

Chapter 3

Natural Rights

Man being born ... with a title to perfect freedom

...

[M]an in the state of nature [is] absolute lord of his own person and possessions, equal to the greatest, and subject to no body

...

[N]o body can desire to *have me in his absolute power*, unless it be to compel me by force to that which is against the right of my freedom, *i.e.*, to make me a slave. To be free from such force is the only security of my preservation; and reason bids me look on him, as an enemy to my preservation, who would take away the *freedom* which is the fence to it

John Locke (1689/1980), *Second Treatise of Government*: §87, §123, §17.

In chapter 1, I contrasted Locke's view that the state of nature has a law of nature to govern it with Hobbes' view that the state of nature is a moral free-for-all that results in the war of all against all. On Hobbes' view, we need to escape the state of nature by establishing a sovereign whose commands—no matter what they are—define what is lawful and just. On Locke's view, there are natural objective standards of lawfulness and justice that are independent of any sovereign's commands and that morally bind all individuals—including any sovereign who may arise.

In chapter 2, I contrasted Locke's understanding of our freedom with Hobbes' understanding. On Hobbes' view, freedom is a matter of doing whatever one desires to do. In contrast, Locke holds that freedom is a matter of doing as one sees fit with one's own person (including one's liberty, limbs, and labour) and one's possessions. On Hobbes' view, each person's freedom is likely to come into conflict with the freedom of others. On Locke's view

each person's genuine freedom is compatible with the like freedom of all other persons. Hence, peaceful social order does not call for the comprehensive surrender of freedom. Rather, it calls for more finely articulating the boundaries between our respective spheres of freedom and more reliably enforcing those boundaries.

In this chapter, I present Locke's arguments for each person possessing a natural right to freedom. Locke's view is that each person's right to freedom takes the form of each person's rights over his or her own person and his or her possessions. The right to freedom and the right not to be deprived of discretionary control over one's person and possessions are two sides of the same coin. In addition, Locke equates infringements on one's freedom with being subordinated to the will of others. Thus, Locke's arguments for respect for individual freedom sometime focus on the reasons we each have to demand freedom for ourselves and to acknowledge others' like demand for freedom; sometime focus on the claim that each of us has against being harmed "in his life, health, liberty, or possessions"; and sometime focus on the reasons that it is unjustified for any individual to be subordinated to the will of *another* (*ST* §4, §6).

I will explicate three strong arguments that Locke offers for ascribing to all persons a natural right to liberty that do not depend on contentious theological premises. I shall also discuss one weaker argument that does depend on the theological premise that human beings are the "workmanship" of God. I explain why this argument does not yield the core conclusion about human rights that Locke himself seeks to establish.

However, an explication of Locke's arguments for a natural right to freedom must begin with a crucial moral contention that provides the background for these arguments. In an unpublished note written in the late 1670s, Locke writes: "Morality is the rule of man's actions for the attaining of happiness. ... For the end and aim of all men being happiness alone, nothing could be a rule of law to them whose observation did not lead to happiness and whose breach did [not] draw misery after it" ("Morality"; in Locke, 1997: 267).

In his *Essay Concerning Human Understanding*—which was published in 1689, the same year as the *Two Treatises* and *A Letter Concerning Toleration*—Locke maintains that all happiness is "the proper object of desire in general". However, each individual is moved only by those realizations of happiness "which make a necessary part of his happiness. ... All other good, however great in reality or appearance, excites not a man's desires who looks not on it to make

a part of that happiness wherewith he, in his present thoughts, can satisfy himself” (Locke, 1959, *Essay Concerning Human Understanding*, vol. 1: 341). And in another unpublished note composed shortly before the publication of the *Two Treatises*, Locke writes: “’Tis a man’s proper business to seek happiness and avoid misery” (“Thus I Think”; in *Locke*, 1997: 296.) So, the core background premise for Locke’s arguments for natural rights is that each person rationally pursues personal happiness.

The idea that it is rational for individuals to seek their individual good—whether that be spelled out in terms of happiness or self-preservation or preserved liberty—reappears in the *Second Treatise* when Locke tells us that people will enter into society, “only with an intention in every one the better to preserve himself, his liberty, and property; (for no rational creature can be supposed to change his condition with an intention to be worse) ...” (*ST* §131).

