

## Chapter 8

# Resistance against Unjust Force

The injury and the crime is equal, whether committed by the wearer of a crown, or a petty villain. The title of the offender, and the number of his followers, make no difference in the offence, unless it be to aggravate it.

...

[W]herever the power, that is put in any hands for the government of the people, and the preservation of their properties, is applied to other ends, and made use of to impoverish, harass, or subdue them to the arbitrary and irregular commands of those that have it; there it presently becomes *tyranny*.

...

Whosoever uses *force without right*, as every one does in society, who does it without law, puts himself into a *state of war* with those against whom he so uses it; and in that state all former ties are cancelled, all other rights cease, and every one has a right to defend himself and *to resist the aggressor*.

John Locke (1689/1980), *Second Treatise of Government*: §176, §201, §232.

This final chapter will describe Locke's bold doctrine of justified forceful resistance against state agents—monarchs, legislators, or their henchmen—that encroach upon the rights of individuals and of political society. Recall that *Two Treatises of Government* was largely composed in the early 1680s. When it was published in 1689, it was seen—and served—as a justification after the fact for the Glorious Revolution of 1688, which deposed James II, the successor to Charles II. However, it was initially composed in support of attempts by Locke's patron, Lord Shaftesbury, to check the power of Charles II.

As was mentioned in the Introduction, a deep premise of Locke's doctrine of justified resistance is that state agents, including heads of state, are subject to the same fundamental moral constraints as ordinary persons. If a certain

type of action by a private individual violates the rights of another individual, an action of the same type performed by a state agent will also violate that individual's rights. If it is a violation of Abe's rights for Bea to lock him up in her backyard shed for entering into economic competition with her or her friends, it is also a violation of Abe's rights for the monarch or the legislators to lock Abe up in the Tower of London for entering into economic competition with the monarch or the legislators or their cronies. If it is criminal for Bea to burn Abe at the stake in her backyard for rejecting the doctrines of Bea's church, it is equally criminal for the monarch to burn Abe at the stake in the town square for rejecting the doctrines of the monarch's church.

The injury and the crime is equal, whether committed by the wearer of a crown, or a petty villain. The title of the offender, and the number of his followers, make no difference in the offence, unless it be to aggravate it. The only difference is, great robbers punish little ones, to keep them in their obedience, but the great ones are rewarded with laurels and triumphs ... . (ST §176)

The two last chapters of the *Second Treatise* lay out Locke's doctrine of the just use of force against unjust state action (or inaction). Chapter XVIII, "Of Tyranny", focuses on the right of the individual as an individual to resist infringements on her rights by ill-behaved monarchs, legislators, or their henchmen. The rights involved here are the original and retained rights of all individuals to life, liberty, and property as those rights are more finely specified "by laws made and rules set, as guards and fences to the properties of all the members of the society" (ST §222).

Chapter XIX, "Of the Dissolution of Government", parallels "Of Tyranny" insofar as it is about the rights of political society and of individuals as members of political society to resist infringements upon the same original and retained rights. However, "Of the Dissolution of Government" also addresses and invokes the rights that political society and its members have acquired through their authorization and establishment of a constitutional structure that aims to secure "*the property of the people*" (ST §222).

Since political society has established the legislative and executive powers and has directly or indirectly entrusted the legislators and the chief executive with their positions within the constitutional order, political society

and its members have acquired certain rights against those who occupy those entrusted positions. These are rights that the legislators and the executive abide by their acquired duty to protect everyone's rights to life, liberty, and estate; and their acquired duty to uphold the legal regime they have pledged to serve, a regime that has been created "to limit the power, and moderate the dominion, of every part and member of the society" (*ST* §222).

In a way, "Of Tyranny" and "Of the Dissolution of Government" offer just one simple argument. Certain exercises of governmental coercive power violate the rights of those subjected to that power. Individuals and political society as a whole have no duty to submit to such violations, since, after all, the only or primary justifying purpose for governmental coercive power is the protection of these rights. So, individuals and political society as a whole are morally at liberty to forcibly resist these violations and it is rational for people to exercise this liberty when the danger of violations is severe and resistance is reasonably likely to be successful.

Still, as with philosophical arguments in general, the strength of this argument is bolstered by Locke's examination of objections to it and his responses to those objections. To convey a fuller sense of Locke's stance I will describe some of these objections and responses. I shall also discuss some of the reasons that Locke's focus shifts from the rights of individuals to the rights of political society as he moves from chapter XVIII to chapter XIX of the *Second Treatise* and the danger that this shift of focus poses for Lockean classical liberalism.

