



A P O R I A

A STUDENT JOURNAL OF PHILOSOPHY

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The *Aporia* staff is especially grateful to those who support makes this journal possible. Special thanks go to Professor Dennis Rasmussen, chair of the Department of Philosophy, Professor David Jensen, our faculty advisor, and to Linda Hunter Adams of the Humanities Publication Center. *Aporia* is funded by a generous contribution from the David H. Yarn Endowment. Those wishing to contribute to this fund may do so by contacting the BYU Department of Philosophy.

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Locke and the Contemporary Situation

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At the time of its writing, the political theory put forth in Locke's *Second Treatise of Government* was a powerful source for individualists. However, the nature of society has changed significantly, casting doubt on how applicable his theory is for modern individualists. The most significant of these changes is the lack of unoccupied land. Since all of the land in the world is claimed by some country, people are forced into a pre-established society and do not have the option to create their own. This also restricts whether people are able to leave their societies. Another significant change is the increased number of highly populated states, which diminishes the effect that minorities can have on their government. These aspects of our contemporary situation serve to diminish the amount of freedom an individual would have under Locke's theory, making it a less relevant source for Libertarians and other contemporary individualists.

Locke's Theory

First let us begin with a brief description of the relevant sections of Locke's political theory as put forth in the *Second Treatise*. In his theory, government originates from a need for security. People naturally exist out-

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side of organized society in the “state of nature” (Locke, *Two Treatises of Government* 289).¹ Although every person has natural rights in the state of nature, these rights cannot be consistently protected without a commonly recognized judge (291). Everyone has the right to seek reparations for damages and to defend her health and property. However, since people sometimes fail to use reason properly on account of self-interest and emotion, they cannot be trusted to always judge calmly and reasonably, especially during times when injustices have been done to them (293). This might lead them to take more reparations than they should for the injustice that was done for them. Also, some people in the state of nature might not be strong enough to take the proper reparations. This leads to a great lack of security, and, as a result, many injustices occur for which improper reparations are made. People determine that these unpunished injustices can be avoided if common laws are created and enforced by an organized group. Additionally, foreign invasion threatens those in the state of nature. Without an organized military and the protection of a group, individuals are at great risk of being invaded by other organized groups. An effective defense against attack can only be implemented by a community. So, knowing that security is in their best interests, people congregate in order to form a government. This arrangement is carried out for the mutual benefit of protection against interpersonal conflict and foreign invasion. Thus, in Locke’s theory, people are “driven into Society” from the state of nature out of a need for security (370).

However, this security does not come without a price. In order to enter into society and reap its benefits, individuals must relinquish certain freedoms. More specifically, they must give up some control over their affairs and possessions as well as their right to seek reparations for damages in whatever way they see fit. These natural rights are given to the judicial, legislative, and executive branches of the government with the understanding that they will be used responsibly in order to provide security and protect property (370–71). Perhaps the most important part of this process is that individuals’ rights can only be voluntarily relinquished. No person, group, or government body can justly force individuals to relinquish freedoms they do not wish to relinquish. Herein lies the importance of consent.

¹ All subsequent references in this paper to John Locke’s *Two Treatises of Government* will be given only by page number.

Consent must be given by individuals in order for any government to have power over them. Locke states that “all Men are naturally in [the state of nature], and remain so, till by their own Consents they make themselves Members of some Politick Society” (296). People cannot be forced to follow laws without their consent. However, Locke’s understanding of consent is quite broad. People do not necessarily have to consent officially; they give their consent whenever they enter a society’s territory (365). By entering such a territory, they benefit from the protection of the society’s government and therefore are obliged to reciprocate by temporarily relinquishing the requisite rights. In other words, they must follow the laws of that society for the duration of their stay. However, people must also be free to leave a society since forcing them to stay would force them to follow laws without their consent, something that Locke considers to be unjust. In general, the choice to stay in a location protected by a government is viewed by Locke as a choice to follow that government’s laws.²

After the government has been formed, it must begin making policies. Since every individual has sacrificed in order to reap certain benefits from the community, it is sensible that every individual should have a say in the decision-making process. He does not even consider the possibility that a minority should rule. Since society is a singular body comprised of a number of individuals, he thinks it follows that “the Body should move the way whither the greater force carries it, which is the consent of the majority” (350). Presumably, Locke would also argue that minority rulers have a tendency to act like monarchs by ruling arbitrarily and exploiting those not represented in the minority.

It is clear for Locke that some type of majority must rule. One type of majority is unanimous consensus, and it seems reasonable to assume that, since everyone relinquished the same rights to enter society, everyone should agree to the society’s laws. However, Locke recognizes that attempting to achieve a unanimous consensus for every decision is practically

² Locke distinguishes between explicit consent, which is an official commitment to a society, and tacit consent, which occurs when someone enters a territory. Although Locke is ambiguous about what benefit those who explicitly consent have over those who do not and whether those who explicitly consent are ever allowed to leave their society, the broad definition of consent described above is sufficient.

impossible (*ibid.*). There will always be disagreement about any significant policy and failing to take this into account in the workings of a government will fatally cripple it. Thus it is unreasonable to expect decisions to be made by unanimous consensus. The only other option is to have the society be ruled by the majority's consent. Abiding by majority is not ideal, but it is the only way by which a government can function (351). Consequently, an individual's agreement to enter into a society is also an agreement to abide by the will of that society's majority. Though the decision to enter into society is the individual's decision, the decision results in the individual becoming part of a community that is, in Locke's words, "one Body, with a Power to Act as one Body, which is only by the will and determination of the majority" (349).

