

# Introduction to Locke's *Second Treatise*

Philosophy 322: Modern Philosophy  
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Spring 2018

## LOCKE'S POLITICAL CONTEXT

1. For much of his adult life, Locke was employed by a nobleman named Anthony Ashley-Cooper, better known as the first Earl of Shaftesbury. In 1668 Locke performed a dangerous surgery on Shaftesbury's liver, and the latter credited Locke with saving his life. Shaftesbury was one of the founders of the Whig Party, which was opposed to absolute monarchy. The Whigs advocated "excluding" Charles II's heir (and brother) James from taking the throne after Charles II's death, in large part because James was a Roman Catholic. In response, Charles II dissolved Parliament in 1679. Shaftesbury subsequently considered joining an insurrection, but he was found out and forced to leave the country. The situation for Locke became intolerable when, in 1683, a plot to assassinate the king and his brother was discovered. Locke fled to the Netherlands. In 1688, the Whig Party helped the Protestant Dutch prince William of Orange invade England and claim the throne from James II, who had succeeded his brother in 1685. As part of the Whig establishment, Locke returned to England in 1689, and remained there until his death.
2. From the 1660s on, Locke played an important role in the development of the British colonial system. He was secretary of the Lord Proprietors of Carolina (1668-71) and one of eleven members of the Council of Trade and Plantations (1673-6). With Shaftesbury, he co-authored the Fundamental Constitutions of Carolina in 1669, and he was a "Landgrave" of Carolina (a noble title that gave him control of 48,000 acres of land in the colony). From 1696-1700 he was one of seven members of the Board of Trade (i.e., "His Majesty's Commissioners for promoting the trade of this Kingdom and for Inspecting and Improving His Plantations in America and elsewhere"), and authored a number of policy recommendations and memoranda relating to colonial government. He also had a personal financial stake in the colonial economy: In the 1670s, he invested in the Royal Africa Company, the English agency set up by the Stuarts to engage in the trade of gold and slaves along the west coast of Africa, as well as in the Company of Merchant Adventurers that traded in the Bahamas.
3. Robert Filmer (1588-1653) was a Royalist whose book *Patriarcha* defended royal absolutism, including the right to raise taxes. At the time, most would have accepted the idea that all people are born subjugated to patriarchal authority; i.e., the authority of the male head of a family over the family's members. In particular, the patriarch has authority over his family's property, and can do with it as he sees fit. Filmer argued that the political authority of the

monarch is of the same type, passed down from Adam, who was granted dominion over the earth by God. The upshot is that the monarch owns and controls all property in his domain, and has the authority to lay taxes without the approval of Parliament.

4. Locke's *First Treatise of Government* responded to Filmer's argument. Its conclusions are summarized in the first few paragraphs of section I of the *Second Treatise*. In the *Second Treatise*, Locke develops a new account of political authority, property, civil society, government, and the right of revolution. His argument explicitly presents an alternative to Filmer's absolutism, and implicitly to Hobbes's absolutism. Unlike Filmer, Hobbes doesn't rest his case for absolutism on scriptural or theological grounds, but argued that subjecting oneself to such a sovereign, on the condition that all others do as well, is the rational response to the state of nature, which is a state of war of all against all. Locke's *Second Treatise* starts with a subtly but deeply different account of the state of nature. This leads him to a very different conception of the state and political authority, and a defense of a highly limited form of government as opposed to Filmer's and Hobbes's absolutism.
5. The *Second Treatise* is often regarded as one of the founding texts of *liberalism*. Liberalism is a political philosophy that revolves around the values of liberty, equality, and limited government. It is the "official" political philosophy of most contemporary western democracies; the Declaration of Independence and the US Constitution are among the most important historical expressions of liberalism. Somewhat confusingly, contemporary debates between so-called "liberal" and "conservative" political parties in western democracies presuppose the liberal framework; "liberals" and "conservatives" alike are committed to the ideals of liberty, equality, and limited government, but disagree about what those ideals mean in practical political terms.
6. Locke and most subsequent liberals understand the notions of liberty, equality, and limited government in terms of *property*; Locke's account of property will be the subject of the next handout. For now, note his definition of "political power" at the end of Chapter 1:

...a *right* of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, and in the defence of the commonwealth from foreign injury; and all this only for the public good.

#### THE STATE OF NATURE IN THE SECOND TREATISE

1. Recall that a state of nature argument requires both an account of human nature, and an account of the circumstances in which humans naturally find themselves. Locke's conception of the state of nature bears superficial similarity to Hobbes's, but underneath the surface, it is quite different. Like Hobbes, he says that people are *equal* by nature, and that the state of nature is a state of *freedom*. But what he means by these things is quite different from what Hobbes meant.
2. *Equality*.
  - (a) Hobbes's idea of natural equality of ability was purely *descriptive*. But Locke claims that people have a kind of *normative* or *moral* equality. He describes the state of equality

as one “wherein all the power and jurisdiction is reciprocal, no one having more than another” (4). By “power and jurisdiction” he does not simply mean physical or mental strength or ability, but *rightful authority*. In the state of nature, it’s not (merely) that no one *can* be the boss (as Hobbes held), it’s that no one is *entitled* to be the boss. This is an example of *egalitarianism*: the claim that people are morally or politically equal.

