John Locke: 1632-1704

Philosophy teacher and physician. Main works:
- An Essay Concerning Human Understanding (1690) -- concerned mainly with the principles of human knowledge, including moral knowledge.
- The Second Treatise of Government (around 1690)

The First Treatise argued against Robert Filmer’s 1680 Patriarcha, or the Natural Power of Kings, in which Filmer sought to show that the right of a king to rule was derived from the Bible. (“Divine Right of Kings” given by God to Adam and handed down). Locke claims to have refuted Filmer’s position, by showing that that right has been falsely derived.
This meant the direct denial of a traditional interpretation of scripture.

The Second Treatise, then, sought to establish different grounds for the right to rule (political rule). Rejecting patriarchal law, Locke sought to establish this principle:

Salus Populi Suprema Lex Esto. (The Welfare of the People is the Highest Law.)

The King no longer has the natural or divinely given power to rule, because the right to rule derives from the natural power of human beings—to maintain their welfare—against absolute and arbitrary rule (or despotism).

Locke’s motives for writing the Two Treatises
Some possibilities:
1. The work form part of a political-religious dispute over the right of succession. Filmer sought to defend the catholic King James’ right to the throne, while Locke sought to make way for the protestant William. James II was overthrown and William became King, through what is called the Glorious (Bloodless) Revolution (1688). To make this argument, Locke had to establish a basis for the right to overthrow a monarch, denying absolute power to the King.
2. Locke sought to establish the rights of property and the right to revolution, in order to secure individual freedom. Such rights needed to be established to reflect the conditions of a socio-economic transition from medieval Feudalism to modern Capitalism. Thus Locke’s individualism provided a justification for “market-based capitalism.”
3. Locke had a personal interest in these matters, because he owned landed-property, slaves, and sought to expand his wealth in the Colonies (Americas).

What cultural/historical background influenced Locke?

Characteristic of the Modern period: A crisis of authority, mostly religious authority.
- Protestant Revolution
- Reason, not religion, determines morality.
- Science, not the Bible, determines the nature of reality and God’s agential role in it (God as cause of natural causes and miracles subject to doubt).
  - E.g., Galileo’s discovery that the Earth revolves around the sun, which opposed Catholic doctrine.
- The discovery of other lands and peoples (which cast doubt on universal moral truths).
- The rise of a merchant class, from out of the feudal economic system. This encouraged ideas of individuality, individual freedom, individual rights, (virtually non-existent) free markets, and non-interference of government.
- Note: Locke does not establish his political principles completely independently of theological principles.

The Second Treatise

Main points I will cover:
1. Definition of civil government
2. The State of Nature and Natural Law
3. Slavery
4. The foundation of property
5. The role and limits of civil government, the right of dissolution and revolution.

I. Of Civil Government

§. 2 & 3. Definition of political power.
Previously, power had been defined as primarily patriarchal. Father over children, Husband over wife, master over servant, lord over slave—but now:
Political power is defined as: “The right of making laws with penalties of death...for the regulating and preservation of property; and of employing force...in the execution of such laws, and in defense from foreign injury] and all this only for the public good.

Again, Salus Populi Suprema Lex Esto. (The Welfare of the People is the Highest Law.)

Chap. II Of the State of Nature

§. 4: Political power must be derived from its origin—again, not from divine right, but from the natural condition of humankind. What is the natural condition? According to Locke--

1. A state of perfect freedom to order one’s actions, to do as what one sees fit (within the bounds of the law of nature—which is?)
2. A state of equality, in which all power and right (jurisdiction) is reciprocal, meaning that every individual has an equal “right” to freedom. §. 5. Just as I “love-myself” so
must I love another. If I harm another, I will suffer. If I help another, I can expect to be helped. From this state of equality are derived maxims of justice (harm no one) and of charity (help others).

§. 6. This natural condition suggests a natural law: “being equal and independent, no one ought to harm another in his life, health, liberty or possessions.” Thus, the state of nature is not a state of unlimited license, or a state of arbitrary power (as it may seem to be for Hobbes, who held that “right” meant the power to do whatever you will to preserve yourself), Locke establishes the obligation not to harm others. Hobbes establishes no such obligation to others in the state of nature.

It may seem sufficient to have established this “natural” law on the natural conditions of mankind just described in §. 4 and 6 (freedom, independence and equality). But Locke goes further:

“for men being all the workmanship [my emphasis] of one omnipotent and infinitely wise maker … they are his property . . . made to last during his, not on another’s pleasure.”

