NATURAL LAW IN MISSOURI

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"There can be no retreat from the truth"
—Salman Rushdie, *Midnight's Children*

I. INTRODUCTION

Have you ever heard someone say the Declaration of Independence is not *law*? Such is the conventional wisdom among lawyers, at law school,[1] and in federal caselaw. As one federal court stated succinctly, "[t]he Declaration of Independence does not grant rights that may be pursued through the judicial system."[2] And so, irrespective of our[3] faith in its most famous, lyrical, and stirring proclamation—"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"[4]—litigants in federal courts must search for other rights of action that may be enforced through the judicial process to access remedies.

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1. *See, e.g.*, ERWIN CHEMERINSKY, CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES 11 (6th ed. 2019) ("The Declaration of Independence, authored by Thomas Jefferson, was signed in 1776. Although it has no binding legal authority, its ringing rhetoric often is invoked by courts and its complaints about British rule foreshadowed the protections that were placed in the Constitution and its Bill of Rights." (footnote omitted)).

2. Secor v. Oklahoma, No. 16-CV-85-JED-PJC, 2016 WL 6156316, at *4 (N.D. Okla. Oct. 21, 2016) (collecting sources) (citation omitted).

3. To be sure, there is an originalist argument that the "inalienable rights" of the Declaration of Independence would have been much more narrowly understood than at present. *See generally* KERMIT ROOSEVELT III, THE NATION THAT NEVER WAS: RECONSTRUCTING AMERICA'S STORY (suggesting the natural law language would have indicated a social contract theory in which there was no divine right of kings, not a broad statement of equality). Suffice to say, this nation's history, including through reconstruction, suggests that the modern interpretation this article assumes not only won the war, but is correct under the law. *See* U.S. Const. Amends. XIII, XIV.

4. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

But the law of the state of Missouri is different. The self-evident truths mentioned in the Declaration of Independence—often referred to as natural rights, or as a body, natural law—are codified in the Missouri Constitution.[5] Those provisions appear in the beginning of the Constitution prominently in article I, section 2:

> That all constitutional government is intended to promote the general welfare[6] of the people; that all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry; that all persons are created equal and are entitled to equal rights and opportunity under the law; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails in its chief design.[7]

The Missouri Constitution guarantees individuals—or, "the people"—the protection of other rights long-considered to be natural rights as well. These include religious freedom,[8] free speech,[9] assembly and petition,[10] due process,[11] access to open courts,[12] freedom from unreasonable search and seizure,[13] jury trials,[14] farming,[15] and a host of rights for those who are victims[16] of crimes and for those who are accused[17] of crimes. Where there may be uncertainty about the contours of individual rights at the federal level, Missouri lawyers and litigants should not forget that many of the same rights appear here.[18]

This list of rights enumerated in the Missouri Constitution only begs further questions, including the following. How are "natural" rights defined and from

5. MO. CONST. art. I, § 2.

6. There is no right of action to enforce the "general welfare" clause. Pearson v. Koster, 359 S.W.3d 35, 42 (Mo. 2012) (en banc).

7. MO. CONST. art. I, § 2.

8. *Id.* art. I, § 5 (religious freedom); Gibson v. Brewer, 952 S.W.2d 239, 246 (Mo. 1997) ("This Court has held that the provisions of the Missouri Constitution declaring that there shall be a separation of church and state are not only more explicit but more restrictive than the First Amendment." (quotation omitted)); MO. CONST. art. I, § 6 (practice and support of religion not compulsory).

9. MO. CONST. art. I, § 8 (notably, "That no law shall be passed impairing the freedom of speech, no matter by what means communicated: that every person shall be free to say, write or publish, or otherwise communicate whatever he will on any subject, being responsible for all abuses of that liberty").

10. *Id.* art. I, § 9.

11. *Id.* art. I, § 10.

12. *Id.* art. I, § 14.

13. *Id.* art. I, § 15.

14. *Id.* art. I, § 22(a).

15. *Id.* art. I, § 35.

16. *Id.* art. I, § 32.

17. *Id.* art. I, § 18(a) ("That in criminal prosecutions the accused shall have the right to appear and defend, in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county."); *id.* art. I, § 19 (self-incrimination and double jeopardy); *id.* art. I, § 21 (excessive bail, excessive fines, and cruel and unusual punishment).

18. *Compare, e.g.*, Dobbs v. Jackson Women's Health Org., 142 S. Ct. 2228, 2301 (2022) (Thomas, J., concurring) (contending all so-called substantive due process cases, based on the Court's broad reading of "liberty," should be overruled), *with* William J. Brennan, Jr., *The Bill of Rights and the States: The Revival of State Constitutions as Guardians of Individual Rights*, 61 N.Y.U. L. REV. 535, 546–52 (1986) (arguing for the importance of state constitutions in protecting Americans' liberty interests).

where are they derived?[19] Is this list exhaustive, or are there unenumerated natural rights in Missouri that may be found by common law courts? And what purpose do natural rights serve in Missouri's jurisprudence. To answer the first question—and before discussion of the other two and the implications of this discourse—a review of natural law principles is warranted.

