

subtopic

John Locke

JOHN LOCKE and the NATURAL LAW and NATURAL RIGHTS TRADITION

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John Locke is one of the founders of “liberal” political philosophy, the philosophy of individual rights and limited government. This is the philosophy on which the [American Constitution](#) and all Western political systems today are based. In the *Second Treatise of Government*, Locke’s most important political work, he uses natural law to ground his philosophy. But there are many different interpretations of the natural law, from the [Ciceronian](#) to the [Thomistic](#) to the [Grotian](#). What is Locke’s interpretation? What version of natural law supports liberal politics?

Some argue that this is a misguided question. They say that Locke’s political philosophy is not based on natural law at all, but instead on natural *rights*, like the philosophy of [Thomas Hobbes](#). This is probably the greatest controversy in Locke interpretation today. Natural law theories hold that human beings are subject to a moral law. Morality is fundamentally about *duty*, the duty each individual has to abide by the natural law. Thomas Hobbes created a new approach when he based morality not on duty but on *right*, each individual’s right to preserve himself, to pursue his own good—essentially, to do as he wishes.

Is Locke a follower of Hobbes, basing his theory on right rather than natural law? What difference does it make? One characteristic of a rights theory is that it takes man to be by nature a solitary and independent creature, as in Hobbes’s “state of nature.” In Hobbes’s state of nature, men are free and independent, having a right to pursue their own self-interest, and no duties to one another. The moral logic is something like this: nature has made individuals independent; nature has left each individual to fend for himself; nature must therefore have granted each person a right to fend for himself. This *right* is the fundamental moral fact, rather than any *duty* individuals have to a law or to each other. The priority of individual right reflects our separateness, our lack of moral ties to one another. According to Hobbes, one consequence of this is that the state of nature is a “war of all against all”: human beings are naturally at war with one another. Individuals create societies and governments to escape this condition. Society is not natural to man, but is the product of a “social contract,” a contract to which each separate individual must consent. The sole purpose of the contract is to safeguard the rights of each citizen.

This is the basic recipe for the political philosophy of liberalism—Locke’s philosophy. Locke speaks of a state of nature where men are free, equal, and independent. He champions the social contract and government by consent. He goes even farther than Hobbes in arguing that government must respect the rights of individuals. It was Locke’s formula for limited government, more than Hobbes’s, that inspired the American Founding Fathers. But what is the basis of Locke’s theory? Is it natural law or Hobbesian natural right? The Founding Fathers, in the Declaration of Independence, speak of both natural rights and natural laws. Locke does likewise. Natural law and natural right may be combined, but if they are, one must take precedence over the other. Either the individual’s right, or his duty to moral law, must come first.

What is Locke’s position? In Chapter Two of the [Second Treatise of Government](#), he asserts that men in the state of nature are free and equal, and at liberty to do as they wish—but only “within the bounds of the law of nature.” This limitation separates Locke from Hobbes. Hobbes had argued that freedom and equality, and the priority of individual right, meant that individuals in the state of nature could pursue their survival and interest without limitation. They had no duty to respect the rights of others. This is

why the state of nature was a state of war. Locke's claim is that individuals have a duty to respect the rights of others, even in the state of nature. The source of this duty, he says, is natural law.^[1]

The difference with Hobbes is clearest in Locke's argument about property. Hobbes and Locke agree that individuals have a right to property in the state of nature, but Hobbes denies that individuals have any duty to respect the property of others. This makes property more or less useless in Hobbes's state of nature. Locke says individuals have a duty to respect the property (and lives and liberties) of others even in the state of nature, a duty he traces to natural law.^[2] Natural law and natural rights coexist, but natural law is primary, commanding respect for the rights of others.

Here, then, is the issue in the natural law-natural right dichotomy: if individual right is primary, can individuals have any duty to respect the rights of others? If the fundamental moral fact is the individual's right to "look out for number one," where would a duty to respect others come from? Hobbes finds no such duty, for it would restrict the individual's liberty and his right.^[3] Locke argues for a duty to respect others' rights, but traces it to natural law, not right. Locke's view is the view most of us share—I have rights, but "my right to swing my fist ends where your nose begins." We typically think of individual rights as being coupled with a responsibility to respect the rights of others. Locke's argument suggests that this responsibility depends upon duty and natural law, not individual right, as the basis of morality.