Locke knows that he will be charged with offering a blanket licence to individuals to take up arms whenever they are aggrieved by the behaviour of the government. He imagines a critic asking: "May the *commands* then of a prince be opposed? May he be resisted as often as any one shall find himself aggrieved, and but imagine he has not right done him?" (*ST* §203). Locke notes that, were this his position, "[t]his would unhinge, and overturn all polities, and instead of government and order, leave nothing but anarchy and confusion" (*ST* §203).

However, Locke insists that this is not his position. "To this I answer, that *force* is to be opposed to nothing but to unjust and unlawful *force* ..." (*ST* §204). Resistance is justified only when it really is in opposition to unjust and unlawful force. If you merely "imagine" that the actions that disturb you are unjust and unlawful, your forceful resistance will itself be unjust and unlawful. Individuals are capable of checking and revising their private judgments about political matters. One may start with the belief that the actions of the prince violate one's

rights but then recognize that one is mistaken. Individuals who mistakenly use force against the prince or his henchmen will be subject to “a just condemnation both from God and man” (*ST* §204). Moreover, even if the action of the prince or his henchmen will violate one’s rights, one’s forcible resistance will be justified only when it is one’s last resort, that is, only when no reliable remedy for one’s loss is available within the existing legal system (*ST* §207).

In addition, sometimes even people who do have rights to defend themselves against unlawful force will see that it is not prudent for them to exercise those rights. For, if the prince’s misdeeds, “reach no farther than some private men’s cases, though they have a right to defend themselves, and recover by force what by unlawful force is taken from them; yet the right to do so will not easily engage them, in a contest, wherein they are sure to perish” (*ST* §208). If those private men cannot gather allies, they will not rush into battle against the offending ruler despite the justice of their cause. Locke’s euphemism for engaging in forcible resistance against the ruling legislature or monarch is “appealing to heaven”. And Locke’s point here is that “he that appeals to heaven must be sure he has right on his side; and a right too that is worth the trouble and cost of the appeal, as he will answer at a tribunal that cannot be deceived” (*ST* §176).

Locke considers the argument that even just resisters are to be condemned for the disorder and bloodshed that follows their resistance. Against this, Locke argues the opponents of just resistance “may as well say, upon the same ground, that honest men may not oppose robbers or pirates, because this may occasion disorder or bloodshed” (*ST* §228). Besides, “[i]f any *mischief* come in such cases, it is not to be charged upon him who defends his own right, but *on him that invades* his neighbours” (*ST* §228). And, most of all, passive submission to unjust force on the part of one’s rulers simply paves the way for further robbery and oppression: “If the innocent honest man must quietly quit all he has, for peace sake, to him who will lay violent hands upon it, I desire it may be considered, what kind of peace there will be in the world, which consists only in violence and rapine; and which is to be maintained only for the benefit of robbers and oppressors” (*ST* §228).

Often Locke engages in semantic maneuvers to avoid quite accurate but radical expressions of his doctrine of just resistance. For example, since Locke does not wish to express his doctrine as a defence of *rebellion*, he argues that his is actually an anti-rebellion doctrine. For, he says, those who justly resist are not the rebels; rather the *rebels* are those who are justly resisted: “whoever they be, who

by force break through, and by force justify their violation of [the constitution and laws], are truly and properly *rebels*". Rather than instigating rebellion, the doctrine that the people have a right to provide for their safety "*is the best fence against rebellion*" (ST §226) because it discourages rulers from engaging in unjust force.

Similarly, Locke does not wish to say that his doctrine justifies *regicide*, that is, the killing of the king (or prince or chief magistrate). So he argues that, when the king (or prince or chief magistrate) behaves in a way that justifies armed resistance against him—when he has “put himself in a state of war with his people”—he is “no king”; he “has dethroned himself” (ST §239). Hence, to justify the killing of such a man is not to endorse *regicide*. In reality, Locke does justify rebellion and regicide, even if he provides rebellion and regicide with some linguistic camouflage.

In another paragraph, Locke seems to offer a genuine limit on subjects resisting mischievous princes. He tells us that “in some countries, the person of the prince by law is sacred” (ST §205). In those countries, if a mischievous scheme of the prince endangers only “some few private men”, the prince himself may not be forcibly resisted, though his henchmen may be. The prince himself is not to be attacked because doing so may disrupt “the peace of the public, and security of the government” and it is better that those few men suffer than that this disruption take place (ST §205).

