

PHILOSOPHY ADVANCED

SEM-4 SECB

HUMAN RIGHTS

What is John Locke's theory of natural rights and justification for a limited government

The state of nature is a condition without civil authority, in which peace and mutual distrust prevails. The law of nature has no person to overlook its enforcement because everyone serves as the judge, jury and executioner. Therefore, there is a need for political authority and power to ensure that certain inalienable rights are protected.

Natural Rights

Basic rights

The first part of the theory of natural rights consists of basic rights which are derived from the law of nature and encompasses such things as life, liberty and property. The theory mandates that the highest priority be given to individual self-preservation and whatever is necessary to achieve the preservation of the individual.

That in the state of nature every one has the executive power of the law of nature, I doubt not but it will be objected, that it is unreasonable for men to be judges in their own cases, that self-love will make men partial to themselves and their friends; and on the other side, that ill nature, passion and revenge will carry them too far in punishing others... I easily grant, that civil government is the proper remedy for the inconveniences of the state of nature" (Second Treatise)

However, Locke does not simply advocate an egoistic self-preservation, but also calls for the need to consider others as our equal. For example, the right to life is applicable to every human being, but we also need to take into consideration the preservation of others in so far as not harming or killing them.

Locke distinguishes between duties and liberties. A liberty is the power to do or acquire something in the absence of a prior duty. (Paul Kelly) The right to acquire property is a liberty. That is if we do not take property that was previously owned by someone else.

We cannot steal property. We need to ask the owner for permission to sell his property. Acquisition of property is also a duty. That is because property restricts the liberty of others and imposes duties upon them.

Children only gain natural rights when they mature. There are duties such as preservation not only of ourselves but also of others. However, preserving other does not mean to help them to survive.

Special rights

The second part of the theory of natural rights consists of special rights. There are non-consensual and consensual special rights. (Paul Kelly) Non-consensual special rights, as the name suggests, do not require the consent between two individuals.

The main difference is therefore consent. The relationship between a parent and a child is of such nature. However, Locke clearly states that not everyone can exercise non-consensual rights. A person who is not a parent can obviously not exercise those special rights. The relationship is not chosen and thus consent is not necessary. The right to acquire property and the right to punish are additional examples of non-consensual rights.

Consensual special rights, on the other hand, are rights which are based on consent. In a sense, it is an arrangement with other individuals in which power is transferred to another person or authority such as political rights. For example, consensual rights exist as part of an agreement between two individuals to whom those rights belong.

Another important element of Locke's theory of natural rights is that it bears the name natural. According to Locke, those rights are natural because they are pre-political that is to say that everyone in the state of nature is entitled to them.

Pre-political is the state of nature which arises before any form of political authority. Thus, in a sense, Locke's natural rights are similar to contemporary human rights.

However, there is an important distinction to draw. Natural rights are prior to moral and cultural conventions. (Paul Kelly) Locke's whole line of argument on natural rights rests upon the assumption that even without moral and cultural conventions, and rights occurring in the state of political authority, human beings would still have some natural rights that are binding.

For men being all the workmanship of one omnipotent, and infinitely wise maker; all the servants of one sovereign master, sent into the world by his order, and about his business; they are his property, whose workmanship they are, made to last during his, not one another's pleasure. — John Locke

According to Locke we are all the workmanship of one omnipotent, and infinitely wise maker. So what further makes those rights natural is that we are all entitled to them since we do not own ourselves but are the property of God. Locke appeals to what human beings have in common rather than what makes them different.

Locke's natural rights can be compared to contemporary human rights, but natural rights are wider in scope in so far as they have less restrictions. Locke's natural rights are not the product of political, legal and social convention, but held in virtue of our common nature. (Paul Kelly)

Locke emphasizes that his natural rights are not simply a claim to a right, but suggests that by simply being human, we have certain inalienable rights that are hence pre-political.

Men being by nature all free, equal and independent, no one can be put out of the this estate and subjected to the political power of another without his own consent. (Second Treatise)

Locke's theory of natural rights has come under scrutiny in a number of ways. Some say his theory of natural rights is only one of duties. Although Locke's theory encompasses duties, it also incorporates liberties. For example the right to life is a duty, and the right to property is not a duty. The distinction being volition in so far as the right to life comes with the duty to preserve another's life, while the right to property does not oblige one to own property.

The concept of duty plays an important role in Locke's account of natural rights but the concept of liberty is equally significant. Liberal thinker Nozick believes that we have the right to suicide, whereas Locke thinks that we do not have that liberty. Thus, the need for self-preservation becomes a duty in so far as we do not have the right to kill ourselves. Nozick claims that human beings own themselves and should not be considered as property of God.

Limited Government

Locke justifies his doctrine of limited government by advocating that a restrained government is the best way to protect rights. For example, the right to property is one of the natural rights and therefore pre-political. As a result government cannot violate this right.

There are certain important rights, upon which the government cannot infringe. Although Locke stays rather neutral on the question of what form of government is appropriate, he stresses that a limited government is given by consent and restricted by subordination of power.

The right to revolution is another important element and justification for a limited government. When governments become repressive or when they become abusive of natural rights, people have a right to turn against their government. (Steven Smith)

Locke advocated, far more than any of his predecessors, that constitutional restraints and rule by law will ensure that people's rights are protected. Locke does not support Hobbes's view that one leaves the state of nature to enter a state of political authority in order to vest all power into one entity.

Instead there needs to be checks and balances. Locke's justification for limitations on government stems from showing that an absolute sovereign cannot be an adequate way to protect rights. Because of government's obligation to not only respect but also enforce rights, a limited government is more suitable to fulfill that role.

“There can be but one supreme power, which is the legislative, to which all the rest are and must subordinate, yet the legislative being only a fiduciary power to act for certain ends, there remains still in the people a supreme power to remove or alter the legislative when they find the legislative act contrary to the trust reposed in them.” — John Locke

Thus, Locke establishes a framework for government in which the sovereign can be held accountable by and it is justified in so far as the people have the right to replace a government that is using its power arbitrarily and is not upholding its duties of protecting natural rights.

Locke's theory of natural rights consists of basic and special rights, and duties and liberties. Certain rights are inalienable and pre-political. Locke believes that an absolute government is not likely to protect natural rights, and therefore establishes a line of argumentation to support his doctrine of limited government with rule by law and division of power. The people also have the right to revolution if the government does not honor their natural rights. In contrast to a totalitarian or absolute government, Locke's limited government can be held accountable to its action. How effective can a limited government protect those natural rights? Regardless, a limited government with rule by law is more likely to protect and enforce natural rights than an absolute government with arbitrary rule.

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