II. WHAT IS NATURAL LAW, AND WHAT ARE NATURAL RIGHTS?

Natural law is the notion that human behavior is ordered by certain universal norms, such that common good and human flourishing are encouraged. One scholar has described natural law as "the set of principles of practicable reasonableness in ordering human life and human community."[20] This set of principles ultimately supports human flourishing and the pursuit of the common human goods, such as "life, knowledge, play, aesthetic experience, friendship, religion, and freedom."[21] An even simpler (and perhaps more resonant) articulation of the principles underlying what is referred to as natural law is the Golden Rule: treat others how you would want to be treated.[22]

In the American canon, the origins of natural law are rooted in philosophy and theology. According to Saint Thomas Aquinas, an early scholar on the subject, natural law has fairly simple components: "all those things to which the human being has a natural inclination, one's reason naturally understands as good (and thus as 'to be pursued') and their contraries as bad (and thus as 'to be avoided')."[23] Modern commentators recognize the truth in Aquinas' binary, morality-based description.[24] Natural law is the "direction that human reason gives to a person as the precepts of the natural law by which a person knows that something is to be done or avoided."[25]

What makes a right "natural" is that it is inherent to human life and universal experience.[26] Article I of the United Nations' Universal Declaration of Human Rights provides this same insight: "All human beings are born free and equal in dignity and rights."[27] And some—even courts—have noted the similarity between the so-called laws of nature and natural law.[28] That is to say,

19. It should be noted that there is not a universal consensus as to what rights are "natural." *Compare, e.g.*, G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948) (expansive, detailed list of natural rights), *with* THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776) (limited, general rights articulated).

20. JOHN FINNIS, NATURAL LAW & NATURAL RIGHTS 280 (2d ed. 2011).

21. *Id.* at 155, 168.

22. *Id.* at 107–08.

23. *Id.* at 403 (discussing and quoting Aquinas).

24. *See, e.g.*, John Makdisi, *A Thomistic Perspective on Natural Law Reasoning in the Supreme Courts*, 45 OHIO N.U. L. REV. 301, 302–03 (2019).

25. *Id.*

26. *See* FINNIS, *supra* note 20, at 198.

27. G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. I (Dec. 10, 1948).

28. *See, e.g.*, Edwards v. Bus. Men's Assurance Co. of Am., 168 S.W.2d 82, 91 (Mo. 1942) (stating that life is "created for its preservation" and that this, like every "natural law" is "always within the contemplation of the courts"); Kennedy v. Laclede Gaslight Co., 115 S.W. 407, 410 (Mo. 1908) (discussing "the natural laws of gravity"); Clark v. Powell's Est., 208 S.W. 31, 36 (Mo. 1918) (noting that "natural laws [of physics] are of a

natural law is derived from universal truths inherent in human dignity and consciousness.[29]

In addition to the question of from where do natural rights derive, proponents of natural law theory ask what obligations are binding to count as "law." In other words, are there moral principles that either guide or limit human behavior even if they are not codified, and (conversely) must all duly enacted laws be followed? On this score, natural law famously had a resurgence following the atrocities of the Nazi regime, whereby the systems that permitted the Holocaust were "legal" under that regime.[30] The theory of natural law has thus been closely associated with the maxim "*lex injusta non est lex*," or, an unjust law is not a law.[31] And indeed, for those who faced trial at Nuremburg, the legality of the Holocaust did not exonerate their intentional deprivation of the natural rights of others.[32]

The above are the intellectual and spiritual underpinnings of natural law. There is, however, a less commonly held tenet of natural law that follows from the discussion of unjust laws and their moral force, which is that all of what we think of as "law" is mere social construct.[33] This means that "law" is only law because we have collectively agreed it is so.[34] Natural law is, accordingly, contrasted with "positive law." Positive law is shorthand for the notion that coercive legal force only comes from what our society posits as the law.[35] Thus, positivists say, irrespective of any moral component, so long as the law of the land is procedurally sound, it is the law.[36] One scholar has defined "law" from a positivist perspective as follows: a "law" is a rule, made in accordance with regulative legal rules (*i.e.*, procedural rules), by an authority, for a community, backed by sanctions, to resolve problems of the community, to be applied equally, and with minimal arbitrariness.[37] This apt definition of "law" mirrors the way students are trained to "think like a lawyer" in law school and, more broadly, reflects our tripartite system of constitutional government, where it is readily applied to legislative, executive, and judicial action. And lawyers, for one, often evaluate governmental actions based on procedural soundness, not

higher nature than human testimony"). But also, consider the similarities between some of these natural law precepts based on bodily autonomy and, say, Newton's laws of motion.

29. *See* FINNIS, *supra* note 20, at 225, 272–73; *see also* Michael S. Moore, *Justifying the Natural Law Theory of Constitutional Interpretation*, 69 FORDHAM L. REV. 2087, 2102–03 & n.64 (2001) ("It is because natural rights exist without law that bills of rights can refer to them without creating them in the act of reference.").

30. *See generally, e.g.*, Rodger D. Citron, *The Nuremberg Trials and American Jurisprudence: The Decline of Legal Realism, the Revival of Natural Law, and the Development of Legal Process Theory*, 2006 MICH. ST. L. REV. 385 (2006).

31. FINNIS, *supra* note 20, at 363–64.

32. *See generally, e.g.*, Citron, *supra* note 30.

33. *See* FINNIS, *supra* note 20, at 234–37.

34. *See id.*; *see also* Rex R. Perschbacher & Debra Lyn Bassett, *The End of Law*, 84 B.U. L. REV. 1, 10–13 (2004).

35. *See* FINNIS, *supra* note 20, at 234–37; *see also* Perschbacher & Bassett, *supra* note 34.

36. *See* FINNIS, *supra* note 20, at 234–37.

37. *Id.* at 276–77.

moral or ethical policy.[38] And so, this definition reveals how "law" neither inherently creates an obligation nor carries moral force.[39] So long as a "law" is procedurally sound, it carries the threat of sanctions for community members who violate it.

