

Liberal Read

No 25 | July 2023

Balancing the state of nature and the social contract

BOOK REVIEW

John Locke

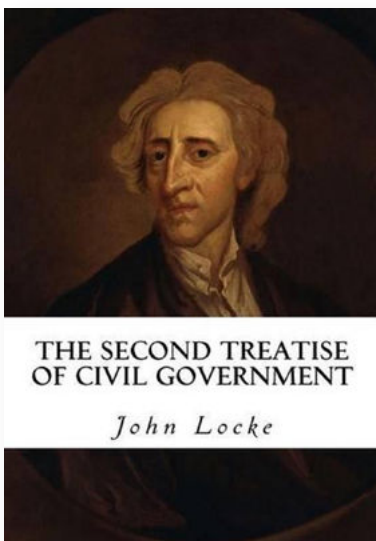
Second Treatise of Government

by Nayeli L. Riano

A series of crises has put many liberal ideas under question. Inspired by a popular commercial concept, Liberal Reads are packaged in an easily accessible format that provides key insights in 30 minutes or less. The aim of Liberal Reads is to revisit and rethink classical works that have defined liberalism in the past, but also to introduce more recent books that drive the debate around Europe's oldest political ideology. Liberal Reads may also engage critically with other important political, philosophical and economic books through a liberal lens. Ideological discussions have their objective limits, but they can still improve our understanding of current social and economic conditions and give a much needed sense of direction when looking for policy solutions in real life problems.

Liberal Read

Balancing the state of nature and the social contract



When we reflect on social contract theory and state of nature theory within political philosophy, John Locke is one of the first thinkers to come to mind. Of course, Locke was not the only thinker to have written on these two subjects. Thomas Hobbes and Jean-Jacques Rousseau also produced notable and influential accounts on this topic. By the state of nature theory, we refer to theories about the titular “natural state” of mankind before the formation and institution of government; in other words, theories about the state of mankind *absent* government. By social contract theory, we refer to theories about the reasons for which individuals in a state of nature would choose to *leave* this natural state and agree collectively to form and institute a government. Locke’s unique ideas about these two concepts have cemented his legacy in political philosophy.

These ideas are presented in Locke’s *Two Treatises of Government* (1689), specifically his *Second Treatise of Government* (1690). The *Second Treatise* is widely accepted as one of the foundational works of liberal thought, though the wider implications of Locke’s thought for contemporary political philosophy are scarcely agreed upon. An introduction to the work by Richard Ashcraft, for example, in 1987 explains that Locke’s *Two Treatises* were viewed thirty years ago as “the classic expression of liberal political ideas” since it was read “as a defense of individualism and of the natural right of individuals to appropriate private property.”¹ Ashcraft writes that the *Second Treatise*, especially, “was often characterized as the first secular expression of political theory in the modern era.”

Instead, “recent years” in Ashcraft’s time began to introduce and emphasize the “communal, religious, and traditional features of Locke’s political thought, which derive from his acceptance of the primary assumptions of Aristotelianism and Christianity ...” The important element in Ashcraft’s commentary on Locke is the apparent challenge that the very breadth of Locke’s thought poses for his students. There is no need to choose between sides in this debate, however, since Locke’s thought is complex and broad enough that it is certainly plausible that Locke managed to combine certain precepts of “traditional” Aristotelianism and Christianity within his “modern” and “secular” “liberal” political philosophy. Locke, after all, was heavily influenced by the English priest, Richard Hooker, who famously advocated for a *via media*, a middle way, between Protestantism and Catholicism. While Locke makes

1 Richard Ashcraft, *Locke’s Two Treatises of Government* (Wellington, New Zealand: Unwin Critical Library, 1987), 1.

no such statements on this religious debate, his quoting of Hooker in the *Second Treatise* indicates that Locke was familiar with the arguments of thinkers who sought to *reconcile* or *synthesize* elements of apparently opposing entities to seek this “middle way,” and it would not be perhaps too farfetched to assume that Locke was aiming to do the same with his political philosophy.