There is a very specific sense in which you are God’s property. Since God labored in the making of you—you are God’s possession; thus labor establishes possession.

It follows that you are not to harm another of God’s possessions. As we will see, much of Locke’s theory of natural right and property is based on Labor. We are obliged (bound) not to harm others by taking their property, because labor establishes possession.

And what you have labored for cannot rightly be taken away by another.

a. Thus, no one may be subordinated to being used or abused by another.

b. One is bound to preserve oneself, as well as the rest of mankind (because you are Gods’ possession).

So far we have two distinct grounds establishing natural law:

1. Natural: The requisite conditions of freedom and equality that follow from our natural desire for self-preservation.

2. Theological: God’s right of possession over us (derived from his labor) means we are forbidden from harming others.

§. 7. From this follows the right to punish transgressors of the natural law.

a. If everyone followed the natural law, if everyone recognized it is in their best overall interest to do so, punishments would not be needed.

b. However, transgressions against the right of others are all too common.

c. A law is useless without a power to execute the law.

Therefore: each person must retain the right of punishment (enforcement).

(This right also appears to be natural, since Cain who murdered his brother Able expected anyone to kill him for the murder.)

d. But since a law is useless without a power to execute the law, and…

e. at some point disputes become too difficult to manage, there rises the need for civil government.
Thus this (private) right to punish is the foundation of civil government; to maintain the rights of property and of punishment in a complex community, we (implicitly agree) to give the right of punishment over to the government—thus fulfilling the definition of political power above: the right of making laws with the penalty of death—for the good of the people. Again, this right is established within the state of nature—not, as it is for Hobbes, within civil society.

§. 14. Objection: there never was such a state of nature.

But independent states, like individuals writ large, are now in a “state of nature” in relation to each other (each is independent and equal) and thus are subject to these principles.

Also, some places (such as America at that time), do not have a civil government; but relations among members of the community still depended on the maintenance of these natural right principles. Essentially, maintenance depends on a set of agreements, or what is called a “social contract.

Chap. III Of the State of War

§. 16. War is “a settled design upon another man’s life.” Under what condition is it justified?

“It being reasonable and just [that] I should have a right to destroy that which threatens me with destruction; for, by the fundamental law of nature (preservation)... one may destroy a man who makes war upon him... [when] such men are not under the ties of the common law of reason, have no other rule, but that of force and violence...”

§. 17. ...when another would make me a slave, in violation of my freedom.

§. 18. It is lawful to kill a thief. Anyone who would take my liberty may take away my life, as well. (We may think of the right to make war as the right to defend oneself from violations to our natural rights of freedom and equality. Also, this right is not restricted to making war against another State; it is a right within the state of nature, and it includes a right against any violation to our natural rights, including theft.)

§. 19. The difference between a state of nature and a state of war:

a. Living according to reason, without a common superior—is the state of nature.

b. Living according to force, without a common superior—is the state of war. (Hobbes)

Thus required is a superior to judge with authority. But this is difficult to maintain in the state of nature.

Chap. IV. Of Slavery

§. 22. “Natural liberty’ means “to have the law of nature as [one’s] rule.”

Civil freedom (liberty of man in society) is to be subject only to a legislative power established by consent. It is to be free of the arbitrary will of another man. (Thus free from the arbitrary will of a king.)

§. 23. It follows (supposedly) that:
1. You cannot kill yourself (since you have a duty to preserve yourself).
2. You cannot enslave yourself. (Since you cannot kill yourself, you cannot give another
   the power to do so)

   But suppose you deserve death because you have wronged someone. You may then be
   enslaved by the person you wronged.

§. 24. “the perfect condition of slavery: the state of war continued between a lawful conqueror
   and a captive.”

In what sense is the slave trade a “state of war continued against a lawful conqueror and a
   captive.”

Recall that slavery was the business of selling human beings and forcing them to work, often in
   wretched conditions—not the result of a war of self-defense. It was legal in England from the
   17th to 18th century, and in America, until the 19th century (13th amendment to the Constitution,
   1865).

Advertisement: Charleston, South Carolina, 1769

Given all that Locke has said about natural rights (freedom and equality), how can this be
justified? One notable point is that Locke had serious financial investments in slave-trading
companies (Royal Africa Company) as well as plantations in America. But one must ask how
Locke did not see the contradiction in his own defense of it, or if he did, how he ignored it.