To illustrate the differences between positivism and natural law, consider the criminal sanctions underlying traffic laws. Suppose an experienced driver approaches a four-way intersection in rural Missouri farmland on a perfect fall day with 100% visibility and sees no vehicles, pedestrians, etc., for miles in each direction. When this driver rolls the stop sign, have they broken the law? The answer is, plainly, yes, but as applied to this driver, the "law" cannot be said to carry any moral weight. Thus, "[t]here are, legally speaking, no degrees of legal obligation, just as there are . . . no degrees of legal validity."[40]

In this way, the "natural law" of automobile travel is well-captured by the common law of negligence: drivers must always be reasonable.[41] Consequently, when the rules and regulations of driving are viewed *without* any moral overlay, it is only the unreasonable driver who will face sanctions. Said differently, the law penalizing failure to stop at a stop sign, in this instance, is only the "law" because we have agreed it is. For positivists, this way of legal thinking is sufficient to predict how one's behavior will conform with the law and (for lawyers) to advise clients of the same. But in Missouri, where natural law principles appear prominently at the beginning and throughout our founding documents, I suspect positivism is wanting. Meaning that Missourians (consistent with the state's founding compact) tend to view "law" not just as those substantive rules duly enacted via procedural rules, [42] but as satisfying the basic universal moral norms agreed upon in this jurisdiction. [43]

Apart from this theoretical discussion, natural law holds an even greater significance in American legal history. Consider Abraham Lincoln's Gettysburg Address—which many have noted rebirthed the Declaration of Independence's natural law principles through the Civil War, *i.e.*, "that all men are created equal."[44] As Lincoln questioned, "[n]ow we are engaged in a great civil war, testing whether that nation, or any nation so conceived, and so dedicated, can long endure."[45] Through the nation's greatest struggle, natural law finds

38. Non-lawyers, it goes without saying, would be quick to point out the contrapositive point: *i.e.*, that one's moral obligations extend beyond those codified by the state's laws.

39. FINNIS, *supra* note 20, at 364 (collecting examples of natural law theorists in the *lex injusta non est lex* tradition, including Blackstone and Aquinas).

40. *Id.* at 309.

41. *See* Omer Y. Pelled, *The Proportional Internalization Principle in Private Law*, 11 J. LEGAL ANALYSIS 160, 165, 174–75 (2019).

42. *Contra* notes 38–39 and accompanying text.

43. Though my hypothesis as a proud citizen of the Show-Me State is that sociological research would bear this proposition out, support is also found in judicial interpretations, whereby natural rights have been found to exist beyond the plain text of the state statutes and constitution. See Part III.A, *infra*.

44. Abraham Lincoln, U.S. President, Gettysburg Address (Nov. 19, 1863); *see* Ronald R. Garet, *Creation and Commitment: Lincoln, Thomas, and the Declaration of Independence*, 65 S. CAL. L. REV. 1477, 1494–96 (1992).

45. Abraham Lincoln, U.S. President, Gettysburg Address (Nov. 19, 1863).

purchase in autonomy, self-determination, and bodily integrity.[46] The right to be free from slavery is (and was) a natural right, which the Thirteenth Amendment (finally) codified.[47] The existence of other natural rights, such as the right to speak and think freely, the right to self-defense, the right to free movements, the right to a family, the right to be free from arbitrary deprivations of property, the right to be free from racial segregation, and so on, follows the same logical path. If the law has not recognized these rights, it is a failure of the institution of the law—not the nonexistence of the right. The Supreme Court of Missouri recognized this conclusion in one such instance, where it repudiated its segregation-era case, *Gaines*, which had upheld Missouri's unequal, race-based funding scheme for the state's schools: "Because the rot of state-mandated racial segregation infests the entirety of this Court's *Gaines* decision, it is repudiated in its entirety and, henceforth, should no longer be cited even for the most otherwise unimpeachable legal principles."[48]

All in all, natural rights—for which infringement violates natural law—provide an order to life terrestrial (and, arguably, extraterrestrial). Some natural law theorists have described this order and purpose in theological overtones:

> So if God could be recognized . . . to be one who favours the common good of human persons, we would have a new and pertinent reason for loving that common good, pertinent even though we could not see how that love would work out in the perspective of all times and all places.[49]

The above is a mere summary of the background principles of natural law and is intended to animate the discussion of Missouri law below. Of course, theorists have argued about these concepts for centuries, so there will always be more to say. Yet in Missouri, there are relatively clear knowns and unknowns, including what natural rights exist or have been read into the Missouri Constitution or common law, who may enforce them, and by what remedies.

III. WHAT NATURAL RIGHTS ARE (OR ARE NOT) RECOGNIZED IN MISSOURI, AND WHAT PURPOSE DO THEY SERVE?

In Missouri, some natural rights are explicit in the Missouri Constitution; these were set forth above. But even where these rights have been articulated in our state's compact, the exact contours are subject to interpretation, which, in Missouri, is a judicial power.[50] These rights are explicated below, though a brief explanation of terminology is in order: Missouri courts use the term

46. Diarmuid F. O'Scannlain, *The Natural Law in the American Tradition*, 79 FORDHAM L. REV. 1513, 1518–19 (2011).

47. U.S. CONST. amend. XIII.

48. Planned Parenthood of St. Louis Region v. Dep't of Soc. Servs., Div. of Med. Servs., 602 S.W.3d 201, 208 n.7 (Mo. 2020) (en banc).

49. FINNIS, *supra* note 20, at 407.

50. Asbury v. Lombardi, 846 S.W.2d 196, 200 (Mo. 1993) (en banc) (citing Marbury v. Madison, 5 U.S. 137 (1803)) ("The quintessential power of the judiciary is the power to make *final* determinations of questions of law.").

"fundamental rights" in addition to "natural rights."[51] Still others have described the rights animating Missouri constitutional law and common law as "public policy."[52] Though it would be an overstatement to say these terms are interchangeable, because there is such a high degree of overlap between them in substance and because the term natural law appears to be lesser used, this article groups these categories of rights together. Further, this discussion is intended only to collect the most illustrative cases; it necessarily excludes cases in which discussion of natural rights are given cursory analysis. Finally, there will be more to say about both the regulation of a right that is fundamental or natural and the enforcement of those rights through private rights of action in the discussion of implications in the next section.

