

Locke on Rights and Property

1 Rights

1.1 Where rights come from, ch. II, §6

1. God created people and therefore owns them.
2. No one has a right to damage another person's property against that person's will.
3. We can know how God wills for us to use his property by observing the faculties he gave us.
4. Human beings have "like Faculties," so we can tell that God wills that we treat one another as equals.
5. Therefore, all human beings have equal rights against being harmed.

1.2 Enforcement

Executive rights that everyone has (ch. II, §11).

1. Punishment: restraint, deterrence, for everyone's sake.
2. Reparation: compensation, making whole, only for the victim's sake.

Social contract: transfer executive rights to the civil magistrate to avoid (ch. II, § 13):

1. Partiality
2. Cycle of revenge (social disorder)

2 What was he trying to show about property?

“I shall endeavour to show, 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.” (Locke, 1988, II §25)

2.1 What’s common ownership?

2.1.1 Scripture

“And God said, Behold, I have given you [Adam -m]g] every herb bearing seed, which is upon the face of all the earth, and every tree, in the which is the fruit of a tree yielding seed; to you it shall be for meat. And to every beast of the earth, and to every fowl of the air, and to every thing that creepeth upon the earth, wherein there is life, I have given every green herb for meat: and it was so.” (Genesis 1.29-30)

“God blessed Noah and his sons, and said to them, ‘Be fruitful and multiply, and fill the earth. The fear and dread of you shall rest on every animal of the earth, and on every bird of the air, on everything that creeps on the ground, and on all the fish of the sea; into your hand they are delivered. Every moving thing that lives shall be food for you; and just as I gave you the green plants, I give you everything.’” (Genesis 9.1-3.)

2.1.2 Is consent, i.e. “express compact”, needed to go from common to private ownership?

“if ... all men were indifferently and without distinction Lords of the whole, before a division was made of some parts, then of necessity we must conceive, they all ought to remain, equally and without distinction, Lords of those parts which never came under a division, even as they were before, unless some compact or covenant intervene whereby all kind of ancient right or title of common interest shall be so renounced, that any persons whatsoever might

afterwards become particular masters of those places which should remain vacant or undisposed, who should first corporally seize them with an intent of possessing, holding, using, and enjoying. ... it must be yielded, that some such compact or covenant was passed in the very first beginnings of private Dominion or possession, and that it was in full force and virtue transmitted to posterity by the Fathers who had the power of distributing possessions after the flood." (Selden, 1652, pp. 22-3).¹

2.1.3 Problems with the consent requirement

"How the Consent of Mankind could bind posterity when all things were common, is a point not so evident: where children take nothing by gift or descent from their parents, but have an equal and common interest with them, there is no reason in such cases, that the acts of the fathers should bind the sons. I find no cause why Mr. Selden should call *community a pristine right*; since he makes it but to begin in Noah, and to end in Noah's children, or grandchildren at the most." (Filmer, 1680a, p. 213)

"Certainly, it was a rare felicity, that all the men in the World at one instant of time should agree together in one mind, to change the Natural Community of all things into Private Dominion: for without such an unanimous Consent, it was not possible for Community to be altered: for, if but one man in the World had dissented, the Alteration had been unjust, because that Man by the Law of Nature had a Right to the common Use of all things in the World; so that to have given a Propriety of any one thing to any other, had been to have robbed him of his Right to the common Use of all things. ... If our first Parents, or some other of our Forefathers did voluntarily bring in Propriety of Goods, and Subjection to Governours, and it were in their power either to bring them in or not, or having brought them in, to alter their minds, and restore them to their first condition of Community and Liberty; what reason can there be alleged that men that now live should not have the same power?"

¹ Hugo Grotius (Grotius, 1925, pp.189-90) and Samuel Pufendorf (Pufendorf, 1749, Book 4, Ch. 4, pp.361-78) had similar accounts of the origin of private property.