However, in the *Two Treatises*, Locke does not focus directly on the rationality of the pursuit of personal happiness. Rather, he focuses on the rationality of the pursuit of self-preservation and the rationality of each individual’s demand that her freedom be respected. Self-preservation comes to the fore because it is the key condition for each individual’s attainment of personal happiness. This is why the law of nature includes a “fundamental, sacred, and unalterable law of self-preservation ...” (*ST* §149). Freedom comes to the fore because freedom from restraint and violence by others is the key condition for each individual’s attainment of self-preservation: “To be free from such force is the only security of my preservation; and reason bids me look on him, as an enemy to my preservation, who would take away the *freedom* which is the fence to it ...” (*ST* §17). Respect for freedom is the interpersonal principle that each individual rationally calls upon others to obey and each individual recognizes the rationality of all others calling upon him to obey.

Let us now consider four particular arguments on behalf of the natural right to liberty that can be extracted from Locke’s text: the *Generalization Argument*, the *Workmanship of God Argument*, the *Not Made for Others’ Purposes Argument*, and the *By Like Reason Argument*.

The Generalization Argument

Locke presents a long passage from the theologian and political thinker, Richard Hooker. In this passage, Hooker argues that, if you make a claim to

receive benefits from others, you must recognize that others have a like claim to receive benefits from you. For, we are by nature moral equals and “those things which are equal, must needs all have one measure” (*ST* §5). This passage has to be read in the context of Locke’s assertion that the claim that each rational individual makes against all other persons is the claim to freedom (*ST* §17). Since each person rationally advances a claim to freedom against every other person and each other person is his moral equal “in respect of jurisdiction or dominion one over another”, (*ST* §54) each person is rationally committed to recognizing each other person’s like claim to freedom.

The Workmanship of God Argument

In the midst of his other arguments for a natural right to freedom, Locke fairly abruptly declares, “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 ...” (*ST* §6). The key non-theological premise here is one that will be crucial to Locke’s subsequent account of human property rights. It is that, if one creates something through one’s labour upon previously unowned material, one has a right to that created object. Within the Workmanship argument, the theological premise is that God is the creator and human beings are His products.

The main problem with this argument for Locke is that it does not have the conclusion that Locke himself seeks. For the conclusion of this argument is that it is wrong for Abe to kill Bea for the fun of it because doing so would violate *God’s property right* in Bea. The argument, if sound, establishes *God’s* right over everyone, not everyone’s right over his or her own person. Rather than establishing human rights, it implies that there are no fundamental human rights. It implies that the permissibility of any action by any person depends upon God’s granting permission for that action. Although someone may want to endorse this view, it is not compatible with the Lockean view that human beings have moral rights against one another on the basis of the sort of beings we are and not on the basis of God’s will.

The Not Made for Others’ Purposes Argument

This argument is expressed in the clauses that immediately precede and immediately follow the statement of the *Workmanship Argument*.

The state of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all *equal and independent*, no one ought to harm another in his life, health, liberty, or possessions: ... [the Workmanship of God argument is inserted here] ... and being furnished with like faculties, sharing all in one community of nature, there cannot be supposed any such *subordination* among us, that may authorize us to destroy one another as if we were made for one another's uses (ST §6)

We are equal *and independent* beings—beings each of whom rationally pursues his or her own preservation and happiness. Each of us has a fundamental purpose of our own and, hence, none of us exist to serve the purposes of others. We are, so to speak, made for our own purposes and not for one another's purposes. If Abe subordinates Bea to his will, if he treats Bea not as a being with a guiding purpose of her own but, rather, as a bit of material morally available for his use, Abe's conduct contravenes the fact that Bea is an independent being with a guiding purpose of her own. Any such subordinating action is contrary to reason and is unjustified.

If we take full account of the fact that each person is naturally an equal and independent being, we have to conclude that each “man in the state of nature [is] absolute lord of his own person and possessions, equal to the greatest, and subject to no body ... ” (ST §123). Note that even though the *Workmanship of God Argument* does not yield human beings having rights over themselves, Locke may have seen this argument as supporting the *Not Made for Others' Purposes Argument* because, if we are all made for God's purposes, we are at least not made for one another's purposes.