- (b) What justifies this egalitarian assumption? Locke says that it is “evident” that “creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection” (4). It is not clear why Locke thinks that this descriptive claim justifies the normative one; this is a topic of great scholarly debate. One influential account says that the key is that people are capable of abstract, rational thought, which in turn enables them to use reason to understand their relationship to God and his creation.<sup>1</sup>
- (c) What are the boundaries of this group of natural equals? It depends how we define “rank,” “advantages of nature,” and “faculties.” Presumably some degree of variation (particularly in natural advantages and faculties) is compatible with moral equality. But how much? An optimistic answer would be: all human beings have the relevant features to make them moral equals. A pessimistic answer would be that only some do; one can imagine sexist, racist, and ableist versions of the pessimistic answer.

### 3. *Freedom.*

- (a) Hobbes’s idea of natural liberty was that in the state of nature, each man could use his own power to preserve his own life, however he judged best, with no “external impediments.” Locke also believes that people are in a “state of perfect freedom to order their actions” in the state of nature: they are free to act “as they think fit” without asking anybody for permission, nor “depending on the will of any other man” (4).
- (b) However, Locke endorses a very important limitation. He says we are naturally free to act only “within the bounds of the law of nature” (4). The state of liberty is not, Locke says, “a state of licence” (6): there are rules governing what we may freely do, even in the absence of any society or government.
- (c) Hobbes also had a “law of nature,” but for him, the laws of nature concern solely how to act in one’s self-interest (*Leviathan*, 14.3). Hobbes’s law of nature comprises principles of *instrumental rationality*. Locke’s law of nature yields *moral* rules concerning our duties and obligations to ourselves, others, and ultimately to God.
- (d) Here are the basic tenets of the law of nature, according to Locke:
  - i. You may not “destroy [your]self”
  - ii. You may not “harm another in his life, health, liberty, or possessions”
  - iii. You must do as much as you can “to preserve the rest of mankind”
  - iv. You must not “impair ... what tends to the preservation of the life, the liberty, health, limb, or goods of another”

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<sup>1</sup>See Jeremy Waldron, *God, Locke, and Equality: Christian Foundations in Locke’s Political Thought*, Cambridge University Press, 2002.

- (e) The law of nature is prior to any conventional laws or moral customs; indeed, Locke identifies the law of nature with reason itself.
- (f) We know the law of nature because “reason, which is that law, teaches all mankind, who will but consult it” (6). Everyone in the class of equals is able to use reason, and so is capable of understanding their natural rights and duties.
- (g) The ground of the natural law is our relationship with God. We are all “the workmanship of one omnipotent, and equally wise maker ... sent into the world by his order, and about his business.” Moreover, we are God’s “property,” and hence we exist at *his* discretion, not our own. This is why we are not permitted to kill ourselves or anyone else, or prevent others from getting what they need to preserve their own lives. (Locke says that “by the like reason” we are “to preserve the rest of mankind,” but it’s not entirely clear how this works – it’s clear why we have a duty not to destroy God’s property, but not so clear why we have a duty to *care for* God’s property.)

#### 4. *The Right to Punish.*

- (a) Locke says that all those in the class of equals are not only bound by the law of nature, but are tasked with its “execution” as well. In particular, he thinks, each of us has “a right to punish the transgressors of that law,” and thereby “preserve the innocent and restrain offenders” (7).
- (b) Locke gives two arguments for the natural right to punish. The first goes like this:
  - i. Somebody in the state of nature must have the right to restrain offenders, since otherwise the law of nature would “be in vain” (7);
  - ii. Since people are morally equal in the state of nature, if one person has the right to restrain offenders, all people in the state of nature have that right.

It’s worth asking what Locke means by the first premise here. He justifies the claim by analogy with human laws, but is that an apt comparison? Why must the law of nature (which, recall, is reason itself) be enforced by human beings in order to be efficacious?

- (c) The second argument for the right to punish goes like this:
  - i. Whoever transgresses against the law of nature “declares himself to live by another rule” than the law of nature;
  - ii. Someone who lives by another rule than the law of nature is dangerous to mankind;
  - iii. The law of nature requires that we preserve mankind in general;
  - iv. So, we may “restrain, or where it is necessary, destroy” those who transgress against the law of nature (8).

Note that this argument rests on the idea of punishment as a form of *defense* against danger (“for restraint, and preventing the like offense” (11)) – and not as a form of *retribution* for wrongdoing.

- (d) In addition to the right to punish for the purpose of restraint and prevention, there is also a natural right to obtain *reparation* for harm or injury. Unlike the first right to punish, which belongs to everyone equally in the state of nature, the right of reparation belongs only to the injured party (though others who “find it just” may join the injured party and “assist him” in obtaining satisfaction from the offender (10)).