A. Natural Rights Found in Missouri

As described above, by its plain language, the Missouri Constitution protects the fundamental rights to life, liberty, the pursuit of happiness, labor, equal protection of the laws, religious freedom, free speech, assembly and petition, due process, open courts, freedom from unreasonable search and seizure, jury trials, the right to farm, and various rights for those who are victims of crimes and those accused of crimes.[53]

Beyond these, other natural or fundamental rights have been read into the Missouri Constitution or fleshed out by Missouri common law courts. For instance, the right to the enjoyment of the gains of one's industry has long been interpreted to allow for damages for any unpaid labor.[54] More than that, the right has been read to contain even greater protections and intended to protect against slavery or other involuntary servitude.[55] As the Supreme Court of Missouri[56] concluded, "[t]his provision was intended to apply to the condition of the slaves recently freed [and] [t]he voters who approved the 1865 Constitution would have understood the provision on 'fruits of their own labor' to apply to the recently freed slaves."[57] The right to labor freely is also closely associated with other natural rights, such as the right to transact any lawful business.[58]

Other unenumerated rights have been found in Missouri law. The right to self-defense against unlawful violence is one such natural right,[59] which the

51. *See, e.g.*, State v. Young, 362 S.W.3d 386, 396–97 (Mo. 2012) (en banc).

52. Erich Vieth & James P. Lemonds, *Whence Public Policy?*, 52 J. MO. BAR 239, 240 (1996).

53. *See supra* notes 5–17 and accompanying text.

54. *See* Cheek v. Prudential Ins. Co. of Am., 192 S.W. 387, 393 (Mo. 1916).

55. *See* Fisher v. State Highway Comm'n, 948 S.W.2d 607, 609 (Mo. 1997).

56. For a history of the Supreme Court of Missouri's jurisprudence on slavery, including prior to the Dred Scott case, see Alfred L. Brophy, *Slaves as Plaintiffs*, 115 MICH. L. REV. 895, 905 (2017) (describing the Court's opinions prior to the Dred Scott case as "reflect[ing] the dominant idea that slavery was inconsistent with natural law and should be limited").

57. *Fisher*, 948 S.W.2d at 609. Notwithstanding its description of the right, the Court in *Fisher* held this provision may be used to invalidate a law but did not negate sovereign immunity in a claim for money damages. *Id.*

58. *See generally* Kusnetzky v. Sec. Ins. Co., 281 S.W. 47 (Mo. 1926).

59. *See* State v. Mo. Tie & Timber Co., 80 S.W. 933, 941 (Mo. 1904).

Supreme Court of Missouri concluded is preserved in the right to liberty.[60] The right has even been expanded to other areas. In *State ex rel. Marshall v. Butler County*, for instance, the Court analogized the right to self-defense to find a duty on a trustee to do what was absolutely necessary to save an estate.[61] The right to go where one pleases, the "right to locomotion," is a natural right.[62] The right to privacy is another natural, "inalienable" right.[63] The Court has described it as "the right to be let alone,"[64] and has suggested it is set forth in the liberty and pursuit of happiness clauses of the Missouri Constitution.[65] Yet another fundamental right is the right to vote.[66] As explored in the following section, however, the right to vote is a useful case study in the extent to which certain natural rights may be regulated or restricted.

The common law of Missouri supports a right to refuse medical treatment and, as a corollary, the right to be free from medical battery and the right to informed consent because of one's bodily integrity.[67] In the well-known *Cruzan* case, the Supreme Court of Missouri considered whether the guardian of Nancy Cruzan, who was in a persistent vegetative state (though neither dead nor terminally ill), could order that all nutrition and hydration be withheld from Ms. Cruzan.[68] Notwithstanding the existence of the common law rights, the Court answered this question in the negative, reasoning that the interests in refusing treatment and bodily autonomy must be balanced against the state's interest in preserving life.[69]

Apart from rights inherent in individuals, the Supreme Court of Missouri has intimated that there are natural "obligations" inherent in our society. In one early twentieth century case, the Court suggested that the obligations represented by the Ten Commandments are "just as binding to-day as they have always been since they were thus promulgated."[70] Though, of course, these were not part of that case's holding, it could hardly be controversial to say that the obligation not to murder is not part and parcel to the natural right to life.

None of the natural rights described above, however, are absolute.[71] The Court described this state of play well in *Ex parte Smith*, over a century ago:

60. *See id.*
61. 64 S.W. 176, 177 (Mo. 1901).
62. City of St. Louis v. Gloner, 109 S.W. 30, 32 (Mo. 1908).
63. Barber v. Time, Inc., 159 S.W.2d 291, 294 (Mo. 1942).
64. *Id.*
65. *See id.*
66. Priorities USA v. State, 591 S.W.3d 448, 452–53 (Mo. 2020) (en banc).
67. Cruzan by Cruzan v. Harmon, 760 S.W.2d 408, 416–17 (Mo. 1988), *aff'd sub nom.* Cruzan by Cruzan v. Dir., Mo. Dep't of Health, 497 U.S. 261 (1990).
68. *Id.* at 410.
69. *Id.* at 419–22, 427.
70. State *ex inf.* Crow v. Shepherd, 76 S.W. 79, 93 (Mo. 1903).
71. There is no clearer example than the right to life: the right to life is, indeed, the first natural right listed in Article I, § 2. Then again, that right does not prevent the State from exercising capital punishment. *See, e.g.*, State v. Newlon, 627 S.W.2d 606 (Mo. 1982) (en banc), *overruled by* State v. Carson, 941 S.W.2d 518 (Mo. 1997) (en banc).