As was noted in a previous review of Locke’s *A Letter Concerning Toleration*, Locke did not limit his thought to only political matters; he wrote on religion, scripture, theology, morality, philosophy, as well as politics. It is, therefore, not a straightforward answer to simply conclude that Locke is an individualist and strict defender of private property. Instead, we must consider his other writings on morality and Christianity if we are to gain a full picture of the wider meaning behind his political thought. That said, this context-setting does not detract from what Locke affirmed to be his view on the proper sources and components of legitimate government, which we see very clearly articulated in the *Second Treatise*. What Locke asserts in the *Second Treatise* contains the institutional (and constitutional) foundations of many “liberal” governments, such as the United States. Whatever his traditional, communal, or religious commitments may be, Locke’s political influence, thus, cannot be ignored.

The *Second Treatise* is concerned with explaining “the true original, extent, and end of civil government.” As we know from Locke’s other work, *A Letter Concerning Toleration*, which was published around the same time as the *Two Treatises*, Locke viewed the separation of the civil magistrate and the church as a necessary measure to prevent civil war, since many of the causes of the English Civil War were themselves characterized by religious fervor. Locke certainly believed that the then dominance of religious authority on civil matters needed to be changed, and his *Second Treatise* depicts a setting where ecclesiastical power has no footing in *civil society*. What concerns Locke in this work is the relationship between government per se and *civil society*.

Locke acknowledges that, because all men are equal in the state of nature, all men possess “the executive power of the law of nature” and the attendant right to punish someone who violates this law. In this conceptualization, Locke references the concept of natural law, which is also de facto discoverable and known by natural reason.

Before going through the work systematically, certain themes and particular topics are worth highlighting. Two of the most notable discussions in the *Second Treatise* are Locke’s treatment of the “state of nature” and the role of property. As we will see, property is a central factor in Locke’s theory that motivates people to form a political society; yet, a political society must always balance its interests with the two inherent qualities that derive from “natural” man (i.e., man in the state of nature): his freedom and his equality. Locke’s state of nature is a condition, just as Hobbes’s treatment of it, where individuals possess the power that would legitimately belong to the government in a political society. There is no “society,” so to speak, in the state of nature; only individuals. Locke asserts that all men in the state of nature are equal and free.

However, a challenge arises follows from this statement: why, then, would anyone choose to enter into political society and leave the state of nature?

After all, Locke acknowledges that, because all men are equal in the state of nature, all men possess “the executive power of the law of nature” and the attendant right to punish someone who violates this law. In this conceptualization, Locke references the concept of natural law, which is also *de facto* discoverable and known by natural reason. While Locke does not focus too much on natural law, it is important to recognize that much of his understanding of man’s executive power in the state of nature (i.e., the right to punish wrongdoers) derives from a conception of natural law present in his epistemic framework. We can also see the influences of this natural law at play when Locke discusses rules “of reason and common equity,” which guide men toward “mutual security” (Section 8).

We should keep all of these points in mind as we begin reading Locke’s *Second Treatise*. For this review, moreover, we will not go into the details of all the sections of the work—instead, we will focus on the most popular and influential passages, read them closely, and analyze their core components. To begin, we must emphasize the opening chapter, since it is here that Locke lays out the principles by which he will define the legitimate governmental authority that stems from the inherent qualities that all men possess, *de facto*, from the fact of their original state of nature.

