ARTS1361: Mind, Ethics & Freedom
T1 2020
Locke (1632-1704) "on Property"

1. Overview

Locke is famous for his works in political philosophy:

> *The Second Treatise of Government* (ST) [1690], a classic in political theory, but his *Essay Concerning Human Understanding* [1690] is also one of the most important works of early modern philosophy.

Our concern here is only with his political philosophy and we will focus in particular on his notion of **property**.

As with Hobbes, Locke's political philosophy is one of the most influential in the western philosophical tradition. His examination of rights, freedom, property and political authority are central to how liberal democracies understand these notions.

We will talk briefly about four related issues in Locke's thought:

1. The state of nature
2. The transition to civil government
3. Human Nature
4. Property

Locke's approach in the *Second Treatise of Government* is twofold:

A. Philosophical context: He is addressing himself to a set of philosophical problems that we have already seen in Hobbes. He asks these four questions:

i. What are our obligations to the state?
ii. How and when is a government legitimate?
iii. When is revolution justified?
iv. What is the most just form of government?

B. Historical context: his answers to these philosophical questions are also directly addressed to the **contemporary political context** in which he found himself.

Despite his *Second Treatise* being addressed to the politics of his day that does not make this text merely of historical interest. The issues he examines and the powerful arguments he makes for them remain relevant to our own political context.

Locke's political philosophy is **revolutionary** — it takes power from the monarch and hands rights and power to the **productive classes.**

2. Biography

Born in 1632. Eldest son of a middle class family from Somersetshire. 1652 he receives a scholarship to Christ Church College, Oxford.

(1653-8) Oliver Cromwell was Lord Protector, and Britain's parliament was in permanent state of crisis: constantly being reformed and the balance of power shifting constantly.

He studies philosophy. After completing his degree he remained at Oxford and completed further study in philosophy. He developed a strong interest in medicine, which he studied and practiced, though he did not have a formal degree as a physician.

In the middle of the 1660's he developed an interest in politics and worked for a time as a diplomat.

1667 becomes the personal physician of Lord Ashley, Chancellor of the Exchequer. Locke worked for Lord Ashley in various capacities over the next 15 years. Lord Ashley eventually became the First Earl of Shaftesbury and Lord Chancellor in 1672. Locke served in increasingly important roles for Lord Ashley.

Locke's allegiances were not without risk. When Shaftesbury's star waned Locke was in exile in Holland for a number of years until Shaftesbury again took power in 1679, upon which he returned to England in the service of Shaftesbury.

His political theory is set against this background of support for the Whig revolution in England in 1688. While the *Second Treatise* is not a manifesto to promote that specific revolution it is a text that offers a philosophical foundation for their interests.

Locke died in 1704.

3. Political Authority

Locke and Liberalism

Locke's *Second Treatise* (ST) and Hobbes' *Leviathan,* along with Mills *On Liberty* are almost without question the most important works in English language political philosophy. Over the course of the last 150 years the tradition of political liberalism has become the **dominant** expression of government in the western world. As a consequence Locke's work in retrospect does not seem so revolutionary, because the revolutionary theories it develops have become **central to how we think of freedom and the state.**

(Locke's influence on liberalism will be discussed next week when we look at liberalism)

Political Authority: One of Locke's contemporaries (Robert Filmer 1588 -1653) argued that the authority of the king did not rest on or require the **consent** of the citizenry. Human beings were **not equal** before the law or by nature. There was instead a **hierarchy** based on a **divinely ordained natural order** that placed the King as the absolute authority and in whom all earthly power resided.

Locke's *First Treatise of Government*, the companion piece to the *Second Treatise,* is directed against this position of Filmer's.

While Hobbes and Locke share many things in common, the **core liberal principles** that Locke lays claim to **would not be acceptable to Hobbes**. As you will recall Hobbes is in certain respects a deeply conservative thinker. His concern was above all to secure peace, by making a contract with our fellow travellers in the state of nature to establish a sovereign ruler, to whom in effect we hand over the freedoms of the state of nature in exchange for security.

Hobbes' government is **not limited by rights or laws.** The authority to whom we have handed power is an absolute government and they can in effect do with us what they will and decree what they will, so long as they provide security.