> The natural right to health, liberty, and pursuit of happiness secured by our Constitution and Bill of Rights is not an absolute right. The individual must sacrifice a part of his particular interest if the sacrifice is a necessary one in order that organized society as a whole shall be benefited. The restraint of personal action is justified when it obviously tends to the protection of the health and comfort of the community, and the individual's constitutional right is not thereby violated.[72]

The discussion of natural rights is thus not complete without discussion of what rights have not been found.

B. Natural Rights Not Found in Missouri

In other situations when the Supreme Court of Missouri has been presented the argument that there are natural or fundamental rights for Missourians, whether as a protection against government intervention or as support for a private right of action, the Court has held no such rights may be found.

For example, the Court rejected the argument that the right to sue for medical malpractice is a fundamental right.[73] In *Ambers-Phillips v. SSM DePaul Health Center*, the Court considered whether the General Assembly's curbing the common law right of action violated the equal protection clause of article I, section 2 of the Missouri Constitution.[74] The Court held there was no fundamental right to sue for medical negligence, concluding that the right to sue for medical malpractice did not fit within that "narrow category of fundamental rights."[75]

The Court has also held there is no fundamental right under article I, section 2 to run for office, in spite of the similarity between this purported right and the fundamental right to vote. In upholding a county commissioner's ouster via quo warranto action, the Court in *State v. Young* concluded that a candidate's access to the ballot or the right to run for office are not fundamental rights.[76]

Last, the Court has held there is no fundamental right to education. In *Committee for Educational Equality v. State*, the Court held there was no equal protection violation because education, broadly defined, was not a fundamental right.[77] Importantly, the Court noted that "although Missouri's Constitution may contain additional protections, Missouri courts have followed the general federal approach to defining fundamental rights."[78]

72. *Ex parte* Smith, 132 S.W. 607, 609 (Mo. 1910).
73. Ambers-Phillips v. SSM DePaul Health Ctr., 459 S.W.3d 901, 911 (Mo. 2015) (en banc).
74. *Id.* at 909–11.
75. *Id.* at 911.
76. State v. Young, 362 S.W.3d 386, 397 (Mo. 2012) (en banc).
77. 294 S.W.3d 477, 490 (Mo. 2009) (en banc).
78. *Id.*

C. What Purpose Do Missouri's Natural Law Provisions Serve?

The natural law provisions codified in the Missouri Constitution have not received the attention they deserve from either scholars or litigators. And despite their foundational importance to the document, there is a dearth of caselaw relying on them.[79]

But what purpose do these provisions serve? How should judges (and lawyers) use them? Several purposes jump to mind. First, these provisions should be given the full force of law. In contrast to the prefatory language recognizing natural rights in the Declaration of Independence, these provisions must be applied with full force in Missouri courts. But in the author's view, neither Missouri lawyers when developing litigation strategies, nor courts in deciding cases give these sections full attention. But much like the low-numbered sections in the state statutes (which themselves are highly persuasive in the proper contexts), these provisions are the law, even if infrequently invoked.

More to the point, these rights should not be limited to the meanings prescribed to them in other contexts, including by related or analogous rights at the federal level. If these rights may be located in one state's jurisdiction, then only the people of Missouri—including through the workings of their government institutions—are responsible for deriving their meaning and application.[80]After all, the very nature of state constitutions is to exercise of plenary power, not provide limitations. For this reason, the title of Article I of the Missouri Constitution, *i.e.*, "Bill of Rights," is somewhat a misnomer.

Beside this, the natural law provisions of the Missouri Constitution and those the Supreme Court of Missouri has recognized should be used as an interpretive canon. To the extent any legal questions involve moral reasoning or the application of moral principles in hard cases, these provisions *are* those moral principles of the state. Judges may not substitute their own based on their own policy beliefs.[81] Other interpretative canons (which necessarily do not have the same textual or precedential basis) should not be invoked where looking to the state's natural rights will do.[82] Accordingly, there should be a greater propensity to apply natural legal theory to help judges solve difficult legal questions. Under the state's constitution, that is the law of Missouri.

79. *See, e.g.*, Gibson v. Brewer, 952 S.W.2d 239, 246 (Mo. 1997).

80. *Contra* Glossip v. Missouri Dep't of Transp. & Highway Patrol Employees' Ret. Sys., 411 S.W.3d 796, 805 (Mo. 2013) (en banc) ("[T]he Missouri Constitution's equal protection clause is coextensive with the Fourteenth Amendment, and this Court has been reluctant to extend the scope of the Missouri Constitution's equal protection clause beyond that of its federal cognate." (citation omitted)).

81. *See* Michael S. Moore, *The Constitution as Hard Law*, 6 Const. Commt. 51, 53 (1989).

82. *See generally* Conor Casey & Adrian Vermeule, *Myths of Common Good Constitutionalism*, 45 Harv. J.L. & Pub. Pol'y 103, 144 (2022) (citing Adrian Vermeule, *Beyond Originalism*, THE ATLANTIC (Mar. 31, 2020), https://www.theatlantic.com/ideas/archive/2020/03/common-good-constitutionalism/609037/ [https://perma.cc/KWB5-DMJH]) (summarizing common good constitutionalism theory of constitutional law and contrasting it with originalism).

D. Implications

The foregoing discussion of the theory of natural rights and what natural rights are (and are not) found in Missouri and what purpose they serve raises several questions worthy of discussion.

