

John Locke
(1632-1704)



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- John Locke is a fundamental thinker for the **liberal** tradition and **constitutionalism**.
- He is one of the founding fathers of Anglo-American political and legal thought.
- He was born in a Puritan family. His father was an officer in the Parliament's army.
- Locke's youth was marked by war and uncertainty, and he was initially close to Hobbes' views.
- After the monarchic restoration he changes his views.
- He meets scientists and Lord Ashley, Count of Shaftesbury, and he becomes Shaftesbury's family doctor and secretary; Locke also helps Shaftesbury in his political career.

Main political works

- In 1667, Locke publishes the **Essay on Toleration** (edited more than 20 years later in the ***Letters on Toleration***).
- Between 1675 and 1679 he lives in France because of a temporary crisis in Shaftesbury's political career.
- But in 1679 Shaftesbury recalls Locke to London.
- Between 1679 and 1683 Locke concentrates on the philosophical underpinnings of the great political issues, like origins, forms, and extension of power.
- He drafts the "***Two Treatises on Government***" that will be published anonymously in 1690.

Locke in Amsterdam

- Since 1683, mostly for security reasons, Locke lives under an assumed name in Amsterdam, an intellectually sophisticated and a relatively tolerant environment.
- There he further develops his philosophy and writes the "***Essay concerning Human Understanding***", his major epistemological work, that will be published in 1690.
- He returns to London in 1689 as the "Glorious Revolution" triumphs.
- He is immediately recognized as the author of the "***Two Treatises on Government***" (1690) and acquires the reputation of one of the foremost promoters of the revolution.

- Locke devotes himself to the defense of toleration and religious freedom:
- Four "***Letters on Toleration***" (1689-1704);
- "***Some Thoughts concerning Education***" (1693);
- "***The Reasonableness of Christianity***" (1695).
- He reflects on liberal and anti-absolutistic politics and on **constitutionalism**.
- His political thought is supported by his empiricist theories on knowledge and understanding:
- Experience and individual reason appear as tools for the liberation both of the world of ideas and of social and political life.

Two Treatises on Government

- His main political work are the "***Two Treatises on Government***" (1690).
- The first treatise is devoted to the polemic against Robert Filmer's (1588-1653) "***Patriarcha***".
- "***Patriarcha***", published posthumous in 1680, defended a traditional and **paternalistic** interpretation of monarchy and **the divine right of the kings**.
- The second treatise defended the doctrine of constitutional monarchy as emerged from the Glorious Revolution and criticized absolute monarchy and in particular Hobbes' ***Leviathan***.
- Locke says that the doctrine of absolute monarchy leaves sovereign and subjects in the state of nature towards one another.

Against Filmer

- Locke rejects as absurd the underpinnings of the political theory of Filmer's "*Patriarcha*":
- It is impossible to demonstrate that the kings descend from Adam, and so their claim to a divine right to rule.
- Also, contrary to what Filmer claims, not even Adam was given by God or by nature an authority over his descendants or a domination over the world;
- even if this was the case, Adam's descendants could not claim the same right.
- So Filmer's theory cannot be used to explain and justify society and political power.

The specific nature of political power

- According to Locke, civil society has a rational and natural origin; and
- Political power is distinct from paternal power (a father over his children) and from despotic power (a master over his slaves).
- At the beginning of the second treatise Locke gives a definition of political power:
- *"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 defence of the common-wealth from foreign injury; and all this only for the public good".*

- In this definition there appear already all fundamental elements of Locke's political and constitutional conception, based on natural law and on a new interpretation of the social contract.
- Paternal and despotic forms of power (the latter including absolute monarchy) belong to the state of nature; they disappear with the transition to civil life.

The state of nature

- Locke imagines the state of nature in a completely different way from Hobbes'.
- There is here a strong influence of the doctrine of natural law.
- The state of nature is a condition of equality and freedom, ordered by the use of reason.
- Men, as independent individuals, can pacifically coexist and have productive relations among them.
- They form a sort of "natural society".

Work as the source of property

- Men in the state of nature are free and active, and they have property.
- Property is defined in a modern way as individual possessions that result from the value added to unanimated things by human work.
- Human work occupies a central place: It is work that gives meaning and economic value to things, and removes things from the common right of other individuals.
- Work and not privilege is the source of property.

- Work creates property. The extension of property is initially limited by the natural limits of any human being:
- A man can claim as his own all the land that he can cultivate and ameliorate, not more.
- Optimistic vision of a world where natural resources are not scarce, but abundant and relatively easy to use;
- there is a balance between resources and needs, there are no struggles for the appropriation of resources.

- The existence of a production surplus and the invention of money, then, allow for a theoretically unlimited growth of property beyond the natural limits of individual work.
- This is a clearly capitalistic attitude and indeed Locke influences the evolution of economic thought.
- Locke's idea of the state of nature couldn't be more distant from Hobbes':
- Abundance, peace, benevolence, reciprocal assistance - not hunger, hostility, evilness, and insecurity.



So what's the problem with the state of nature?

- So what's the problem with the state of nature?
- In the state of nature, each individual is judge of himself.
- Every individual has the right to punish transgressors.
- If conflicts arise, there doesn't exist an impartial magistrate who can solve them.
- This leads to a condition of instability and precariousness that can slide into violent conflict.
- To avoid this, individuals agree to unite into a civil society and create a government.

The original contract

- From this "**original contract**" the “civil” or “political society” is born.
- In the new, civil condition, there is a superior power that guarantees the rights of all.
- So political power does not take all of the individuals' rights, as in Hobbes' version of the social contract;
- For Locke, government is established merely to assert, reinforce, and guarantee the natural rights.
- Property, very broadly defined, contains most of the natural rights.
- So the state is created to protect individual property, that increases through work and enrichment).

