

Legal Dictionary

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INALIENABLE RIGHTS

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Personal rights held by an individual which are not bestowed by law, custom, or belief, and which cannot be taken or given away, or transferred to another person, are referred to as “inalienable rights.” The U.S. **Constitution** recognized that certain universal rights cannot be taken away by legislation, as they are beyond the control of a government, being naturally given to every individual at birth, and that these rights are retained throughout life. To explore this concept, consider the following *inalienable rights* definition.

Definition of Inalienable Rights

Noun

1. Rights that are not alienable

2. Rights that are not transferable or capable of being taken away or nullified

Origin

1635-1645 French *inalienable*

What are Inalienable Rights

The Declaration of Independence gives three examples of inalienable rights, in the well-known phrase, “Life, Liberty, and the Pursuit of Happiness.” These fundamental rights are endowed on every human being by his or her Creator, and are often referred to as “natural rights.” Only under carefully limited circumstances can such natural rights be taken away as people have the freedom to exercise them as they choose.

The framers of the Constitution acknowledged the inalienable rights of man in this powerful phrase from the [Declaration of Independence](#):

“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, that among these are Life, Liberty and the pursuit of Happiness.”

The founding fathers intended the government of the new nation to have the sole charge of protecting the inalienable rights of its citizens, and made that clear as they stated:

“That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, – That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new government ...”

While there is not a specific list of rights that are considered inalienable in the Constitution, there are some rights that are generally accepted as natural rights of man. The list is extensive, and the following are but a few:

- To act in self-defense
- To own private property
- To work and enjoy the fruits of one’s labor
- To move freely within the county or to another country
- To worship or refrain from worshipping within a freely-chosen religion
- To be secure in one’s home
- To think freely

History of Inalienable Rights

The history of inalienable rights, also referred to as “unalienable rights,” takes us back at least as far as the philosophy found in Athens in the 3rd Century B.C. Centuries later, as the Age of Enlightenment rolled through 17th Century Europe, as the common people fought the idea that only those born to the monarchy were

endowed with unquestionable rights, the concept of inalienable rights was used to challenge the rights of kings.

As society progressed, natural rights were used to justify the establishment of social contracts, laws that established specific rights for individuals or groups, finally a government to protect legal rights. The concept of inalienable rights had made its mark on the world, though there has been much controversy and differing beliefs on what such rights are. Philosophers and scholars, who held widely differing beliefs, generally agree on the one point that *inalienable rights* are something that cannot be taken from the people, even at the hands of the government.

For example, John Locke, 17th Century English philosopher, discussed the concept of natural rights as he advanced the idea that life, liberty, and property were fundamental rights that people could not be forced to surrender. It was Thomas Jefferson who later adopted Locke's belief with the slightly modified statement placed at the beginning of the Declaration of Independence:

“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, that among these are Life, Liberty and the pursuit of Happiness.”

George Mason, delegate to the **Constitutional Convention** of 1787, in the text of his home state's Virginia Declaration of Rights, said:

“all men are born equally free,” and hold “certain inherent natural rights, of which they cannot, by any compact, deprive or divest their posterity.”

Thomas Jefferson relied heavily on the writings of Francis Hutcheson in his *Inquiry into the Original of Our Ideas of Beauty and Virtue*, in which he made a distinction between alienable and inalienable rights. Hutcheson stated:

“For wherever any Invasion is made upon unalienable Rights, there must arise either a perfect, or external Right to Resistance ... Unalienable Rights are essential Limitations in all Governments.”

And

“[T]here can be no Right, or Limitation of Right, inconsistent with, or opposite to the greatest public Good.”

Universal Declaration of Human Rights

In 1948, the United Nations' General Assembly adopted the [Universal Declaration of Human Rights](#). The declaration, drafted by a committee directed by former First Lady, Eleanor Roosevelt, proclaims that all humans have certain basic rights as well as inalienable rights. The Universal Declaration of Human Rights created a standard for protecting the rights of all people, regardless of the nation in which they resided. The Universal Declaration of Human Rights also gives the United

Nations the authority to take action against abuses of human rights, though the modern process requires a resolution by the Security Council.

Difference Between Inalienable Rights and Legal Rights

American citizens have enjoyed a broad spectrum of rights, the number of rights, privileges, and entitlements having increased over the years since the formation of the United States by the colonists. Not all of the rights enjoyed and expected by Americans are considered to be inalienable rights, which are those rights that simply cannot be taken from any man. They are, instead, rights defined by laws created by government and the people.