1. Can Natural Rights Be Regulated or Restricted, and if so, by What Measures?

Rights that are "natural" and inherent in human life and dignity but also codified in Missouri's constitution and interpreted by the state's courts create a sort of paradox: can natural rights be regulated? After all, how can the government restrict what is inherent in all humanity and the universe? Doesn't "inalienable" mean unable to be taken or given away? The structure of the Missouri Constitution, in both recognizing rights and limiting them,[83] suggests that regulation does not necessarily diminish the character of the underlying right. Indeed, as some have suggested, in the interest of self-preservation, individuals "sacrifice[] a portion of their natural liberty to civil government."[84]

In his influential article "Natural Rights, Natural Law, and American Constitutions" Professor Philip Hamburger explains the relationship in America between the civil law (which operates as a restraint on humans' natural liberty) and natural law.[85] He concludes that American constitutions view the civil law as imposing sanctions not inconsistent with natural law:

> [C]ivil laws frequently had to impose greater restraints than natural law, for, even if somehow directly adopted in civil laws, natural law was, by itself, quite inadequate. Commentators had long observed that natural law was so general and so imprecise that it invited a variety of conflicting opinions about its requirements. Therefore, they said, civil laws had to provide details and clarity absent from natural law. Natural law was also inefficacious. Sadly, all too many individuals did not conform their behavior to natural law, and the reasoning that constituted natural law could not make them do so. For this reason, civil law not only had to be more detailed and clear than natural law, but it also had to provide sanctions. Thus, Americans said that they should adopt constitutions and other civil laws that were in accordance with the implications of natural law.[86]

Accordingly, for state constitutions, so long as the civil law does not "deny, violate, infringe, abridge, or diminish" natural law, it provides the enforcement mechanism necessary to enforce and protect natural rights.[87]

83. *See supra* note 72 and accompanying text.

84. Philip A. Hamburger, *Natural Rights, Natural Law, and American Constitutions*, 102 YALE L.J. 907, 930–31 (1993).

85. *See id.* at 937–55.

86. *Id.* at 942–44 (footnotes omitted).

87. *See id.* at 945 (emphasis omitted).

That said, this concept has not been clearly articulated by Missouri courts and deserves greater attention. Take, for example, the right to vote.[88] Though this right is fundamental, it only is subject to strict scrutiny if it is "severely burden[ed]" by a regulation.[89] As a result, the interplay between the right and the enforcement mechanism is muddled, so much that (in the author's view) the emphasis for Missouri courts has shifted from the right to the exceptions. This point applies to other natural rights in article I of the Missouri Constitution, though that should not be the case for the natural rights supposedly held in the highest regard.

Relatedly, what about abrogations of the common law or legislative abrogations of the common law? Could the General Assembly, or the people by ballot initiative, altogether dispense with certain natural rights or their enforcement mechanisms? Again, the answers to these questions deserve more detailed attention. But for starters, the converse is certainly true, *i.e.*, that newly found natural rights may be *added to* those available to Missourians. Take, for example, the right to farm, which was codified in the Missouri Constitution following voter initiative as recently as 2014.[90] But viewed from the flip side, it is unclear whether the natural rights codified in the Missouri Constitution (or their enforcement mechanisms) would still remain in effect if those provisions were repealed.

On this score, the Supreme Court of Missouri was presented the question of to what extent the General Assembly could abrogate the common law in *Ordinola v. University Physician Associates*.[91] In interpreting the state's medical malpractice statute, the Court concluded the General Assembly (and the Court itself) undisputedly had the power to abrogate the common law and "abolish common law causes of action."[92] To illustrate this implication, under this logic and without further qualification, the common law cause of action for battery—providing the enforcement mechanism for the natural right to life and bodily integrity—could be wholly abolished.[93] This position might be reasonable in the context of medical malpractice actions (where there is no natural right at issue),[94] but it is anathema when taken to its logical conclusion. Indeed, certain natural rights—for instance, the freedom to think as one pleases or to be free from battery—must be enforceable even if civil law enforcement mechanisms or protections were abolished.[95] Litigants should take pains to clarify the doctrine in the future to identify the limits to the abrogation of natural rights and the civil

88. Or, said in natural law terms, the right to take part in the government of the State. *See, e.g.*, G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 21 (Dec. 10, 1948).

89. *See* Priorities USA v. State, 591 S.W.3d 448, 452–53 (Mo. 2020) (en banc).

90. MO. CONST. art. I, § 35.

91. 625 S.W.3d 445 (Mo. 2021) (en banc). Note that the author was a drafter and signatory to one of the amicus briefs on behalf of plaintiffs before the Supreme Court of Missouri.

92. *Id.* at 450 & n.8.

93. *Cf. id.*

94. Ambers-Phillips v. SSM DePaul Health Ctr., 459 S.W.3d 901, 911 (Mo. 2015) (en banc).

95. This is by no means a new idea. *See generally* Walter F. Dodd, *Extra-Constitutional Limitations Upon Legislative Power*, 40 YALE L.J. 1188 (1931).

causes of action used to enforce them. Further, all branches of government and the people themselves must ensure that the natural rights remain protected in the manner in which they are codified.

2. How Are Natural Rights Protected or Privately Enforced?

Though there may be uncertainty about the regulation or enforcement of the natural rights found in the Missouri Constitution, this need not be so. Presently in Missouri law, there is a piecemeal approach to the protection or enforceability of the natural rights found in the Missouri Constitution. By their plain terms, the rights protect against certain government action.[96] Courts have long interpreted the Missouri Constitution to allow for claims challenging the constitutionality of governmental action based on these provisions.[97] For private individuals to pursue monetary damages, the constitutional provision must be "self-executing" for a private right of action to be implied.[98] Those rights of action are not frequently found, however, though there is a paucity of reported cases in which the issue is teed up for courts.[99] Perhaps this is a case of a statistical selection bias, though, because the traditional common law causes of action—battery, negligence, breach of contract, unjust enrichment, nuisance, etc.—are more likely choices for lawyers to style a cause of action to vindicate a natural right.