The first chapter of Book II marks the start of the *Second Treatise* and concludes the *First Treatise*. The *First Treatise* was Locke’s response to contemporary political theorist Sir Robert Filmer and his argument in *Patriarcha* (1680) which defended the divine right of kings to rule as a consequence of their being descendants from the biblical Adam. The *Second Treatise* opens with a discussion of Adam’s authority that counters Filmer’s position. Locke explains that Adam did not have absolute authority over his children and the world; therefore, the argument (of thinkers such as Filmer) that some men may have authority over other people and the earth as a derivation of Adam’s alleged natural right is, at root, incorrect. Not only is this a faulty reading of scripture, Locke argues, but also, its implications for contemporary men to then justify their power have dangerous consequences. As he writes, Adam’s “private dominion and paternal jurisdiction” does not imply “that all Government in the World is the product only of Force and Violence, and that Men live together by no other Rules but that of Beasts, where the strongest carries it, and so lays a Foundation for perpetual Disorder and Mischief, Tumult, Sedition and Rebellion ...”²

Locke wants to demonstrate “[t]hat the Power of a Magistrate over a Subject, may be distinguished from that of a Father over his children, a Master over his Servant, a Husband over his Wife, or a Lord over his Slave.” Locke sets out to express what he believes is the true source and substance of political authority, and his definition of political authority is the following:

Political Power then I take to be 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 defense of the Commonwealth from Foreign Injury, and all this for the Publick Good.

2 N.B. The author of this article quotes Locke’s *Second Treatise* with its original spelling and original italics as captured in the Cambridge edition of the *Two Treatises of Government*. See: John Locke and Peter Laslett, *Two Treatises of Government*, Student ed., Cambridge Texts in the History of Political Thought (Cambridge [England] ; New York: Cambridge University Press, 1988). Italics that are not within quotation marks are the author’s own.

Three elements stand out from this definition of political power. Notice first how Locke limits this power to make laws, rather than rule over others. These laws entail, at the highest level, the penalty of death and also include all “less” penalties (penalties of lesser gravity). Second, political power also *regulates and preserves property*. Third, it can *defend the commonwealth from foreign threats*.

Readers will notice how systematic Locke is in his explanation of his claims. He states that to understand his claim about political authority, we must also understand its origins. Chapter II, “Of the State of Nature” is his foray into this inquiry. From the outset, Locke tells us that the state into which all men are naturally born is “a state of perfect freedom” and a state “of equality” where power and jurisdiction are reciprocal because no one has more than another.³ In this state, there is neither subordination nor subjection. Locke goes on to cite the “Judicious Hooker”—referring to Richard Hooker—for whom this equality forms the foundation of what Locke calls “mutual Love among men” and from which derive “the great Maxims of Justice and Charity.” What is worthy of note in this statement is Locke’s emphasis, even in his discussion on the state of nature, on morality (which includes the issues of justice and charity) as something shaped by man’s natural qualities of freedom and equality.

The paragraph that follows Locke’s elaboration on the state of nature and its moral–political implications is among the most famous in the *Second Treatise*: Locke tells us that man’s natural condition of liberty is “*not a State of License*,” meaning that liberty does not grant man the permission to “destroy himself” or another “creature.” The state of nature, he assures “has a Law of Nature to govern it.” This law is none other than “Reason,” which teaches that “being all equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possessions.” From this claim Locke concludes that there can be no subordination in this condition of liberty; what is more, man also must “preserve the rest of Mankind,” not just himself, which ultimately means respecting the life, liberty, health, body, and property of other men as well.

There is, then, a moral (or natural) obligation to not harm others within the state of nature. The only exception is when men are forced to execute the law of nature to “punish the transgressors of that Law”; this is the only instance where a man can exert power over another. All men in the state of nature equally possess the ability to punish those who violate the law of nature by harming another person. This ability to punish others serves “Reparation and Restraint” and constitutes the concept of “punishment.” Notice, however, that punishment in Locke’s framework is bounded by two ends: reparation (dispensing justice to those who were originally wronged) and restraint (preventing others from violating the law of nature). The right of one man to punish another is not because one man is stronger than another or somehow superior to him, but because of “the Right he has of Preserving all Mankind.”