How do we ignore it?
Slavery was abolished 150 years ago, but....
35.8 million people live in slavery today. More than at any time in history.
21,000 in Lebanon

http://www.globalslaveryindex.org/findings/


Chap. V Of Property

Given that in the beginning, no one owned anything, how did “ownership” arise? And what gives one a right to property? Two sources:

1. Natural reason tells us that we have a right to self-preservation, and thus a right to the means of that preservation (food, drink, shelter).
2. Revelation: Genesis, 23: On the 5th day: God blessed them (Adam and Eve) and said to them, “Be fruitful and increase in number; fill the earth and subdue it. Rule over the fish in the sea and the birds in the sky and over every living creature that moves on the ground.”

But these sources establish only a general right to things. How do we come by a particular right to acquire and maintain property, that is, the exclusive right to possess and use something?

§. 26. Indeed, no one originally had an exclusive right to “that which is held in common” (the land, sea, air, fruit, trees, animals, etc.), since these are produced by God (or, “the spontaneous hand of nature.”) But God had given us reason to discover “the best advantage of life and convenience.” So, there must be a way of appropriating these advantages, indeed, necessities.

§. 27. This is an important and complex paragraph, in which Locke establishes that labor gives one the right of appropriating what is common.

a. There is one thing that each of us owns already: our bodies, to which no one else has a right (we have freedom and equality).

b. What is it to have and maintain a body? It is labor (work, the expenditure of energy). Thus, when we sustain or preserve ourselves we are essentially doing work.

c. Now, when I work on the land to raise food to eat, I expend my energy. I “mix my labor,” my essential nature, with nature, thereby making that nature my own.

That is, through my labor, I turn what is common in nature into what is mine.

Thus I have an exclusive right to what I have labored to acquire. But note: “at least where there is enough left in common for others.” So, I cannot acquire so much that I exclude others from the right to do the same. (Presumably, this prohibition derives from the right of welfare of the people)

Question: how does “mixing your labor” with the object (held in common) make the object your own? How does this argument work?

§. 28. Labor makes the distinction between common goods and mine. What has been called the “labor theory of value” is established here.
Extension of the right: The right to property through labor is **extended**, by establishing the right through the labor one owns. So, if my horse grazes the common, unowned land, then the land becomes mine. If my servant works the common land, the land becomes mine.

§ 31. Objection: Can we take as much property as we want?
The law of nature says you must share (does it?). The law of nature says you cannot make in excess of what you can use. So you may not make more than you are able to use without **spoiling**. God did not make things to be wasted, it seems.

§ 32. God commanded man to **labor** to subdue and improve the earth for the benefit of life.
   Genesis, 22: God blessed them (Adam and Eve) and said to them, “Be fruitful and increase in number; fill the earth and subdue it. Rule over the fish in the sea and the birds in the sky and over every living creature that moves on the ground.”
   But after The Fall, God said to Adam:
   “Because you obeyed your wife
   and ate from the tree about which I commanded you,
   ‘You must not eat from it,’”
   cursed is the ground thanks to you;
   in painful toil you will eat of it all the days of your life.

§ 34. “He gave the land to the **use of the industrious and rational**.”
   Does this statement express an obvious truth?

§ 36. **Further extension of property right:**
The introduction of **money**, made it possible to acquire more than the natural “measure” of property acquisition.
   First, what is the measure? Locke here indicates that we can take as much as we can, as long as we do not “injure” anyone. And since there is lots of land, especially in America, there is plenty to take without injury. (At the time, the indigenous tribes in America did not see it this way, because the European settlers started taking away their livelihood. But of course the Indians were not industrious and rational, so Locke would say.)
   Locke also points out that a tilled land yields much more corn than and untilled land (by agriculture). Life in Devonshire is better than in (pre-cultivated) America:
   “For I ask whether in the wild woods and uncultivated wast of America left to Nature, without any improvement, tillage or husbandry, a thousand acres will yield the needy and wretched inhabitants as many conveniences of life as ten acres of equally fertile land doe in Devonshire where they are well cultivated?”

   Now, how do we take more than the “natural measure,” more than what we can care for? By using a symbol of our labor power: **Money**: “a little piece of yellow metal,” could be worth a hunk of meat or a heap of corn. And it doesn’t spoil. **Thus, with money you can acquire as much as you can through your labor**. (You can see why Locke is considered to be the founder of free-market capitalism—or at least of a theoretical justification for it.)

§ 40. Most of the worth of something lies in the labor required to attain or manufacture it.

Etc.
Chap VII. Of Political or Civil Society (moving from the state of nature into a Commonwealth)

Here the main issues are

1. How/why individuals enter into a civil society (what they give up, what they gain)
2. The origin of the legislative and executive branches of government
3. The limits of monarchy.

