, in America, [Thomas Jefferson](#) "took his division of rights into **alienable and unalienable** from Hutcheson, who made the distinction popular and important",^[28] and in the 1776 [United States Declaration of Independence](#), famously condensed this to:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights...

The signers of the [Declaration of Independence](#) deemed it a "**self-evident truth**" that all men "are endowed by their Creator with certain unalienable Rights".

In *The Social Contract*, [Jean-Jacques Rousseau](#) claims that the existence of inalienable rights is unnecessary for the existence of a [constitution](#) or a set of laws and rights. This idea of a [social contract](#) – that rights and responsibilities are derived from a consensual contract between the government and the people – is the most widely recognized alternative.

Thomas Hobbes

Thomas Hobbes (1588–1679) included a discussion of natural rights in his moral and [political philosophy](#). Hobbes' conception of natural rights extended from his conception of man in a "state of nature". Thus he argued that the essential natural (human) right was "to use his own power, as he will himself, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own judgement, and Reason, he shall conceive to be the aptest means thereunto." (*Leviathan*. 1, XIV)

In his natural state, according to Hobbes, man's life consisted entirely of liberties and not at all of laws – "It followeth, that in such a condition, every man has the right to every thing; even to one another's body. And therefore, as long as this natural Right of every man to every thing endureth, there can be no security to any man... of living out the time, which Nature ordinarily allow men to live." (*Leviathan*. 1, XIV)

This would lead inevitably to a situation known as the "[war of all against all](#)", in which human beings kill, steal and enslave others in order to stay alive, and due to their

natural lust for "Gain", "Safety" and "Reputation". **Hobbes reasoned that this world of chaos created by unlimited rights was highly undesirable, since it would cause human life to be "solitary, poor, nasty, brutish, and short".** As such, if humans wish to live peacefully they must give up most of their natural rights and create moral obligations in order to establish political and [civil society](#). This is one of the earliest formulations of the theory of government known as the [social contract](#).

John Locke

John Locke (1632 – 1704) was another prominent Western philosopher who conceptualized rights as natural and inalienable. Like Hobbes, Locke believed in a natural right to [life](#), [liberty](#), and [property](#).

According to Locke there are three natural rights:

- Life: everyone is entitled to live.
- Liberty: everyone is entitled to do anything they want to so long as it doesn't conflict with the first right.
- Estate: everyone is entitled to own all they create or gain through gift or trade so long as it doesn't conflict with the first two rights.

Locke in his central political philosophy believes in a government that provides what he claims to be basic and natural given rights for its citizens. These being the right to life, liberty, and property. Essentially Locke claims that the ideal government will encompass the preservations of these three rights for all, every single one, of its citizens.

His ideas are typically just seen as the foundation for modern democracy, however, it's not unreasonable to credit Locke with the social activism throughout the history of America. The social contract is an agreement between members of a country to live within a shared system of laws. Specific forms of government are the result of the decisions made by these persons acting in their collective capacity. Government is instituted to make laws that protect these three natural rights. If a government does not properly protect these rights, it can be overthrown.

Contemporary

Many documents now echo the phrase used in the [United States Declaration of Independence](#). The preamble to the 1948 United Nations [Universal Declaration of Human Rights](#) asserts that rights are inalienable: "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."
