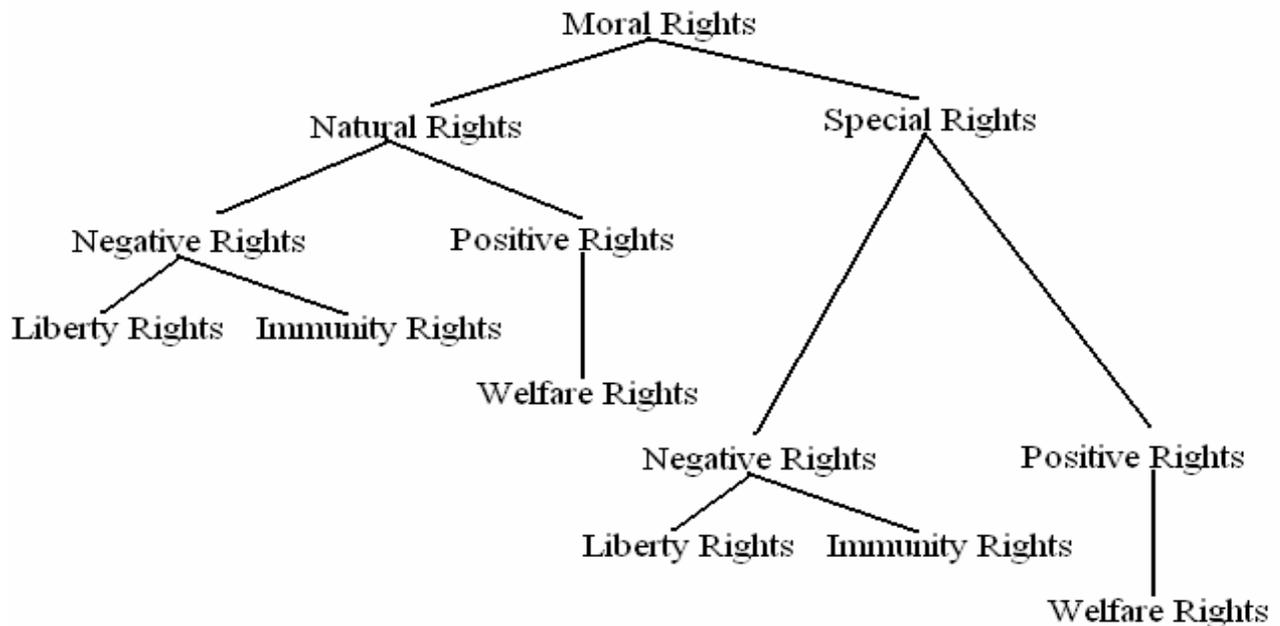


Moral Rights

- A right is an entitlement to be treated in a certain way.
- Moral rights are importantly distinct from legal rights:

Moral Rights	Legal Rights
<u>Natural</u> : Moral rights are discovered, not created. (This is a form of moral realism.)	<u>Created</u> : Our legal rights are created by legislation.
<u>Equal</u> : Moral rights are equal rights; there is no injustice in how they are distributed.	<u>Can be unequal</u> : There are many situations in which the distribution of legal rights is unjust.
<u>Inalienable</u> : Moral rights cannot be taken away from you without your consent (although you can voluntarily surrender them).	<u>Alienable</u> : Your legal rights <i>can</i> be taken from you against your will.
<u>Universal</u> : Your moral rights are the same no matter where you are.	<u>Local</u> : Your legal rights change when you move from one jurisdiction to another.

Categories of Moral Rights:



Rights and Duties: For each moral right there is a corresponding moral duty.

- Negative rights create corresponding duties in all other moral agents.
- Positive rights create corresponding duties in specific individuals.
- Special rights create corresponding duties in individuals identified by examining the actions or relationships that create the right.

Possession Criteria:

- For each moral right there is a “checklist” of characteristics an individual must have in order to possess that right. The items on this list are the *possession criteria* for that right. An individual has a moral right only if it meets these criteria.
- Possession criteria must be morally relevant to the nature and content of the right.
 - Possession criteria for natural rights are always natural characteristics of the individual (e.g., rationality, sentience).
 - Possession criteria for special rights always have to do with actions or relationships (e.g., parent-child relationship, act of making a promise).
 - Possession criteria for negative rights are generally factors that enable one to be autonomous (i.e., self-governing); e.g., rationality, experience of the world.
 - Possession criteria for positive rights are generally one’s vulnerability to harm.

The Right to Life: This right does not fit cleanly into any of the above categories. It would be better to describe this as a set of related moral rights.

Human Rights: There does not seem to be any way of establishing suitable possession criteria for human rights. It would be irrelevant and unjust to use a biological category (e.g., being human), and other characteristics (e.g., being rational) do not apply to all and only human beings. Thus, it seems that there are no genuinely human rights.

Rights in Conflict:

- A moral issue cannot be settled by pointing out just one of the rights involved. Rights conflict with one another, and we must determine which rights override which other ones.
- Immunity rights often override liberty rights, although there are exceptions (e.g., harming another in self-defense).
- Each moral right is either absolute or defeasible:
 - Absolute: Automatically overrides any other right with which it conflicts.
 - Defeasible: May be overridden by other moral rights.
- An action that conflicts with a moral right is *not* automatically morally impermissible. It could be that the right with which it conflicts is overridden in this situation by some other right.
 - Violating a right: An action violates a right when it conflicts with that right *and* that right has *not* been overridden by other rights in that situation. Such actions are morally *impermissible*.
 - Infringing upon a right: An action infringes upon a right when it conflicts with a right *and* that right *has* been overridden by other rights in that situation. Such actions are morally *permissible*.

Questions to Ask about Moral Rights:

1. Which rights are there?
2. Who has the corresponding duties?
3. How should we resolve conflicts among rights?
4. Do rights admit of degree?
5. What are the possession criteria for each right?