§. 87. As established, we have freedom in the state of nature to acquire needs for life and property, and to do so against the attempts of others to violate our right to these things. Included among these rights is the right to judge that another has violated us and to punish that violator. Now, it is difficult for individuals to manage this “state of inconvenience” as Locke says elsewhere, because you can imagine that judgments will not be fair, that disputes will not be redressed; agreements will not be maintained; violators will not be willing to be punished, and so on. So, we must turn these functions over to a political society that can effectively manage our rights, agreements, and the transgressions thereof.

In order to do so effectively, each individual must give up his/her natural right of judgment and punishment. The right is given over to the ruling body (the civil government), which is entrusted to preserve the commonwealth.

§. 88. And so the people (the commonwealth) set aside their rights (their power) and give them over to a civil government, to set down whatever laws and enforcements are required for the maintenance of commonwealth. Let’s call these powers.

They are the power of making laws and the power of waging war and maintaining peace. Thus, the origin of legislation (law-making) and of executive power (executing and upholding the laws), including the power to wage war against external transgressors, resides in the people giving their own power to do these things over to the civil government.

(Consider the advantage of having a single executive power, rather than having everyone make their own judgments, in cases of disagreement.)

For more, see Chapter XII

§. 89. Only when each has given up his/her right to self-defense do you have a civil society. A civil society is one body politic, under one supreme government. In this way, each individual authorizes the political structure to make laws for the maintenance of the public good.

Thereby, by setting up an earthly judge, we move from out of a state of nature into a commonwealth.

§. 90. Therefore, absolute monarchy is inconsistent with a commonwealth (because the absolute ruler is not an impartial judge who has the public good as a primary end).

§. 91. An absolute ruler is legislator and executive all in one. Thus “no appeal lies open to any one, who may fairly, and indifferently, and with authority … redress any injury or inconviency, that may be suffered from the prince.” The ruler himself would be still in a state of nature, “subject to all of its inconveniencies.” And so would we (the subjects), of course.
§. 93. True, an absolute monarch may have subordinate judges to which the people can appeal; however, he maintains his right of judgment, not from love of others, but from “love of himself and the profit they bring him.” Ultimately, under an absolute monarch, there is no fair appeal. (But consider; can there not be a benevolent monarch? One who judges fairly, who listens to appeals, whose interest is the public good? But Locke’s point is that when the monarch is not benevolent, when he violates our natural rights, then he may be deposed—as we will see).

Chapter VIII: Of the Beginning of Political Societies

§ 95. Again, we enter into civil society because it serves our interests. All the things we want we can best obtain and maintain in the peace that only a civil society can provide. When the majority has consented to such an arrangement, it becomes in-corporated (one body politic).

§. 96. To act as one body, the consent of the majority is required. The act of the majority passes for the act of the whole; and so “every one is bound by that consent to be concluded by the majority.” That is, even if you do not agree with the majority position, you are bound to go along with it. The people thus have to compromise their will. Not everyone gets what they want.

§. 97. Thus everyone puts him/herself under an obligation to every other one, to submit to the determination of the majority. Otherwise, it is no agreement—and we are back to the state of nature.

§. 99. Only consent of the majority “could give beginning to any lawful government in the world.”

§. 119. How does one declare one’s submission to the majority? Express vs. Tacit (silent) consent: To express one’s declaration is easy. But tacit agreement is this: Anyone who has possessions or who takes part in government tacitly obliges himself to obedience to the laws of that government.

But must we always obey the government?

§. 120. ok.

Ch. IX. Of the Ends of Political Society and Government

§. 123. The question here is: Why would anyone give up their natural freedom in order to be subject to a whole set of civil laws? Some of that has been answered—but here it is in full:

Though in the state of nature we are free, “yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others . . . the enjoyment of his property he has in this state is very unsafe, very unsecure.” However free this state may be, it is “full of fears and continual dangers.” So we seek community with others “for the mutual preservation of life, liberty, and estate (property).” (Is this so different from Hobbes description of the state of nature as “insecure,” where life is “solitary, nasty, brutish, and short”?)
§. 124. This is then the “great and chief end” (goal) of uniting in a commonwealth: the preservation of property. The following conditions are lacking in the state of nature:
   1. A common measure of right and wrong. Though the law of nature be plain and intelligible, we are often biased toward our own interest, and ignorant of how it can be properly executed.
   2. §. 125. A knowledgeable and unbiased judge. Passion and revenge often interfere.
   3. §. 126. The power to enforce a judgment or sentence.

§. 127. From these conditions, individuals are “quickly driven into [civil] society.”