The difference between inalienable rights and legal rights is that one is bestowed on every human being by the nature of birth, and the other coded in law. Inalienable rights supersede governmental laws and cultural norms. These natural rights include the right to think for oneself, the right to life, and the right to self-defense, and they remain through every human's lifetime.

Legal rights, on the other hand, are those created, acknowledged, and protected by a government. In the United States, legal rights include such rights as the right to vote, the right to a fair trial if accused of a crime or civil wrong, and the protection from unfair search and seizure. Legal rights vary depending on the country or state in

which each individual resides, as the laws of each **jurisdiction** outline specific legal rights. Legal rights can be changed, suspended, or revoked as new laws are deemed necessary or more appropriate.

Exceptions to Inalienable Rights

By their very nature, having been bestowed by God, or by happenstance of birth, inalienable rights can only be suspended or abolished in dire circumstance. According to the Constitution of the United States and the legal precedent of the nation, there are certain exceptions to inalienable rights. For instance, a person's inalienable rights may be temporarily suspended throughout period of **due process** and trial.

For example:

John has been arrested and charged with felony assault and robbery. His freedom can legally be suspended throughout the investigation and trial preparation, if the judge deems John a danger to society if let out of jail on bail. In the event John is convicted at trial, his right to freedom can be legally taken away for the period he is imprisoned. In addition, some of John's property, or assets, may be seized to pay restitution to his victim.

A person's natural rights may also be suspended by an injunction. When issued by a court, an injunction may limit a person's activities, and is most commonly issued when the exercise of that person's rights interferes with another person's

rights. In such situations, the court must disentangle the rights of each party during a **civil lawsuit**. Other situations in which a person's inalienable rights may be suspended include acts that may interfere with public safety.

Examples of Inalienable Rights

The idea of every person having certain rights that cannot be taken away has existed in the minds of Americans for nearly three centuries. Life has become complex, however, and people are both experiencing a violation of their personal **civil rights**, and violating the rights of others in new ways. Court records across the country are filled with examples of inalienable rights violations. The following is one example which involves the rights of an unborn child.

State Supreme Court Rules on Inalienable Rights of an Unborn Child

In 2009, Sarah Hicks used cocaine while she was pregnant. Her son tested positive for the drug at the time of his birth, and his mother was charged with the crime of violating Alabama's chemical endangerment laws. At birth, her son tested positive for cocaine and she was charged with violating **Alabama's chemical-endangerment statute**. The statute reads:

” A responsible person commits the crime of chemical endangerment ...” if he or she “...

knowingly, recklessly, or intentionally causes or permits a child to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug **paraphernalia ...**”

In 2010, Hicks pled guilty, but reserved her right to appeal on the issue of whether the statute, which specifies exposing a “child” to such substances, covered a fetus. Hicks was sentenced to three years in prison, though that was suspended, and she was placed on felony probation. Hicks immediately appealed her case to the Alabama Court of Criminal Appeals on the grounds that the statute did not specify unborn babies or fetuses, making it an ambiguous law.

The appellate court ruled against Hicks stating that the statute did apply to unborn children or viable fetuses. In 2012, Hicks appealed to the Alabama Supreme Court. Two years later, in the 2014 matter of *Sarah Janie Hicks v. the State of Alabama*, the state supreme court affirmed the lower court’s decision, confirming that the word “child” in the chemical endangerment statute did pertain to unborn children.

In his written **concurring opinion**, Chief Justice Roy S. Moore gave one of many notable examples of inalienable rights as he declared:

” ... an unborn child has an inalienable right to life from its earliest stages of development,” and added, “I write separately to emphasize that the inalienable right to life is a gift of God that civil government must secure for all persons – born and unborn.”

Related Legal Terms and Issues

- **Authority** – The right or power to make decisions, to give orders, or to control something or someone.
- **Declaration of Independence** – The formal statement that declared the freedom of the thirteen American colonies from the rule of Great Britain.
- **Due Process** – The fundamental, constitutional right to fair legal proceedings in which all parties will be given notice of the proceedings, and have an opportunity to be heard.
- **Injunction** – A court order preventing an individual or entity from beginning or continuing an action.
- **Trial** – A formal presentation of evidence before a judge and jury for the purpose of determining guilt or innocence in a criminal case, or to make a determination in a civil matter.
- **United Nations** – An intergovernmental organization that promotes international peace, cooperation, and security.

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