Hobbes was a man of extremes: either the **sovereign had absolute power**, which he took to be the only way to provide us with security, or we were doomed to live in **unsuccessful and unstable governments** that would ultimately descend into a state of war.

4. Natural law and natural right

Self-preservation. Locke is also concerned with **self-preservation,** which he takes to be a central feature of the state of nature:

> "men, being once born, have a right to their preservation, and consequently to meat and drink, and such other things as nature affords for their subsistence" (p. 18/§25).

In Locke's case however self-preservation is best achieved by placing **clearly defined limits on government**. He feared **arbitrary use of power**, which he thought was a threat to self-preservation (p. 17/§23). To be under the yoke of an absolute sovereign was in effect to be a slave.

- Locke's concern, unlike Hobbes', was how to put **constraints** on government.
- He establishes **natural rights** in order to constrain the authority of government.
- Locke makes appeal to a social contract to establish *legitimate and limited* government by *consent*.

Natural law and Natural Right. To understand Locke's project — specifically how to constrain the power of the state — we need to briefly introduce some terminology. **Natural laws** in the context of political thought are not laws in the way that the empirical sciences talk about laws of nature, that is, causal laws governing the physical world.

- '**Natural laws and natural rights**', in the context of political philosophy, are laws that are ***outside*** **of the laws and rights** established in society.

- Historically evolved social conventions establish the norms that guide much of our action. Laws of nature, in contrast to the one's given to us through the contingencies of history, are **rational** and discoverable by reflection.

- All who have reason can discover these laws and can recognise the universal demands these laws place upon them. Natural laws ought to govern our action. Because they are rational, and not established by contingent conventions, they can be considered as **applicable to all**. Natural laws ought to govern our behaviour in a way that is ***not dependent*** on social conventions such as norms and morality. Though these natural laws, unlike the causal natural laws of the empirical sciences, are *not ones that we necessarily obey*.

Natural laws are the laws that can be deduced from natural rights.

Natural rights are *entitlements* (such as self-preservation and property): **natural laws are duties** (such as to respect the property of others). The precise nature of the relation between rights and duties is a matter of great debate in Locke scholarship.

5. State of nature:

Like Hobbes, Locke describes two basic forms of human life:

The state of nature and *political/civil society*.

- The state of nature is, as with Hobbes, a state in which there is no government or human created law. Unlike Hobbes' state of nature, Locke's is, at least initially, presented as an overwhelmingly **peaceful** state where people help each other and work together to benefit each other. It is a **fundamentally social** environment.

> "a state of peace, good will, mutual assistance and preservation …. Men living together according to reason, without a common superior on earth, with authority to judge between them, *is properly the state of nature.*" (*Second Treatis*e Chap III §19)

Certain natural rights are present that are governed by the laws of nature.

Remember that laws of nature can be deduced by reason. *So in the state of nature we are rational* and we have certain rights that *ought* to be respected by others. The laws of nature and rights of nature are laws in the sense that a rational being could discern their legitimacy and thereby act in accordance with them.

6. Transition to civil society

If Locke kept to this picture of a state of peace with few transgressing the laws of nature it is hard to see why we would give up this state and form political societies. Locke describes the state of nature as having certain "**inconveniences**" that necessitate the transition to a political community. These inconveniences appear to conflict with his own Arcadian description of the state of nature. Because of these inconveniences the state of nature will — ultimately — result in a state of war.

Why does this take place? How does peace become war?

In Locke's state of nature people can transgress its rights and laws since these laws and rights are not like the laws governing physical processes. That they may be discerned as rational and legitimate **does not** however **require that they be obeyed.**

Because some people transgress those laws we need the authority to protect ourselves from those transgressors. In the state of nature **we have the authority to enforce our** rights and laws, unfortunately this is **no guarantee** that we are able to do so.

- The lack of an **impartial judge** with the power to enforce the rights of nature makes the state of nature unworkable. In effect a few 'rotten apples' that follow their desires and not the laws of nature spoil the harmony.

In order to preserve the *in principle* potential of the laws of nature to create a harmonious form of social organisation, the subjects in the state of nature authorise an **impartial judge t**o enforce those laws and rights of nature. Critically, by so doing **they give up their right to enforce the laws of nature themselves**, with some limited exceptions.