§. 131. Though we give up the equality, liberty, and executive power in the state of nature, we do it with the intention to better preserve oneself. The State is therefore obliged to provide the means for this preservation: the common measure, the unbiased judge, and the power of punishment. “And all this [is] to be directed to no other end but the peace, safety, and public good of the people.”

Our government must serve the people’s interest—not its own, not the King’s (not the father’s).

Chap. XI. Of the Extent of the Legislative Power

§. 135. The legislative power makes the laws. It is the supreme power in every commonwealth. But...
   It cannot be arbitrary. The legislature is the joint power of every member, (each of which gave up his/her power for the sake of being ruled by a legislator), and no member can give to another the power to destroy his life or take his property. An individual cannot give to another what power he does not have: In the state of nature he does not have arbitrary power over another; therefore, he cannot give it to the legislature. So, the legislator must have no other end than the good of society.
   The fundamental law of nature (i.e., the will of God) is the preservation of mankind. This is the rule for legislative power.

Chap. XII. Of the Legislative, Executive, and Federative Power of the Common-wealth.

§. 143. A well-ordered commonwealth puts the legislative power (the making of municipal laws) in the hands of several persons (or even many) so that private advantage, temptation, and neglect may be avoided.

§. 144. And since the laws need perpetual execution, and since the legislature need not constantly be making laws, the legislative and executive powers shall be separate. The executive function is to enforce the laws. It is also responsible for internal security.

§. 145. Within a commonwealth, we are individuals. But with respect to other commonwealths, we are one body in a state of nature.
§. 146. Thus the **federative** power, which is that of waging war and maintaining treaties among commonwealths—external security.

Chap. XIII. *Of the Subordination of the Power of the Common-wealth.*

§. 149. Though the **legislature** is the supreme power, it remains that the **people have the right to remove or alter it.** Under what condition do you suppose they can rightfully do that?

Thus the people always retain their right to self-preservation. Thus the community is the supreme power. But this power takes place only when the government is dissolved.

§. 150. But otherwise the legislative is the supreme power.

§. 151. Fine.

§. 152. **The executive power is accountable to the legislative and may be altered by it.**

§. 153. A point similar to 143-4. The legislative need not always be functioning (laws do not constantly need to be made). But the executive power needs always to be in force.

Chap. XV. *Of Paternal, Political, and Despotical Power, considered together.*

§. 172. **Despotical power** is “an absolute, arbitrary power one man has over another, to take away his life, whenever he pleases.” Nature does not give such a power, because it violates freedom and equality. Only captives in a just war are allowed to be treated despotically. (Consider what a “just war” would be.)

**Chap. XIX. Of the Dissolution of Government**

§. 221. When the legislative power or the **prince act contrary to their trust**—by invading the subject’s **property** and to make themselves master…etc. Then **what**, do you suppose?

§. 222. Doing so **puts them in a state of war with the people.** This dissolves any obedience the people had sworn to the legislative. Thus, the **legislative forfeits its power.**

Same goes for the supreme executor. This is Locke’s argument for the **right of revolution.**

§. 223. The danger is, due to people’s ignorance, that they might constantly dissolve the government. But since people tend to be conservative (having always an eye for their safety) this probably won’t happen.

§. 224. Does this possibility establish a “ferment for frequent rebellion”? No more than any other scenario. **When people are made miserable, they will rebel—as they should.** (A prudent Prince does not make the people miserable—Machiavelli’s point)

§. 225. **Revolutions occur infrequently and not for minor reasons.** “But if a long train of abuses, prevarications and artifices, all tending the same way, …” they cannot but feel the crushing weight of this burden.
(The American colonists used exactly this justification for the Declaration of Independence. “But through a long train of abuses and usurpations” the King…” has rendered himself eligible to be deposed. There is a lot of Lockean language in this document: http://www.archives.gov/exhibits/charters/declaration_transcript.html

§. 226. When the government has violated the rights of the people, it becomes the true “rebels,” because such violations bring the state of nature back into civil society.
(Rebellare = to make war again)

§. 227
§. 228

§. 232. “Whosoever uses force without right…puts himself into a state of war with those against whom he so uses it.” . . . “And everyone has the right to defend himself and to resist the aggressor.”

§. 233. Must [we] see [our] cities pillaged, and laid in ashes, [our] wives and children exposed to the tyrants’ lust and fury…?
 “[We] may repulse the present attempt, but must not revenge past violences.”

Why does he say you must not take revenge?

So much relevant to our present situation, don’t you think?

End.