Or does it? There is a potentially serious loophole in Locke's argument. In Chapter Two of the *Second Treatise*, he says that the individual only has a duty to respect others' rights when "his own preservation comes not in competition." If my life is threatened, I need not respect anyone else's rights, I may do whatever is necessary to preserve myself. How extensive is this loophole? If the state of nature is as violent and desperate as Hobbes said it was, with everyone under continual threat of death, Locke's duty to respect the rights of others would essentially vanish.

Some have argued that this is Locke's true meaning. In the beginning of the *Second Treatise*, Locke seems to claim that the state of nature is a place of peace and harmony. Later, however, he makes it clear that the state of nature was actually very insecure, with people's rights under continual threat. Conditions "drive" men to form a social contract for their protection.^[4] If Locke's state of nature is as violent as Hobbes's, it could mean that Locke's natural duty to respect others amounts to little or nothing, that the individual's right to fend for himself is primary after all, and that Locke is much closer to Hobbes than he seems. He might want us to think, as some Locke scholars have argued, that he is a traditional natural law thinker, while conveying a secret, "esoteric" teaching based squarely on Hobbes's individual right instead.

This is the deepest controversy in Locke interpretation today, a controversy that is sometimes acrimonious. Even for those who see Locke as a kind of Hobbesian, though, it is generally agreed that Locke believes in some degree of natural duty to respect the rights of others. In this view, Locke's argument is based on rights rather than law, but he understands the rights differently: perhaps rights imply reciprocity, or mutual respect among individuals, in a way that Hobbes failed to see. Similarly, for those who see Locke as a natural law thinker, there is controversy over the source of that law. Locke says, in the [First Treatise of Government](#) and elsewhere, that God is the source of the natural law. But God is much less in evidence in the *Second Treatise*. What is Locke's view? Further, if Locke is serious about natural law, it is clear that his version of natural law is quite different from that of other natural law thinkers, such as [Thomas Aquinas](#). Locke's natural law sanctions the basic right of individuals to pursue their own self-interest—to accumulate wealth, for example. If Locke is a natural law thinker, his version of natural law is much more individualistic, much closer to Hobbes, than were previous versions.

For contemporary Americans, one reason for studying Locke (together with Hobbes) is to understand the character of liberalism. A liberal system such as ours enshrines individual rights, but its health depends upon people exercising those rights responsibly. It depends on people taking seriously their *duty* to respect the rights of others. Many observers believe that, while Americans today are eager to claim their rights, too few are willing to shoulder the attendant responsibilities. Is a rights-based society

doomed to degenerate into simple selfishness? Or is it possible to construct a rights philosophy with a robust element of responsibility built into it? Must such a philosophy place natural law above individual right? Must this law have a religious dimension? These are questions that should send us back to Hobbes, Locke, and the architects of the [American Constitution](#).

Texts:

Locke, *Second Treatise of Government*, at Online Library of Liberty (Liberty Fund):

http://oll.libertyfund.org/index.php?option=com_staticxt&staticfile=show.php%3Ftitle=763&layout=html#chapter_65388. The portion entitled "Of Civil Government: Book II."

Locke, *First Treatise of Government*, at the same web address. The portion entitled "Of Government: Book I."

Secondary sources:

Strauss, Leo, *Natural Right and History*, Ch 5 (University of Chicago Press, 1953). This is the seminal statement of the "Hobbesian" interpretation of Locke.

Zuckert, Michael P., *Natural Rights and the New Republicanism*, Chs 7-9. (Princeton University Press, 1994). This is a more extensive statement of the quasi-Hobbesian interpretation.

Laslett, Peter, "Introduction" in the Cambridge University Press edition of Locke's *Two Treatises of Government*. This presents a more traditional interpretation of Locke as a natural law thinker.

Grant, Ruth W., *John Locke's Liberalism* (University of Chicago Press, 1987). Another interpretation of Locke as natural law thinker.

Forde, Steven, "Natural Law, Theology, and Morality in Locke" (*American Journal of Political Science* 45:2 [April, 2001], pp. 396-409). This article contains a more complete exploration of the argument between the "Hobbesian" and more traditional interpretations.

[1] These arguments are found in paragraphs 6 and 7, Chapter Two of the *Second Treatise of Government*.

[2] See *Second Treatise of Government*, Ch. 5

[3] We have duties to others in Hobbes's social contract, but those duties come from the contract, not

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from nature.

[\[4\]](#) *Second Treatise of Government* Ch 7 (§77). See also Ch. 9, §123.

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