ABSTRACT. In this paper, I offer objections to an approach to formulating principles referring to moral rights that has come to known as ‘_specification.’’ These objections (which are directed at all forms of specification, including one recently defended by Hallie Liberto) focus on rights-principles in their role as premises of inferences to conclusions regarding the moral rights of individuals in particular situations. I argue on practical grounds that specified principles have no useful role to play in such inferences, and on theoretical grounds that the specificationist position is self-defeating. This latter argument also suggests an interpretation of rights principles that avoids the objections to which specification is vulnerable.

Certain philosophically interesting and important questions about principles that refer to moral rights are, at least broadly speaking, logical in character. These questions focus on rights-principles in their role as premises of inferences to conclusions regarding the rights of individuals in particular situations. Consider, for example, the principle that everyone has a right to life, and hence a right to not be killed. The principle appears to entail that each particular homicide is a moral rights-violation, and is therefore morally impermissible. Yet certain homicides – certain self-defensive homicides for example – seem to be morally permissible. Assuming that no particular action can possibly be both permissible and impermissible, there is a consistency problem here – one that has parallels for all principles that refer to moral rights. These problems arise
from a certain interpretation of the logical form and behavior of rights-principles.¹

My purpose in this essay is to examine an alternative interpretation of rights-principles as a possible approach to avoiding the aforementioned consistency problems. This interpretation is commonly referred to as ‘specification’. It was brought into philosophical prominence by Judith Thomson, who distinguished two types of specification – ‘moral’ and ‘factual’.² The two differ importantly from each other; each is problematic in its own way, although they also have problems in common. In the interest of thoroughness, both will be discussed here, but with primary emphasis placed on factual specification. It is much more interesting than moral specification which, when clearly formulated and closely examined, is revealed to be something of a non-starter.

As its name suggests, factual specification interprets rights-principles as highly specific – as incorporating all of the morally significant factual features of the situations to which the principles are applied.³ I will argue that this approach to the consistency problems alluded to above doesn’t succeed. Its principles are of little or no practical use and, more importantly, it is self-defeating. That is, it could be made to work only by employing a particular kind of very general rights-principles – principles whose existence renders specificationist principles entirely superfluous.⁴ In developing this argument, I will highlight Hallie Liberto’s recent defense of specification.⁵ Liberto’s account incorporates features that are essential components of the specificationist position, and that are often overlooked in other discussions of specified principles.

¹ I am not assuming here that the rights-principles in question are foundational. They might, in fact, be conclusions from more basic premises. What I am assuming is that inferences to conclusions about the rights of individuals in particular situations must include principles that refer to rights as premises.


³ Note that the difference between specificationists and generalists isn’t that they arrive at different conclusions about particular cases; it is rather that specificationists interpret rights-principles so that only one such principle can apply to any given situation. Generalists, according to whose views multiple principles can apply to particular situations, take very different approaches to avoiding inconsistencies.

⁴ I discuss these general principles at greater length in ‘When Rights are Permissibly Infringed’, Philosophical Studies 53 (1988), pp. 347–366. However, this latter discussion doesn’t include the extended critique of specification that I present here.

⁵ Hallie Liberto, ‘The Moral Specification of Rights: A Restricted Account’, Law and Philosophy, 33 (2014), pp. 175–206. Liberto refers to her account as ‘moral specification’ but, as will become evident later, it actually corresponds to the position that I am calling ‘factual specification’.