The By Like Reason Argument

Immediately following the *Not Made for Others' Purposes Argument*, Locke contends (in a heck of a sentence) that

[e]very one, as he is *bound to preserve himself*, and not to quit his station willfully, so by the like reason, when his own preservation comes not in competition, ought he, as much as he can, *to preserve the rest of mankind*, and may not, unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another. (ST §6)

At first blush, Locke seems to be saying that, just as each person should preserve himself, he should also preserve everyone else—at least, when the preservation of others “comes not in competition” with his own preservation. Yet this reading of Locke’s *By Like Reason Argument* must be mistaken.

For one thing, such a positive duty to “preserve the rest of mankind” would be inconsistent with Locke’s view that we are naturally independent beings who are not born to serve one another’s purposes. Moreover, Locke never characterizes the duty to “preserve the rest of mankind” as an affirmative duty to promote everyone else’s preservation. Rather, he explicates the duty as a negative requirement not to “take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another” (*ST* §6). It is a duty to “be restrained from invading others rights, and from doing hurt to one another” (*ST* §7). In short, Locke himself takes the duty to “preserve the rest of mankind” to be the duty to respect their rights to discretionary control over their own persons and possessions, that is, to respect their rights to liberty.

How, then, can Locke’s *By Like Reason Argument* be understood as an argument for this right to freedom? I suggest that the argument goes as follows: Just as one ought to preserve oneself, so too ought every other person to preserve him or herself. You have reason to seek your commodious preservation and each other person *by like reason* properly seeks her commodious self-preservation. What is the import of this striking fact about *other* people for *your* conduct toward them? The import for you cannot be that you should include everyone’s ends in your own ends. For that would construe you—and every other individual—as existing (almost entirely) for everyone else’s purposes.

Rather, the import for you of each other person having their own commodious preservation as their respective proper end is that you *allow* all other persons to employ themselves and their possessions as they choose in their pursuit of their own ends. Others having—like oneself—ends of their own provides each of us with reason not to interfere with others’ (non-interfering) efforts to achieve their ends. One recognizes the status of others as independent beings with ends of their own by not pursuing one’s own ends in ways that treat others as mere means to one’s own ends.

According to Locke, the basic right to freedom does not exhaust the natural rights to which all persons are born. In the state of nature, if someone is about to violate your right to freedom, you may do more than request that she desist. You have a right to require her—through coercive action if necessary—to

respect your right to freedom. Locke supports this natural right of self-defence by arguing that rights violators have themselves abandoned the law of nature, that is, the rule of reason, and hence, they can no longer claim protection under that law. Rights violators use or seek to use “force without right” and thereby they put themselves in a state of war with their intended victims (*ST* §19): “one may destroy a man who makes war upon him ... for the same reason that he may kill a *wolf* or a *lion*; because such men are not under the ties of the common law of reason, have no rule, but that of force and violence, and so may be treated as beasts of prey ...” (*ST* §16).

In addition to self-defence, individuals may permissibly use force in the aftermath of rights violations to extract reparation from violators and to punish violators. If you steal my goat, I may forcibly retrieve it by, say, entering your yard without your permission or threatening to beat you up unless you return the goat. If you have already eaten the goat, I may use force to secure some alternative form of reparation, for instance, a dozen chickens. Furthermore, I may use force to punish you: “each transgression may be punished to that degree, and with so much severity, as will suffice to make it an ill bargain to the offender, give him cause to repent, and terrify others from doing the like” (*ST* §16). After collecting those dozen chickens, I may give you a whack or two on the head.

Locke holds that each person in the state of nature has the right to punish any rights violator, not merely those who have violated his own rights. Each violation, “being a trespass against the whole species, and the peace and safety of it, provided for by the law of nature, every man upon this score by the right he hath to preserve mankind in general, may restrain, or where it is necessary, destroy things noxious to them ...” (*ST* §8). However, this right “to preserve mankind in general” only allows one to restrain or, if necessary, destroy violators of rights, that is, those who without provocation take away or impair the life liberty, or possessions of others.