Notwithstanding, the General Assembly could enact legislation granting a right of action to enforce the natural rights codified in the Missouri Constitution. This would be analogous to 42 U.S.C. § 1983.[100] And as with other instances, the General Assembly could limit damages recoverable, especially noneconomic and punitive damages.[101]

3. How Far Do Natural Rights Extend?

There are several other important questions left to be answered in discussing natural law in Missouri. The most pressing of these is how far do the rights extend and who may have standing to enforce them? For instance, do any of the rights extend to nonhuman entities? Are there environmental or animal rights to be found in Missouri law? Are corporations or business entities endowed with any natural rights? There are not clear answers to these questions. Such is the future work of philosophers, commentators, and (ultimately, given our system of judicial review,) judges.

96. Though there is no enforceable right associated with the provision stating that the government is intended to promote the general welfare of the people. *See supra* note 6 and accompanying text.

97. *See generally, e.g.*, Findley v. City of Kansas City, 782 S.W.2d 393 (Mo. 1990) (en banc).

98. *See* Moody v. Hicks, 956 S.W.2d 398, 402 (Mo. Ct. App. 1997).

99. *See id.* (search and seizure provision).

100. *See* 42 U.S.C. § 1983 ("Every person who . . . subjects . . . any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution . . . shall be liable to the party injured in an action at law . . . .").

101. *See, e.g.*, MO. REV. STAT. § 538.210 (2018) (medical malpractice).

IV. CONCLUSION

Natural law is as fascinating a subject as it is important. It illuminates the connection between law and other disciplines—like art, history, political science, and philosophy—in that our conception of ideas such as "liberty," "happiness," and "equality" is integral to understanding the rules of society and the role of government.[102] As illustrated from the foundational importance of natural law in the Missouri Constitution (and those of other states), natural law animates all areas of the law, including constitutional law, tort law, and contract law. Lawyers should focus on natural law because of its universal themes. If litigation is conceived as a series of binary choices for a decision-maker, conforming arguments to natural law principles might lead to greater success. And as jury consultants may attest, trial success ultimately distills down to an apportionment of moral culpability (or lack thereof) of a defendant's infringing on a plaintiff's life, liberty, and happiness. Even more generally, all should understand the foundation of our liberty as Missourians and the compact of our Constitution. Conceiving of the world in terms of natural rights can lead to an increased appreciation for the human experience.

While this article's case study of the "natural law" of Missouri is unique, Missouri is more similar to the other states than it is different.[103] Indeed, all fifty states have some sort of natural law provision codified in their constitutions, though some provide greater protections than others, and a full review of the substance of (or efficacy of) those provisions exceeds the scope here.[104] As is often discussed (though practiced less often) future litigants should fully brief and ask courts to protect or allow private enforcement of the natural rights codified in state constitutions.[105] That said, these provisions are not to be taken as a given. They must be defended by lawyers and all Missourians alike.

102. For examples of scholarship unique to Missouri that accomplish this task, see generally Joseph J. Simeone, *The Legal History of the State of Missouri*, 43 ST. LOUIS U. L.J. 1395 (1999), and Willie J. Epps, Jr., *Black Lawyers of Missouri: 150 Years of Progress and Promise*, 86 MO. L. REV. 1 (2021).

103. *See* M.N.S. Sellers, *Universal Human Rights in the Law of the United States*, 58 AM. J. COMPAR. L. 533, 553 (2010) ("Human rights are universal and binding in U.S. law and U.S. courts. They are protected by each of the States in their separate bills and declarations of rights, by the Federal government in the U.S. Bill of Rights and Fourteenth Amendment, and by the law of nations, which is part of the law of the United States and of the law of each of the States in the Union."). For a survey of the individual rights recognized in the states at the time of ratification of the Fourteenth Amendment, see Steven G. Calabresi & Sarah E. Agudo, *Individual Rights Under State Constitutions When the Fourteenth Amendment Was Ratified in 1868: What Rights Are Deeply Rooted in American History and Tradition?*, 87 Tex. L. Rev. 7 (2008).

104. See Appendix A for a table of provisions recognizing natural rights in all fifty states. Note that a comparative study is outside the scope here, beyond the facile comparison that almost all these state constitutions contain a bill of rights and natural rights provisions in their first article or preamble (and the preambles themselves often invoke theological overtones, as discussed above). Representative sections are quoted but, often, the natural law provisions expand beyond those cited here, much in the way of Missouri's Constitution.

105. *See generally, e.g.*, Brennan, *supra* note 18.

APPENDIX A

State	Representative Constitutional Provision(s)	Text (or description)
Alabama	ALA. CONST. art. I, § 1.	That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness.
Alaska	ALASKA CONST. art. I, § 1.	This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.
Arizona	ARIZ. CONST. art. II.	(containing a bill of rights recognizing natural laws as described above and purporting to "secure[]" "the liberty of conscience")
Arkansas	ARK. CONST. art. II, § 2.	All men are created equally free and independent, and have certain inherent and inalienable rights; amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property, and reputation; and of pursuing their own happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.
California	CAL. CONST. art. I, § 1.	All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.
Colorado	COLO. CONST. art. II, § 3.	All persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.
Connecticut	CONN. CONST. pmbl.; *id.* art. I.	The People of Connecticut acknowledging with gratitude, the good providence of God, in having permitted them to enjoy a free government; do, in order more effectually to define, secure, and perpetuate the liberties, rights and privileges which they have derived from their ancestors; hereby, after a careful consideration and revision, ordain and establish the following constitution and form of civil government.
Delaware	DEL. CONST. pmbl.	Through Divine goodness, all people have by nature the rights of worshiping and serving their Creator according to the dictates of their consciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and in general of obtaining objects suitable to their condition, without injury by one to another; and as these rights are essential to their welfare, for due exercise thereof, power is inherent in them; and therefore all just authority in the institutions of political society is derived from the people, and established with their consent, to

