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Locke contends that a state can have no powers except those that private persons have in a state of nature and transfer to the state. Rousseau denies that people have fully developed rights in a state of nature. They have possession, but not property in a state of nature, and natural liberty in a state of nature, but enjoy civil liberty under the social contract. Explain Rousseau's distinction and his argument for it. How would Locke respond? Who has the better of the argument?

In this essay, I will highlight Rousseau's distinction between natural liberty and civil liberty, using his discussion of the difference between *possession* and *property*. I will then consider Locke's response to this conception, and ultimately side with Locke's understanding of the issue.

Rousseau contends that in the state of nature we have the liberty to do whatever is in our power to preserve ourselves. This is our natural liberty, derived from our being, above all else, driven by our instinct to survive. When we enter the social contract, however, we rescind this liberty, this freedom to use our powers indiscriminately, and assume another type of freedom: civil liberty. This wilful imposition of limitations of all by all provides the condition by which we can have this different kind of liberty. It is the freedom to develop the mind, and practice morality; it is what allows us to be humans instead of beasts. Natural liberty is then to be free to use your powers, and civil liberty is to be free of them.

This qualitative shift in our condition is reflected in the distinction he makes between *possession* and *property*. Rousseau's position is that, when we observe our natural liberty, one can only acquire things through the use of force, or by obtaining them first. This, however, is a system of ownership without *right*: obeying the stronger is not an act of will, but a necessity, forming no duty to comply when the force is gone. Since force does not create duty, then it necessarily cannot create *right*. As belongings can only be kept by force in the state of nature,

they can always be taken by someone who is stronger than the current owner; and since human strength is fleeting, this results in a fundamental insecurity of ownership. Therefore, natural liberty is incompatible with *right*, and our belongings in the state of nature are merely *possessions*, not *property*.

This is in contrast to the state of ownership in civil society. In entering into the social contract, one gives up their powers and possessions to the community, thereby submitting themselves to the general will. By doing this they give up their natural liberty in order to receive civil liberty. Since everyone is part of the general will, the rules that are created are made by all, and therefore all are obliged to follow them. Thus, belongings are no longer obtained through force, but through legal delegation. Since we are obligated to respect the laws, the belongings we have in civil society are now *rightful property*. This security affords us the freedom not to focus on the maintenance of our possessions, but to exercise our minds, and replace instinct with justice. In short, it allows for civil liberty.

Locke, I think, would not disagree with Rousseau here. By this I mean that he too arrives at the emergence of property from Law. His, however, is a natural law, namely *reason*. Locke argues that we can discern, through the use of reason, that just as we are not allowed to harm ourselves, we may not harm others unless commanded by justice. And since property is a means of sustaining ourselves, it is secure even in the state of nature because it would be in violation of this natural Law to interfere with another's property. This law, Locke says, comes from God, which situates him as a sort of original legislator; something that even Rousseau concedes is necessary at the start of society. Thus, for Locke, *right* is not exclusive to civil society, as it exists in the state of nature as well. The need for civil society arises only because the

inconveniences that arise from a lack of settled law, impartial judges, and inconsistent enforcement.

Taking both arguments in full, I am inclined to side with Locke here. The deciding factor is the problem I perceive for Rousseau's arising from the consideration of foreigners, and by extension, foreign societies. In Rousseau's conception, we only have rights in civil society because they are ensured by law, which is binding because everyone agrees to place these limitations on themselves. He says that this allows for *property* not *possession*. Yet, these laws are not binding on anyone who is not part of the general will; that is, anyone who was not a part in making them. Thus, how are these supposed obligations any to apply to a foreign invader any more than the 'right of the strongest'? In other words, since the alien is not part of the making of the laws, they are not subject to them, and it appears that the only limiting factor in their acquiring of your 'property' is the overwhelming force of the community to stop him. Suppose further, that the 'property' of the community has attracted the attention of another society that is much more militarily inclined, and a genuine threat. If the laws are not binding to them, then how much less contingent is one's property in civil society than in the state of nature? All of this to say that, unless every person on the earth were to come together under a single social contract, then the relations between communities mirror those between individuals in the state of nature. The power of the stronger still prevails, and as Rousseau says himself, might does not create *right*.

Locke's view, on the other hand, solves this problem by establishing a fundamental law of nature, which applies equally to all; there are no foreigners to the law of nature. While this establishes *right* in an inherent sense, it suffers from its reliance on God as the originator. One must grant this premise for his argument to hold, but the existence of God is contentious. If it is

in fact that God under the monotheistic Christian conception does not exist, then Locke's view crumbles at the foundation. But if he is wrong about this, then I cannot conclude that we have rights based on Rousseau's argument. Thus, I find myself in a position where I must side with Locke even though his premise is questionable, else find the concept of *right* misguided in of itself.