- The "original contract" is an invention that allows to conceive of a natural, conventional, and secular basis for government.
- There is no sacrality or mystery, but utilitarianism and good sense.
- The contract is not based on coercion or fear, but on trust and consent.
- The result is "civil or political government".
- By "government" Locke means the entire state apparatus.
- Sometimes he uses "government" and "political society" as synonyms, unless it is necessary to distinguish for technical reasons.

Legislative power

- The purpose of government is receiving from individuals the natural right to make justice by oneself.
- This is the only right that is "lost" to the state.
- Supreme power, that Locke doesn't call "sovereign", expresses itself in the **rule of law** and in the taking of decisions by **majority**.
- Locke calls this power "**legislative power**".

Form of state

- The holders of legislative power determine the form of state:
- Legislative power held by the majority = democracy
- Legislative power held by few people = oligarchy
- Legislative power held by one man = monarchy.
- Locke prefers a mixed form of state.
- The state must include the characteristics of the three classic forms; and
- Keep them in balance by means of a system of subdivision and hierarchization of powers.
- This is the theory of the separation of powers that is of fundamental importance for liberal political theory (see Montesquieu etc.).

Horizontal separation and vertical hierarchization of powers

- Horizontally, the supreme power is the **legislative** one, which is trusted to an elected parliament that represents the majority of the population.
- Then there is the king's **executive power**, that participates to a minor extent to legislative activity, but above all executes the legislation decided by the parliament.
- The king also holds the "**federative power**" (foreign policy, diplomacy) and the "**prerogative**" (a discretionary power for that must still be exerted within the limits set by the parliament).

- Vertically, legislative power is superior to the executive and federative powers and to royal prerogative.
- Locke does not mention an autonomous judicial power.
- Judicial power is included in legislative power.
- Even legislative power must be motivated by public interest and may not exceed its limits.
- In case the government commits "a long series of abuses", the **right of resistance** against tyranny is permitted.

The people is the supreme judge

- So the supreme judge and holder of the original power is always the people.
- In case of tyranny, the people has the right of dissolving the government and creating another one.
- There is here a clear link to the earlier Renaissance monarcomachs and to the later democratic and revolutionary theories.

Toleration

- The Letters on Toleration, published anonymously, express ideas developed in Holland (also under the influence of Dutch philosopher Baruch Spinoza).
- In particular, they assert the principle of the non-encroachment of the civil magistrate in religious matters.
- Toleration can be defined as lack of state persecution for religious differences.
- This principle is developed in the framework of Locke's constitutional system, and in relation with the emergence of an independent public opinion which enjoys religious freedom.

Religious and secular spheres are autonomous

- For Locke, government is established to better guarantee pre-existing rights.
- There remains an area where individuals think and act in accordance with their moral and religious convictions.
- This area, until it doesn't interfere with the functioning of the government, is free and remains outside of the scope of government.
- The two spheres are autonomous.

"... the Church itself is a thing absolutely separate and distinct from the commonwealth. The boundaries on both sides are fixed and immovable. He jumbles heaven and earth together, the things most remote and opposite, who mixes these two societies, which are in their original, end, business, and in everything perfectly distinct and infinitely different from each other. No man, therefore, with whatsoever ecclesiastical office he be dignified, can deprive another man that is not of his church and faith either of liberty or of any part of his worldly goods upon the account of that difference between them in religion" (First Letter concerning Toleration).

- The civil magistrate cannot encroach on matters of faith because his power is physical coercion, compulsion; but compulsion can do nothing in spiritual matters.

"... the magistrate ought not to forbid the preaching or professing of any speculative opinions in any Church because they have no manner of relation to the civil rights of the subjects. If a Roman Catholic believe that to be really the body of Christ which another man calls bread, he does no injury thereby to his neighbour. If a Jew do not believe the New Testament to be the Word of God, he does not thereby alter anything in men's civil rights. If a heathen doubt of both Testaments, he is not therefore to be punished as a pernicious citizen. The power of the magistrate and the estates of the people may be equally secure whether any man believe these things or no. I readily grant that these opinions are false and absurd. But the business of laws is not to provide for the truth of opinions, but for the safety and security of the commonwealth and of every particular man's goods and person" (First Letter concerning Toleration).

Not religion but oppression causes rebellion

- Not religious differences, but lack of toleration and oppression are a danger for society and bring sedition and war:

"... if men enter into seditious conspiracies, it is not religion inspires them to it in their meetings, but their sufferings and oppressions that make them willing to ease themselves. Just and moderate governments are everywhere quiet, everywhere safe; but oppression raises ferments and makes men struggle to cast off an uneasy and tyrannical yoke. I know that seditions are very frequently raised upon pretence of religion, but it is as true that for religion subjects are frequently ill treated and live miserably. Believe me, the stirs that are made proceed not from any peculiar temper of this or that Church or religious society, but from the common disposition of all mankind, who when they groan under any heavy burthen endeavour naturally to shake off the yoke that galls their necks" (First Letter concerning Toleration).

Limits of toleration

- Toleration, however, does have limits.
- Roman Catholics and atheists cannot be tolerated.
- Roman Catholics because they are loyal to the Pope, who is another sovereign and potentially hostile to England.
- So this is essentially a political reason, a risk of disloyalty.
- Atheists cannot be tolerated because, since they believe there is no God, their promises and their oaths have no basis.
- So they cannot be trusted and remain a threat for society.

Every church is orthodox to itself

- If there are competing churches, which one should have the power?
- The answer is clearly that power should go to the true church and not to the heretical church.
- But Locke claims, this amounts to saying nothing because every church believes itself to be the true church, and there is no judge but God who can determine which of these claims is correct.
- Thus, **skepticism** about the possibility of religious knowledge is central to Locke's argument for religious toleration.