		advance their happiness; and they may for this end, as circumstances require, from time to time, alter their Constitution of government.
Florida	FLA. CONST. art. I, § 2.	All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property.
Georgia	GA. CONST. art. I.	(containing a bill of rights recognizing natural laws as described above and guaranteeing "freedom of conscience")
Hawaii	HAW. CONST. art. I, § 2.	All persons are free by nature and are equal in their inherent and inalienable rights. Among these rights are the enjoyment of life, liberty and the pursuit of happiness, and the acquiring and possessing of property.
Idaho	IDAHO CONST. art. I, § 1.	All men are by nature free and equal, and have certain inalienable rights, among which are enjoying and defending life and liberty; acquiring, possessing and protecting property; pursuing happiness and securing safety.
Illinois	ILL. CONST. art. I, § 1.	All men are by nature free and independent and have certain inherent and inalienable rights among which are life, liberty and the pursuit of happiness.
Indiana	IND. CONST. art. I, § 1.	WE DECLARE, That all people are created equal; that they are endowed by their CREATOR with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well-being.
Iowa	IOWA CONST. art. I, § 1.	All men and women are, by nature, free and equal, and have certain inalienable rights--among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.
Kansas	KAN. CONST. Bill of Rts., § 1.	All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.
Kentucky	KY. CONST. § 1.	All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned: First: The right of enjoying and defending their lives and liberties. Second: The right of worshipping Almighty God according to the dictates of their consciences. Third: The right of seeking and pursuing their safety and happiness. Fourth: The right of freely communicating their thoughts and opinions. Fifth: The right of acquiring and protecting property. Sixth: The right of assembling together in a peaceable manner for their common good, and of applying to those invested with the power of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

		Seventh: The right to bear arms in defense of themselves and of the State, subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons.
Louisiana	LA. CONST. art. I.	(containing a bill of rights recognizing natural laws as described above and granting a right to "individual dignity").
Maine	ME. CONST. art. I, § 1.	All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.
Maryland	MD. CONST. Declaration of Rts., art. VI.	That all persons invested with the Legislative or Executive powers of Government are the Trustees of the Public, and, as such, accountable for their conduct: Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the People may, and of right ought, to reform the old, or establish a new Government; the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.
Massachusetts	MASS. CONST. pt. 1, art. I.	All people are born free and equal and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness.
Michigan	MICH. CONST. art. I.	(containing a bill of rights recognizing natural laws as described above)
Minnesota	MINN. CONST. art. I.	(containing a bill of rights recognizing natural laws as described above)
Mississippi	MISS. CONST. art. III.	(containing a bill of rights recognizing natural laws as described above and stating, "The enumeration of rights in this constitution shall not be construed to deny and impair others retained by, and inherent in, the people." *Id.* art. III, § 32.)
Missouri	MO. CONST. art. I; *id.* art. I, § 2.	That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry; that all persons are created equal and are entitled to equal rights and opportunity under the law; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails in its chief design.
Montana	MONT. CONST. art. II, § 3.	All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.

Nebraska	NEB. CONST. art. I; *id.* art. I, § 1.	All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense, hunting, recreational use, and all other lawful purposes, and such rights shall not be denied or infringed by the state or any subdivision thereof.
Nevada	NEV. CONST. art. I, § 1.	All men are by Nature free and equal and have certain inalienable rights among which are those of enjoying and defending life and liberty; Acquiring, Possessing and Protecting property and pursuing and obtaining safety and happiness.
New Hampshire	N.H. CONST. pt. 1; *id.* pt. 1, art. 2d.	All men have certain natural, essential, and inherent rights--among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting, property; and, in a word, of seeking and obtaining happiness.
New Jersey	N.J. CONST. art. I, para. 1.	All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.
New Mexico	N.M. CONST. art. II, § 4.	All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness.
New York	N.Y. CONST. art. I.	(containing a bill of rights recognizing natural laws as described above)
North Carolina	N.C. CONST. art. I; *id.* art. I, § 1.	We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.
North Dakota	N.D. CONST. art. I, § 1.	All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.
Ohio	OHIO CONST. art. I, §1.	All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.
Oklahoma	OKLA. CONST. art. II, § 2.	All persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry.
Oregon	OR. CONST. art. I, § 1.	We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and

		they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.
Pennsylvania	PA. CONST. art. I, § 1.	All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.
Rhode Island	R.I. CONST. art. I, § 2.	All free governments are instituted for the protection, safety, and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws. No otherwise qualified person shall, solely by reason of race, gender or handicap be subject to discrimination by the state, its agents or any person or entity doing business with the state. Nothing in this section shall be construed to grant or secure any right relating to abortion or the funding thereof.
South Carolina	S.C. CONST. art. I.	(containing a bill of rights recognizing natural laws as described above)
South Dakota	S.D. CONST. art. VI, § 1.	All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the pursuit of happiness.
Tennessee	TENN. CONST. art. I.	(containing a bill of rights recognizing natural laws as described above)
Texas	TEX. CONST. art. I.	(containing a bill of rights recognizing natural laws as described above)
Utah	UTAH CONST. art. I, § 1.	All persons have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right.
Vermont	VT. CONST. ch. I (including several articles articulating natural rights).	That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; therefore slavery and indentured servitude in any form are prohibited. *Id.* ch. I, art.1.
Virginia	VA. CONST. art. I, § 1.	That all men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.
Washington	WASH. CONST. art. I.	(containing a declaration of rights recognizing natural laws as described above)
West Virginia	W. VA. CONST. art. III, § 1.	All men are, by nature, equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely: The enjoyment of life and

		liberty, with the means of acquiring and possessing property, and of pursuing and obtaining happiness and safety.
Wisconsin	WIS. CONST. art. I, § 1.	All people are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted, deriving their just powers from the consent of the governed.
Wyoming	WYO. CONST. art. I, § 2.	In their inherent right to life, liberty and the pursuit of happiness, all members of the human race are equal.