³ That said, in Chapter VI “Of Paternal Power,” Locke qualifies this statement by saying that children “are not born in this full state of Equality, though they are born to it. Their parents have a sort of Rule and Jurisdiction over them when they come into the World, and for some time after, but ‘tis but a temporary one.” We are all born free and equal, but we do not begin to exercise this freedom and the rationality with which we are endowed, until we reach maturity. Locke’s defense, instead, is an argument of potentiality: the fact that we all have the capability to exercise our freedom and rationality means that both are inherent qualities which must be respected from the very beginning of life.

However, even with this right to punishment bound by moral law to preserve mankind, Locke acknowledges a fundamental flaw in this state of nature which renders it volatile. Unlike Rousseau's state of nature in which men are naturally good and noble, but also unlike Hobbes's state of nature in which the natural condition of mankind makes life "solitary, poor, nasty, brutish, and short," in contrast, Locke's state of nature does not

Even though everyone is equally powerful in the state of nature, there is a problem of interpretation as to what constitutes a proper or unbiased judgment of another man's actions. As Locke admits, when cases arise in which we have to judge ourselves or others, "self-love will make Men partial to themselves and their Friends." This, combined with their "Ill Nature, Passion and Revenge" will result in their going "too far in punishing others." At this pivotal point, Locke introduces the role of government.

depict a world of blissful coexistence, nor does it depict a world of never-ending violence, but it does depict an imperfect state from which man must depart eventually. Locke's state of nature lays out certain principles of inherent qualities (freedom and equality) which bestow moral responsibilities both on us toward ourselves, and our fellow men (preservation of health, life, liberty, and possessions), but this same state of nature from which we derive these principles is not in itself enough to prevent man's imperfect nature from eventually infringing upon these qualities. Even though everyone is equally powerful in the state of nature, there is a problem of *interpretation* as to what constitutes a proper or unbiased judgment of another man's actions. As Locke admits, when cases arise in which we have to judge ourselves or others, "self-love will make Men partial to themselves and their Friends." This, combined with their "Ill Nature, Passion and Revenge" will result in their going "too far in punishing others." At this pivotal point, Locke introduces the role of government. Government, he writes, is meant "to restrain the partiality and violence of Men," making civil government "the proper Remedy for the Inconveniences of the State of Nature."

Chapter V "Of Property"—which is also one of the longest chapters in the work—introduces once more this idea of natural reason (as well as a mention of Revelation) to introduce the topic of property. In this discussion of property and the political "right"

to property, much of Locke's understanding of this subject is derived from his Christian faith and reading of scripture. Because the resources of the Earth have been left for our use by God, Locke notes, "there must of necessity be a means *to appropriate* them some way or other before they can be of any use ..." The way Locke justifies man's means to "appropriate" earth's resources becomes one of the most famous and quoted passages in the *Second Treatise*. In section 27 of Chapter V, Locke notes that man has the property of his own person, meaning that "the *Labor* of his Body, and the Work of his Hands ... are properly his." The sentences that follow are best read in his original rendering:

Whatsoever he then removes out of the State that Nature hath provided, and left it in, he hath mixed his *Labor* 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 placed it in, it hath by this labor something annexed to it, that excludes the common right of other Men. For this Labor being the unquestionable Property of the Laborer, no Man but he can have a right to what that is once joined to, at least where there is enough, and as good left in common for others.

The act of laboring, Locke asserts, is what marks the distinction between what is one's property and what is "common." The act of "mixing" our labor with nature results in property because, so the argument goes, we are using our intrinsic quality of labor—which is our own—to transform something in nature into a substance of use for our survival. This argument on property is also among the most philosophical in the *Second Treatise*. Certainly, such a theory was strongly refuted in Locke's time and continues to be refuted today by those who question the primacy, even the very legitimacy, of private property. What readers of Locke often forget to mention when defending the natural right to property, however, is that Locke himself is not a defender of property *for its own sake*; that is, simply conceived of as a form of unrestrained accumulation.