- They hand the power to enforce those laws and rights over to another who can enforce the law and rule on their behalf.

Handing over power to a government is not, as it is with Hobbes, a divesting of almost all the rights and freedoms of the state of nature with nothing other than security in return.

Locke's government:

1. Is based on **consent**;
2. Has no **specific form** so long as it is based on majority consent. The Government can be removed, changed and modified by the consent of the majority;
3. Is **constrained** by rights and laws;
4. Has **legitimacy and power** for the most part based *only on the enforcement of these natural rights and laws*.

7. "Of Property"

The section on property is one of the most famous in the *Second Treatise*. There are many reasons for its fame:

- It can be read as the **founding justification of a bourgeoisie political order** because of how the natural rights of property are conferred: transforming common or natural land into something productive through one's labour.
- But it can also be read as a **justification for the colonisation** of countries like Australia and North America.

Self-preservation, as a right of nature, is a right **independent** of society and of God. This means it and the laws deduced from it are **constraints** on government that cannot be revoked by an act of parliament or executive decree. Locke however also describes **property as a right of nature**. Self-preservation is easy to see as a right.

How can property be a natural right?

He opens Chapter V by stating:

> "I shall endeavour to shew, how men might come to have a property in several parts of that which God gave to mankind in common, and that *without any express compact of all the commoners*" (§25/p. 18).

- The last clause of the sentence means that the laws and rights that permit private property are **not something granted by civil society**. The right to property is **not** a right granted by a law declared by the state and affirmed by its citizens.

This is roughly how he establishes property rights in the state of nature:

1. God has given the earth to human beings.
2. By so doing he has given us a right to sustain ourselves (**self-preservation**).
3. Consequently we are **permitted to appropriate from the common world** given to us by God what we need to **preserve** our life**.**

The right of property is a **corollary** (something that can be immediately inferred) of self-preservation.

Because we have a right to self-preservation and preservation necessitates transforming and appropriating the land in order that we can sustain ourselves, so we have property rights. The important thing to emphasise is that **property rights do not issue from civil society but from natural law.**

4. Locke however makes these property rights more than simply appropriating from the land that which can sustain a person.

> Each individual has: "*has a property in his own person*: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature hath placed it in, it hath by this labour something annexed to it, that excludes the common right of other men: for this labour being the unquestionable property of the labourer" (ST chap III, §27).
>
> "Thus labour, in the beginning, gave a right of property" (ST chap III, §45)

Land that was previously unexploited or 'natural' becomes property through one's labour, i.e. through the transformation of it into something productive.

Limits to Property

However, Locke needs to put limits on property otherwise this latter right (to appropriate it through labour) might interfere with others who also have the right of self-preservation described in point 1 and 2: (that God gave us the earth and that we can sustain ourselves with it). He qualifies the right to property in this way:

a. That is we must take only so much that allows others the opportunity also to **sustain themselves**.
b. We must only take as much as we can use "to any advantage of life before it spoils". We should not take so much that what we appropriate is wasted. We should leave the rest to others (§31).
c. We can only appropriate what we have **mixed our labour with**.

Had he stopped with these limitations to rights to property it would not allow us to accumulate wealth and property in **excess of our needs**. But Locke introduces a further property relation — money. *In the state of nature there is **money**.*

8. Money

- Money provides for the basis for an accumulation of wealth and property that seems to conflict with point b. Objects that might otherwise be wasted can be converted into cash. This seems to go against the frugality and other regarding character described in point b.

He argues that the introduction of money (and therefore that people can accumulate more than they need) is consistent with point b (no wastage) on the basis that the **private appropriation** of land is far more productive than land left in common.

The more productive the land, the more we are able to provide the conditions by which others can (indirectly) sustain themselves. While there might not be as much land for everyone, the rest are able to be sustained better than if the land lay fallow, because now, for example, a farmer can produce vast quantities of crops that they can sell to others.

This would still seem to exclude those without property from the productive process, but because **labour is man's property**, as he describes in the paragraph from §27 quoted above, he can sell that to another who can then use it to convert more land or resources into money. This in effect meant unbridled capitalism.

We might broadly accept that these are the principles of a modern capitalist economy, however, why would Locke make this applicable to the state of nature, to a pre-political state?