This paragraph is puzzling for a number of reasons. First, Locke never tells us what countries he has in mind. Second, any law that partially exempts the prince from laws against murder, assault, and theft violates the fundamental Lockean principle that: “*No man in civil society can be exempted from the laws of it*” (ST §94). Third, the argument that Locke actually offers for the prince being partially exempt from the laws has nothing to do with the prince being sacred. Instead, it is a bit of utilitarian calculation that requires individuals to submit to the violation of their rights if resistance would be too socially disruptive. Fourth, the special immunity for the prince suggested by Locke is in direct conflict with Locke’s fundamental claim that,

*where-ever violence is used, and injury done, though by the hands appointed to administer justice, it is still violence and injury, however coloured with the name, pretences, or forms of law, the end whereof being to protect and redress the innocent, by an unbiassed application of it, to all who are under it.* (ST §20, emphasis added; also see §176, §201, §232 above)

My own guess is that cautious Locke included this paragraph in the *Second Treatise* so that, if he ever were to be charged with advocating regicide, he could parry this charge by pointing to this disavowal of regicide.

As mentioned at the outset of this chapter, Locke argues that political society can demand more from legislators and the chief executive than that they not violate its members' rights to life, liberty, and estate. It can also demand that the legislators and the executive fulfill their acquired duties to protect the rights of the members of political society and to support and maintain the constitutional structure that political society has created to better secure the rights of individuals. When, without the consent of the people, the legislature is prevented from acting or is altered or the supreme executive "neglects and abandons" his duties, the government is *dissolved* (*ST* §216). Those who take up arms against such violations of the rights of political society do not take up arms against the government but, rather, against those who pretend to retain governmental authority.

Crucial to Locke's doctrine of resistance is his claim that, except when political society is cut up by a conqueror's sword (*ST* §211), it persists through the dissolution of government. It is political society that comes to the defence of its members' rights and that restores or reconstructs governmental institutions that serve the ends for which political society exists. Thus, justified armed resistance against the remnants of a dissolved government does not involve a reversion to the state of nature. It does not reinstate the chaos of a Hobbesian state of nature or even the inconveniences of a Lockean state of nature. In addition, political society will only engage in armed resistance if this is endorsed by a majority of its members (*ST* §96). Hence, armed resistance by political society will not be a matter of a few individuals too quickly deciding that their grievances justify an appeal to heaven.

In addition, Locke's appeal to political society as the ultimate bearer of political authority enables him to tap into another important strand of anti-monarchical thought. This is the doctrine of popular sovereignty according to which political authority originally resides in the people and not in the monarch. Since the people originally possess all political authority, any authority possessed by the monarch must arise through a voluntary grant from the people. And, most advocates of popular sovereignty held that, since the grant of authority to the monarch was limited, the extent of the monarch's authority must also be limited. Nevertheless, the more Locke taps into the rhetoric of

popular sovereignty, the more he edges toward upholding the “the public will” (*ST* §212) or “the will of society” (*ST* §214) as the ultimate measure for assessing governmental action. Yet, such an embrace of popular sovereignty would be philosophically incompatible with Locke’s core doctrine and antithetical to his classical liberal program.

It would be philosophically incompatible with his view that the original (and pre-political) sovereignty is each individual’s sovereignty over him- or herself and that all individuals retain their original rights of life, liberty, and estate that are at the core of this sovereignty. It would be antithetical to his classical liberal program because appeals to “the public will” or “the will of society” suggest that the collectivity has unlimited authority over individuals, that individuals do not have rights to life, liberty, and estate against “the people” but, rather, must submit to anything that “the people” choose to do.

My view is that, although Locke seeks to draw upon the rhetoric of popular sovereignty, he does not subscribe to the actual doctrine. Political society (the people) is the creation of individuals who can only confer on it the authority that they themselves have as individuals to use force against other individuals. That authority is limited to the rights of individuals to act as executors of the law of nature. In turn, political society (the people) can confer on government only the authority that it has derived from individuals. Since individuals retain their rights to life, liberty, and estate, neither the people nor any government created by the people may infringe upon those rights. As Locke declares in “Of the Dissolution of Government”: “The reason men enter into society, is the preservation of their property; and the end why they chuse and authorize a legislative, is, that there may be laws made and rules set as guards and fences to the properties of all members of the society ...” (*ST* §222).

For Locke, “the public will” or “the will of society” is the commitment of individual members of society to common institutions for the specification and enforcement of each member’s individual rights: “it can never be supposed to be the will of society, that the legislative should have a power to destroy that which every one designs to secure by entering into society” (*ST* §222). For Locke, the formation of political society (the people) is a step toward the better articulation and protection of each individual’s freedom; it is not an act of self-enslavement to the collectivity.