So that if any one man in the World, be he never so mean or base, will but alter his Will, and say, he will resume his Natural Right to Community, and be restored unto his Natural Liberty, and consequently take what he please, and do what he list; who can say that such a man doth more than by Right he may? And then it will be lawful for every man, when he please, to dissolve all Government, and Destroy all Property.” (Filmer, 1680a, pp. 234-6)

“He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. ... will any one say he had no right to those acorns or apples he thus appropriated, because he had not the consent of all mankind to make them his? Was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him. We see in *commons*, which remain so by compact, that it is the taking any part of what is common, and removing it out of the state nature leaves it in, which *begins the property*; without which the common is of no use. And the taking of this or that part does not depend on the express consent of all the commoners.” (Locke, 1988, II §28)

3 The alternative Locke wanted to avoid: absolutism

Hobbes, e.g.: no natural property rights and no property rights against the sovereign. (Hobbes, 1994a, Chs. 13-15, 17-18)

Locke’s target in the *Two Treatises of Government*: Robert Filmer.² Filmer’s absolutism was based on God’s supposed grant of absolute authority over everything to Adam and the line of first-born sons that followed him. He unconvincingly argued that this is how monarchs inherited their powers.

“I have briefly presented here the desperate inconveniences which attend upon the Doctrine of *the natural freedom and community* of all things; these and many more absurdities are easily removed, if on the contrary we maintain

² That’s why it’s significant that Locke agreed with Filmer’s rejection of the consent requirement. See the passages in the previous section

the natural and private Dominion of Adam, to be the fountain of all Government and Propriety....” (Filmer, 1680a, p. 222)

4 Locke on limits to ownership

It’s obvious from what we read that Locke thought that there are limits to private property. Here is another passage, from a part that we did not read.

“But we know God hath not left one man so to the mercy of another, that he may starve him if he please: God the Lord and Father of all, has given no one of his children such a property in his peculiar portion of the things of this world, but that he has given his needy brother a right to the surplusage of his goods; so that it cannot justly be denied him, when his pressing wants call for it. And therefore no man could ever have a just power over the life of another by right of property in land or possessions; since it would always be a sin in any man of estate, to let his brother perish for want of affording him relief out of his plenty. As justice gives every man a title to the product of his honest industry, and the fair acquisitions of his ancestors descended to him; so charity gives every man a title to so much out of another’s plenty, as will keep him from extreme want, where he has no means to subsist otherwise: and a man can no more justly make use of another’s necessity to force him to become his vassal, by with-holding that relief God requires him to afford to the wants of his brother, than he that has more strength can seize upon a weaker, master him to his obedience, and with a dagger at his throat, offer his death or slavery.” (Locke, 1988, I §42)

5 References

I have included a few secondary sources that I find helpful. Here is a quick rundown of the embarrassment of riches that we have for historical research. The seventeenth century texts are from the Early English Books Online database.³ Use Eighteenth Century Collections Online for the eighteenth.⁴ Both

³ <http://eebo.chadwyck.com/home>

⁴ http://galenet.galegroup.com/servlet/ECCO?locID=claremont_main

databases have full text searches as well as facsimiles of original editions. The Liberty Fund has an excellent collection of historical texts in ethics, political theory, and economics, including pdfs of many of their publications, searchable text (well, html), and facsimiles of the originals.⁵ Finally, the Past-Masters database specializes in full text searches, particularly of philosophers.⁶

- Filmer Robert, S. (1680a). Observations upon H. Grotius De Jure Belli & Pacis. In *The free-holders grand inquest touching our Sovereign Lord the King and his Parliament to which are added observations upon forms of government: together with directions for obedience to governours in dangerous and doubtful times*. London.
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- Locke, J. (1988). *Two Treatises of Government*. Cambridge: Cambridge University Press. Edited with an introduction and notes by Peter Laslett.
- Pufendorf, S. (1749). *The law of nature and nations*. Fifth edition London.
- Selden, J. (1652). *Of the Dominion, or Ownership, of the Sea*. London.

⁵ <http://oll.libertyfund.org/>

⁶ <http://ezproxy.libraries.claremont.edu/login?url=http://library.nlx.com/>