There is heated debate over how to interpret why Locke introduces money into the state of nature:

1. Some commentators argue that the introduction of money **secures unlimited property rights** and therefore inequality and his state consolidates this.

2. Others argue that he introduces money into the state of nature precisely to show that if money rewards men's industry with vastly disproportionate wealth it produces great inequality. This causes conflict and the state must precisely be established to address this.

Further issues: *how can Locke be seen as revolutionary?*
In the context of England in the 17th Century this is revolutionary.

If all the land of England belonged to the King who grants various concessions to nobleman, it was his to revoke at any time. The king could appropriate the land and wealth of the middle class at any time without compensation. This in effect meant that the state was **prone to arbitrary rule**. There is no rule of law, just law dictated by the king.

Part of what Locke is doing with his rights and laws of nature is to provide the basis for **legitimate rule,** which for him must be grounded on the rights and laws of nature not the arbitrary power of the sovereign. It also provided the condition by which ownership of land could be transferred from the nobility or the Crown to the productive classes, i.e. if the latter made the crown's land productive.

Locke's model takes power from the monarch and hands rights and power to the productive classes.

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Rousseau and the Origins of Inequality
Jean-Jacques Rousseau (1712-1778)

1. Enlightenment philosophers affirmed the civilizing effects of science, art, culture. **What distinguished Rousseau** from other thinkers of the time was his idea that civilisation had corrupting effects.

    i. Rousseau's 'natural man' is a creature **uncorrupted** by science, art and culture. This man had a 'simple reason' that allowed him to respond to his immediate concerns: satisfying thirst, finding shelter and so on. He emphasises that the **'natural' capacities** and instincts that we are provided with are superior to the habits and conventions cultivated in society.

    ii. Rousseau argues that to '**recover'** our **original nature** and thereby restore man to health, we must distinguish what is 'natural' and necessary from what is 'nurtured' and conventional. This is the ultimate aim of the text we will discuss today, the *Discourse on the Origins of Inequality*.

2. Early life history:

i. Rousseau was born into an artisan family in the city-state of Geneva. His mother died in birth. His father, a watchmaker, had no interest in the child, gave him no systematic education and abandoned him to the clergy at 10.

ii. At 13, Rousseau was apprenticed to an engraver. The engraver treated him very badly, so in 1728, at the age of 16, he left Geneva to seek his fortune. He met a French aristocrat named Francois-Louise de Warens who took him in and sent him to a Catholic school. Rousseau spent some years in and out of the house of Mme de Warens. At one point he became her lover.

iii. At school, Rousseau was given the education of a nobleman. He read Aristotle, studied Latin and dramatic arts. Deciding he was unsuitable for the priesthood, his teachers gave him training as a musician. He learned to compose music (he later unsuccessfully tried to persuade the Academy of Sciences at Paris to accept a new system of musical notation he designed).

iv. In 1743 (after some years in Paris), he was appointed secretary to the French ambassador at Venice, but they quarrelled and he was fired. He returned to Paris, where he made friends with some of the leading lights of the Enlightenment, including Denis Diderot and Jean le Rond d'Alembert, editors of the famous *Encyclopédie*.

v. Rousseau contributed several articles to the project. Ultimately, however, the direction of his thought was opposed to that of Diderot and d'Alembert, and the relationship became strained.

3. Rousseau and the Encyclopaedists

What set Rousseau apart from the ideals of the *Encyclopédie*?

The *Encyclopédie* was the most daring attempt the world had known to make knowledge available to all. The editors were intellectual revolutionaries, committed to the intellectual, cultural and moral advancement of the human race.

i. Rousseau contributed a number of articles (including a famous piece on 'political economy'). But he disagreed with some of the central tenets of Enlightenment thought. This was evident in Rousseau's first published work: *The Discourse on the Sciences and Arts*.

ii. In *The Discourse on the Sciences and Arts*, he developed the argument that, far from agents of human moral progress, the sciences and arts are the enemies of humankind. By **creating wants that only society can satisfy,** the sciences and arts are sources of enslavement!

• Remarkably, the essay took the top prize in a major essay competition. After his success Rousseau was catapulted to the notorious status of intellectual critic of the Enlightenment, just as the movement was achieving its peak.