Just as this law of nature gave man a moral obligation to preserve mankind in the state of nature, so too does this law of nature also demand a moral responsibility from us when it comes to the accumulation of property, for there is a reasonable limit to how much we can call our property because it must be used "before it spoils," As Locke concludes, "Whatever is beyond this

Locke anticipates the rebuke that, if property is merely the result of nature being combined with man's labor, man could accumulate as much property as he wants. Locke refutes this argument because, he states, "the same Law of Nature, that does by this means give us *Property*, does also *bound* that *Property* too." Just as this law of nature gave man a moral obligation to preserve mankind in the state of nature, so too does this law of nature also demand a moral responsibility from us when it comes to the accumulation of property, for there is a reasonable limit to how much we can call our property because it must be used "before it spoils," As Locke concludes, "Whatever is beyond this [limit], is more than his share, and belongs to others." This qualification is essential for Locke's theory of property, for it is not an open-ended statement supporting personal greed and limitless exploitation of natural resources; instead, Locke warns us, property belongs to us only insofar as we can use it to our benefit. Accruing any more property than the amount we naturally need, Locke closes by saying, would be "useless as well as dishonest."

Skipping ahead to Chapter VIII, "Of the Beginning of Political Societies," Locke emphasizes again that the beginning of political society "depends upon the consent of the Individuals." He then turns his attention to what he anticipates will be a common refutation of this claim, which is also connected to his principle of liberty in the state of nature: if men are truly free in a state of nature, then men born into a particular government are never truly free in their joining this political society, since logically they did not consent to it from the beginning. There is, in other words, a seeming contradiction between Locke's statement about man's natural state of liberty, the importance of consent to be governed by another man or entity, and the reality of how most men become a part of a political society since their consent was never given explicitly. It is on this point that Locke introduces another key concept in his social contract thought: *tacit consent*. Locke explains,

...every Man, that hath any Possession, or Enjoyment, of any part of the Dominions of any Government, doth thereby give his *tacit Consent*, and is as far forth obliged to Obedience to the Laws of that

Government, during such Enjoyment, as anyone under it; whether this his Possession be of Land, to him and his Heirs forever, or a Lodging only for a Week; or whether it be barely traveling freely on the Highway; and in Effect, it reaches as far as the very being of any one within the Territories of that Government.

The fact that all men partake in and enjoy the benefits procured by a given political community is enough to demonstrate their “tacit” consent to be governed by such a society, Locke argues. It is for this reason that Locke emphasizes that all political communities have always, historically speaking, been formed by people who *left* other political societies with which they were dissatisfied. Tacit consent is integral to Locke’s understanding of legitimate political society, but it is equally important to bear in mind that Locke defends this theory of tacit consent, and rejects the argument that men are bound by the political societies into which they are born, by reminding us of the fact that people throughout history have left their political societies and formed new ones; the implication being that all men, in principle, equally possess this ability to leave a political society if they are dissatisfied with it.⁴

We can conclude the review of this seminal work by bringing attention to a lasting feature of Locke’s *Second Treatise*; the state of nature and civil society are not, in Locke’s philosophical framework, chronologically separated, but rather, the state of nature and civil society mark different conceptual shifts as to how man relates to authority, Locke asserts that the shift from the former to the latter, and the latter back to the former, can happen within a relatively short timeframe. The difference, then, lies in our attitude toward our government; only political rule derived from consent constitutes an exit from the state of nature according to Locke, but even political society is prone to the dissolution of legislative power changes, putting man back into his state of nature. What this relationship imparts to us who read Locke to this day, is his inculcation about the importance not only of consent but also a recognition of the ends of government and its inner workings to meet those ends. Because his is a political theory rooted in principles derived from the state of nature such as liberty and equality, as well as the natural rights to life, health, and possessions (property), Locke remains one of the foundational thinkers of liberal political philosophy.

4 This argument might be slightly idealistic, as there are many practical reasons why people in numerous political societies cannot leave their societies easily, even if they do not consent to its rule, and several critics of Locke’s political theory also take issue with his concept of tacit consent for this reason.



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