## THE STATE OF WAR

1. For Hobbes, in the absence of a sovereign, the state of nature inevitably becomes a state of war. Locke says that in what is “properly the state of nature,” people live together according to reason, without any sovereign (19). However, a “state of war” can develop between parties; Locke defines this as a state of “enmity and destruction” (16).
2. Locke gives three conditions that are sufficient for a state of war between two parties:
  - (a) *Threats to life*. When one person “declares a sedate and settled design upon another man’s life” (16).
  - (b) *Threats to liberty*. When one person “attempts to get another man into his absolute power ... i.e., make [him] a slave” (17).
  - (c) *Threats to property*. “...a thief, who has not in the least hurt him, nor declared any design upon his life,” nonetheless enters into a state of war with him from whom he designs to steal (18).
3. When an aggressor enters into a state of war with you by threatening your life, liberty, and property, you may kill him “for the same reason [you] may kill a wolf or a lion” (16). Aggressors declare themselves to be unrestrained by the law of nature, but rather ruled by force and violence, and so may be treated as “beasts of prey”.
4. When a state of war arises in the state of nature, it continues “until the aggressor offers peace, and desires reconciliation on such terms as may repair any wrongs he has already done” (20). Until then, you may treat the aggressor as a beast of prey.
5. When a state of war arises in “society,” you may kill the aggressor who is actively threatening your life, liberty, or property, but once the “actual force” is over, the state of war ceases, and you must defer to the common authority to punish the aggressor and seek reparation.
6. Locke’s discussion of the state of war brings out two important features of his overall view:
  - (a) First, the state of nature is not just a hypothetical scenario meant to justify Locke’s political philosophy. He thinks that you are actually in a state of nature with respect to another party, whenever there is no common authority to settle your disputes.
  - (b) Second, the possibility of the state of war explains why “men put themselves into society, and quit the state of nature”: when there is a common authority to settle disputes, the state of war ceases.

## SLAVERY

1. As mentioned at the beginning of this handout, Locke was involved in the slave trade, both as an advisor and policymaker for the British colonial enterprise, and as a personal stakeholder in the Royal African Company and other ventures with a financial stake in the slave trade. He was co-author of the Fundamental Constitutions of Carolina, which granted to every freeman “absolute power and authority over his Negro slaves.” However, in Chapter 3 of the *Second Treatise*, he presents a view of slavery that would make it hard to see how colonial slavery could have been justified.

2. The notion of freedom in the state of nature was defined in chapter 2. Locke now turns to the idea of freedom “in society” and “under government”. He will develop these notions much more later (particularly in Chapter 9). For now, he introduces the crucial idea that freedom in society involves being “under no other legislative power than that established, by consent”; he goes on to characterize “freedom under government” as consisting in:
  - (a) “A standing rule to live by, common to every one of that society”
  - (b) “A liberty to follow my own will in all things, where the rule prescribes not”
  - (c) “Not to be subject to the inconstant, uncertain, unknown, arbitrary will of another”
3. It is notable that these notions of freedom are defined by contrast with slavery. The fact that the liberal conception of freedom emerged in part from a discussion of slavery, by someone who was directly involved in the slave trade, merits reflection.
4. Slavery is a condition where someone else has absolute power over your life. Hence the second and third conditions of freedom under government are lacking for the slave.
5. You have no power to enslave yourself to anyone. Being God’s property, you don’t have power over your own life, and hence can’t grant power over it to someone else (23, 24).
6. The law of nature forbids slavery, with one important exception: if you have forfeited your own life by “some act that deserves death,” the person you’ve injured may “delay to take it, and make use of [you] to his own service” (23). This is no injury to you, because you can always bring the death penalty you deserve upon yourself by resisting the will of your master. (If you get tired of being a slave, there is always a way out.) A “perfect condition of slavery” is a “state of war continued, between a lawful conquered and a captive” (24).
7. How might Locke have justified the practice of colonial slavery?
  - (a) *Punishment*. Perhaps Locke thought that enslaved Africans were transgressors of the law of nature who deserved death. One problem with this rationalization is that it does not explain why enslaved Africans could be bought and sold. Nor would it justify the large number of enslaved women and children (Locke would allow that women and children can deserve death, but it is implausible to think that he would claim that all or even most enslaved women and children had committed acts that would merit it). And it provides no basis for explaining the hereditary element of the institution of colonial slavery: children born to slaves were slaves themselves, and Locke explicitly (in Sec. 182) prohibits enslaving children for the crimes of their parents.
  - (b) *Racism*. As the institution of slavery developed in the century after Locke, it came to be rationalized in terms of white supremacy. Though Locke was writing before the full development of the racialized rationale for slavery, Locke might have thought that enslaved Africans lacked some of the essential features required to belong to the class of equals described in Chapter 2 of the *Second Treatise*. If so, then they would simply not have counted for the purposes of the discussion of slavery in Chapter 4.
  - (c) *Hypocrisy*. Locke may have understood that his philosophical views undermined the legitimacy of colonial slavery, but been led by his material and political interests to adopt an attitude friendly to that institution.