

Positive and Negative Rights

Discussions on the rights of Americans have been prominent since the founding of the United States, and have consequently influenced U.S. politics and policy-making. In examining these rights, it is important to note that there is a distinction between positive and negative rights. This distinction can be attributed to the 1958 lecture 'Two Concepts of Liberty' by Isaiah Berlin, a social and political theorist. His argument expanded the philosophical discussion on rights, adding new conceptual language to the discourse.

Negative rights or liberties refer to an individual's freedoms from infringement by others. Alternatively, positive rights or liberties refer to the collective's conditions for the pursuit of freedom. Positive rights still apply to the individual, but imply that the government creates the conditions for freedoms, such as the right to housing, health care, education, basic income, etc. As climate change has become more prominently discussed in the last few decades, many have argued that the right to a healthy environment is also a positive right.

Some scholars argue that Americans' collective understanding of freedom is usually focused more on negative rights. Yet throughout American history, different leaders have advocated for negative and positive rights. In one of the most famous American founding documents, the Declaration of Independence, Thomas Jefferson outlined 'unalienable rights.' Jefferson argued that these positive rights: life, liberty, and the pursuit of happiness, must be endowed to all people and upheld by the United States government.

Following the Declaration of Independence, the first ten amendments to the Constitution further defined the rights of Americans. The Bill of Rights outlined a series of situations in which the American people would have rights, with specific wording such as "shall not be infringed," "Congress shall make no law," and "shall not be violated." The wording in the Bill of Rights further supports a view that the rights of Americans are negative rights. Often regarded as the fundamental basis for peoples' rights in the United States, the Bill of Rights has been influential since the nation's founding. Some scholars argue that the perception of 'liberty' as an individual's freedom from constraints has led to more individualistic ideals in the United States.

However, there have been other, more recent documents which have either reinforced this idea of negative rights or argued for the expansion of positive rights. Franklin D. Roosevelt's 1944 Economic Bill of Rights declared that the current idea of economic rights in the United States did not adequately "assure us equality in the pursuit of happiness." Roosevelt's proposal outlined a series of positive rights (such as those aforementioned) that he believed were necessary for the American people. It was never passed.

With so many conflicting historic opinions and seemingly polarized ideas of freedom, discussions on the economic rights of Americans will continue to shape politics in the United States.

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Information gathered from: The Declaration of Independence, 1776; The United States Constitution, 1787; Mark Paul's *The Ends of Freedom: Reclaiming America's Lost Promise of Economic Rights* (The University of Chicago Press, 2023); Franklin D. Roosevelt's State of the Union Address (1944); Isaiah Berlin's *Two Concepts of Liberty* (Oxford at the Clarendon Press, 1958).