4. The Origins of Inequality

In 1753, the Academy of Dijon ran another competition. This time the question was: 'What is the origin of inequality among men, and is it authorized by natural law?'

Rousseau's response was *The Discourse on the Origins of Inequality* (1755). It didn't win, but cemented Rousseau's philosophical reputation.

Rousseau begins by arguing that there are two kinds of inequality:

i. **Natural or physical inequalities**: inequalities established by nature (such as age, health, strength). These are beyond our control.

ii. **Moral or political inequalities**: inequalities established in society by convention (such as wealth, power, social status).

The **inequalities created by society are far greater than the natural inequalities.**

• Rousseau argues that moral and political inequalities do not have a natural origin. How did these inequalities come about? Rousseau's answer: through the establishment of **society**.

iii. Human beings have inflicted upon themselves social inequalities and they perpetuate them through the social and political structures. But they do this because they have been corrupted by society. Society itself, Rousseau argues, has corrupted the human being.

5. Overview of The "Discourse on the Origins of Inequality" (*The Second Discourse*)

Charts an imagined historical course by which the human being, through the development of society, had its original nature corrupted and deformed.

a). *State of nature:* To tell this story, Rousseau draws on the idea of the 'state of nature' most associated with Hobbes and Locke (the concept of a pre-political state of being).

- Rousseau's idea is that, to estimate the damage that social conventions and institutions have done to the human being, we first need to imagine the human being in the **absence** of these conventions and institutions.

- Rousseau admits that it is unlikely that a human being has ever existed in a pure state of nature. The state of nature is intended, not as historical fact, but as a **hypothesis** designed to show the qualities of 'natural man'.

b) For Rousseau it is the **artifice of society** that creates weakness and division in man.

Rousseau criticizes the efforts of previous thinkers, such as Hobbes, to theorize the state of nature. Prior theorists of the state of nature **imported** into their conception of the state of nature various attributes that only developed with the emergence of **society**.

> "Finally all of them, continually speaking of need, greed, oppression, desires and pride transferred to the state of nature ideas they had taken from society; *they spoke of savage man and depicted civil man*" (132/§5; also 145/§25).

c). Rousseau therefore strives to present a natural human being stripped of all qualities and characteristics associated with civil man.

- Natural humans are without fully developed reason and language, as we know them. They have basic cognitive powers – but that's it.

- They have limited social contact, finding everything they need for survival from the land and engaging with one another mainly for the sake of reproduction.

- Importantly, they know nothing of **'good' and 'evil'** – nor do they know **egoism and pride**. These things are products of society.

d). Rousseau concludes that the natural human, lacking wants and needs beyond those immediately required to sustain his body, *is not miserable, melancholy or timid.* These are inventions of civilization. *Natural man is happy.*

Note that this is **contrary to the Enlightenment view** that science, art, culture, knowledge and self-reflective thought are the necessary paths to happiness and human advancement. Rousseau turns this idea on its head: science, art, culture, and knowledge have corrupted the human being, bringing misery and inequality into the natural world.

6. Qualities and attributes *of Man* in the state of nature.

Rousseau argues that natural humans (humans in the state of nature) have two basic feelings or sentiments: (**Pre-rational principles**)

i. *Amour de soi* (love of self/self-preservation). It has a much broader meaning that the self-preservation of Hobbes and Locke. While it does entail the basic sentiment that one ought to preserver oneself, it also means that one gets one's sense of **self-worth** from oneself alone. With the advent of society, self-love is transformed into an egoistic, self-serving pride (*amour propre*).

ii. *Pity* (compassion for the suffering of other beings): "repugnance at seeing any other sensible being, and particularly any of our own species suffer pain or death" (Preface, *Second Discourse*, p. 127).

7. Faculty of Perfectibility.

The only concession Rousseau makes to the Enlightenment ideal of human progress is to ascribe a faculty of **perfectibility** to the natural human being.

- The world of the **animal is fixed by instinct**. Human beings by contrast are able to live in various environments, and are able to suspend, modify and extend their needs and they do not have to act on instincts. Perfectibility, which is a kind of rudimentary free will, is what accounts for man's success.
- Perfectibility is compensation for his **lack of instinct** since it allows 'Man' to mimic, learn and change.

