

Positive and Negative Rights: What's the Difference, and Why Does It Matter?

May 2nd, 2009 by Elijah Weber · 7 Comments

Rights talk is a common theme in contemporary moral discourse. We speak freely of having all sorts of different rights. Our rights may or may not include a right to freedom of speech, life, non-interference, equal pay for equal work, etc. If somebody cares about it, you can bet someone, somewhere, has described it as a right. What's not always mentioned, but well worth getting clear about, is whether certain rights are positive or negative, as well as why this makes a difference to our moral decision-making.

Some rights are negative rights. Negative rights are typically rights to not be subjected to certain conditions, such as a right to freedom of speech or autonomy. Negative rights are often some varietal of a right to non-interference. They impose duties on others to leave you alone and let you do things that are important to you, like speak your mind or make your own decisions. They also carry a great deal of normative weight, in that we place great importance upon not violating the negative rights of other people.

Some of our rights are not negative, but positive. Positive rights are usually rights to receive some benefit, such as a right to an education or accessible health care (both of which are controversial types of positive rights). Positive rights differ substantially from negative rights. First, negative rights are usually based on something about the bearer. Humans have a negative right to autonomy because humans are the sorts of creatures that make choices that matter to them. But positive rights are often not based on things about the bearer. Some positive rights, like a right to be paid for work that you do, are based on agreements. Other positive rights are based on idealized conceptions of human interaction, such as a right to health care or clean water.

Most importantly, positive rights are less stringent than negative rights. While I do you great harm by violating your right to autonomy, it's not necessarily true that I do you comparable harm by violating your right to health care. Your right to autonomy clearly correlates to a duty of non-interference for me, but it's less obvious what my duties are, if any, in virtue of your right to accessible health care. Positive rights less obviously correlate to identifiable duties for others, and violating them is often seen as preferable to violating a person's negative rights.

Why does this distinction matter? There are at least two important implications. First, rights often come into conflict with one another. When you are making a difficult moral decision that will lead to the inevitable violation of someone's rights, it might be helpful to identify what sorts of rights are at risk. If you have the option, you may be better off violating someone's positive right rather than a much more stringent and cherished negative right.

The other important implication for this distinction is in the realm of public policy. There is very little resistance to the enshrinement of negative rights into law. Most of them are already protected, and any that are not safeguarded are usually held in sufficiently high esteem that resistance to granting them the force of law is not significant. But positive rights are far trickier, and few politicians make the distinction between positive and negative rights, often because of the rhetorical strength of disguising a positive right as a negative one.

For example, many politicians are pressing for a universal health care system, from the claim that people have a right to health care. This is a convincing statement if one treats a right to health care like a negative right. Unfortunately, there is no obvious sense in which health care can be a negative right, because there is nothing about being a person that clearly entails a negative right to health care. However, this does not mean that we cannot have a positive right to health care. Positive rights can be the product of agreements. If a society agrees that everyone has a positive right to health care, they are essentially creating this positive right. However, because positive rights are less stringent, it is an open question what

sorts of duties a right to health care would impose on others.

Whatever your views may be on the subject of a negative or positive right to health care, it is clear that the distinction makes a difference for how we think about rights in general. Not only can this distinction help us to resolve difficult moral dilemmas, it is also a useful tool for recognizing when rights talk is being employed as a rhetorical mechanism for political gains.

ABOUT THE AUTHOR

[Elijah Weber](#) is a graduate student at Bowling Green State University. He holds a Master's degree in philosophy from Colorado State University, and Bachelor's degrees in sociology and philosophy from Chapman University. He currently lives in Bowling Green, Ohio with his wife Laura, his newborn son Brandon, and his feline life-partner Monte.