Summary of state of nature for Rousseau

- The first humans are simple, **self-sufficient** yet compassionate beings.
- Life is lived for the moment and individuals have little interest beyond the satisfaction of their immediate appetites.

> "his soul, which nothing stirs, yields itself to the soul sentiment of its present existence, however near it may be, and his projects as limited as his views hardly extend to the close of the day" (*Second Discourse* §21/p. 143 not in reader)

8. How did society and its inequality emerge?

Through the institution of private property.

> "The first man who, having enclosed a piece of ground, to whom it occurred to say *This is mine*, and found people sufficiently simple to believe him, was the true founder of civil society. How many crimes, wars, and murders, how many horrors and miseries mankind would have been spared by him who, pulling up the stakes or filling in the ditch, had cried out to his kind: 'Beware of listening to this impostor; you are lost if you forget that the fruits of the earth are everyone's and the earth no one's"' (*Second Discourse* p. 161).

i. Rousseau divides the historical emergence of civil society into two phases.

a) The first is not too damaging to human well-being (p. 165): **individuals form loose associations**, they form families, and they begin to work the land. But this leads into a second more catastrophic phase.

b) The increasing **dependency of individuals** on one another leads to inequality, strife and finally war. Individuals become dependant on those with the greater share of goods. At the same time, they become more **influenced by the attitudes and values** of others and encumbered by new needs.

9. Amour-propre

- With the emergence of **private property and social living** ***amour de soi*** is **corrupted** into *amour-propre* (**vanity, self-esteem, pride)**

> "Everyone began to look at everyone else and to wish to be looked at himself and public esteem acquired a price. The one who sang or danced the best; the handsomest, the strongest, the most skilful or the most eloquent came to be most highly regarded and this was the first step at once toward inequality and vice; from these first preferences arose vanity and contempt on the one hand and shame and envy on the other; and the fermentation caused by these new leavens eventually produced compounds fatal to happiness and innocence" (*Second Discourse* §16/166)

Rousseau, is here exploring the idea that we should care about what motivates us to act, an issue that some of you will be familiar with from discussion of Harry Frankfurt in ARTS1360, and was examined By Dr Bronstein in his examination of Kant in the previous section of the course. Rousseau's concerns in the "Second Discourse" are not morality or the idea of the person, but with **social philosophy**. In his case he thinks that in society it is rarely reason that motivates us, but too often the judgment of others — this dependency on the judgment of others for our self-worth has become **pathological in civilisation**. (That who we are is fundamentally framed by the views of others and that this is often damaging to human potentiality is a central theme in existentialism, especially Jean-Paul Sartre and Martin Heidegger.)

Amour-propre marks the corruption of man from the state of nature. In society he now has become reliant on others. In the state of nature he did not depend on others for anything — his values were his own, his needs and wants were his own. Everything he needed was satisfied by his own judgement of himself and the immediate world around him.

In society his self-worth is **dependent** upon the judgement of others. This makes him dissatisfied and forever struggling to win the approval of those upon whom his self-worth is now dependent.

ii. The emergence of property and *amour-propre* led to a state of civil war.

> "Consuming ambition, the ardent desire to raise one's relative fortune less out of genuine need than in order to place oneself above others, instills in all men a black inclination to harm one another, a secret jealousy …, Competition and rivalry on the one hand, conflict of interests on the other, and always the hidden desire to profit at another's expense; all these evils are the first effect of property, and the inseparable train of nascent inequality." (p. 171)

At this point, the powerful devised a plan to secure both their unnatural gains and a common peace at the same time. They proposed a 'social contract' to cement these inequalities under law.

iii. And thus civil society was born. The civil law, Rousseau says, gave "the weak new fetters and the rich new forces, irreversibly destroyed natural freedom, forever fixed the law of property and inequality, transformed a skilful usurpation into an irrevocable right and, for the profit of a few ambitious men, henceforth subjugated the whole of mankind to labour, servitude and misery" (p. 173).

10. What is the solution?

As we will see in the next lecture, Rousseau would propose a new kind of social contract – one premised on the common good. This concept would prove highly influential in the French revolution and beyond.

The first hour of the next lecture is