Fortunately, one major restriction affects decisions made by majorities—they cannot infringe on certain inalienable rights. Although individuals give up certain rights in order to enter a community, some rights cannot be taken away under any circumstances. These rights include the right to own property and the right not to be ruled arbitrarily (418). Any law that infringes upon inalienable rights, even if imposed by the majority, is unjust and consequently should not be followed. These laws break the trust the government has with its citizens, giving them the right to overthrow the government (433). Majority decisions in a community become law, but these laws only have legitimacy if they do not infringe upon an individual's inalienable rights. In summary, Locke argues that government offers protection in exchange for individuals' consent to relinquish certain rights to it, and Locke argues that laws should be established based upon the will of the majority—provided these laws do not infringe on inalienable rights.

The Contemporary Situation

Now that the relevant sections of Locke's theory have been reviewed, the issue of whether it would support individualist views in the contemporary situation will be examined. The political, social, and technological situation in Locke's time was very different from the contemporary situation. During Locke's time, his theory was considered very individualistic; however, it would be considered less individualistic if implemented in contemporary society. Individualists have always believed in increasing personal liberty and reducing the ability of government to exert excessive control

over the populous. Locke's arguments parallel these individualistic arguments as Locke argues for private property, against arbitrary rule, and for considerable focus on natural rights. In fact, implementing Locke's theory in seventeenth century monarchies would have increased (and in some instances actually did increase) personal liberty. However, when considering current democracies, implementing his theory would actually do little to meet the goals of contemporary individualists.

Contemporary individualists, such as Libertarians, still argue in favor of increasing personal liberty and against excessive government control. However, they now do so mainly by arguing that government should be minimal and therefore should increase privatization, interfere less in markets, lower taxes, and provide fewer government programs. Many individualists use Locke to support their views. Examples of this trend abound in libertarian literature, articles, and websites.³ Although Libertarians may indeed have a viable position if supported on other grounds, their attempts to appeal to Locke for support fail due to the nature of Locke's theory. If put into place now, Locke's theory would dictate that people with progressive individualist views, being a minority, be prepared to live in a society which is not aligned with their views without an effective means to bring about change. Locke's theory advocates following the mandates of the masses, something that the contemporary individualist typically does not promote.

The most significant effect of the contemporary situation is that there is no longer an option under Locke's theory for those who are not

³ Examples of such works include books like Robert Nozick's *Anarchy, State, and Utopia* and Michael P. Zuckert's *Launching Liberalism: On Lockean Political Philosophy*. Articles include Michael Otsuka's "Self-Ownership and Equality: A Lockean Reconciliation"; Tibor Machan's "Libertarian Answers to Conservative Challenges"; and Neil Lock's "How to Pay for Government." Finally, websites of this type include the Ludwig von Mises Institute's www.mises.org and Reason Online (www.reason.com). These works are not intended as the results of a thorough summary of Locke's role in Libertarian literature but merely as some examples of the trend. From my experience, Libertarian use of Locke's theory seems very widespread and not in need of extensive proof. I will assume this is the case without further investigation until I encounter an objection to it.

willing to join an existing government. In describing the beginning of political societies, Locke uses the term *in vacuis locis*, which means “in empty places.” These places, according to Locke, are “free and unpossessed” by any state (367). It is to these empty places that individuals should go if they wish to start a new society rather than accept membership in any present society. There were such places in Locke’s time, and he frequently uses America, presumably meaning North America, as a prime example of a continent filled with such areas (311, 314, 318, and 319). However, as any American can tell you, there are no longer such places in America nor in any inhabitable part of the world. There are some unsettled places, such as deserts or forests, but they are nevertheless annexed by some state.⁴ This presents a large problem for those who do not desire to live in any established society. Locke advises creating a new society if you disapprove of current one, but there is frankly no land *in vacuis locis* on which to do this. The only option for individuals is to pick the society they most prefer and follow the laws established by its majority. The contemporary situation still gives us a choice, but it is between which group of people we consent to obey rather than between joining some existing society or starting our own with which we are guaranteed to agree. Consequently, in Locke’s theory, we have to accept the status quo of some current state, a definite problem for contemporary individualists who feel that no current state is minimal enough to align with their worldview. Their only option is to join the most minimal society available and attempt to bring about change. However, this latter option is also not as easy as it may seem.

Technological advances in transportation and communication have dramatically increased not only the territory that governments control but

⁴ Private islands which are currently available for purchase fall into this same category of unoccupied but annexed land. According to www.privateislandsonline.com, a website which sells such islands, “Since the early 20th century, every square foot of dry land on Earth has been claimed by at least one country or another, which pretty much rules out...setting yourself up as the local sovereign.” Though it is very possible that this website could be mistaken, I believe they have a vested interest in being informed on this issue. The only way one could set up a new government on these islands would be to purchase land from a country or convince the country which owns it to release it, which no country would be willing to do in any normal circumstance.

also the influence they have over their territory.⁵ It is now very common for single governments to legislate and enforce laws that affect millions or even billions of people. One might even argue that, with the rise of globalization, it might not even be economically possible for smaller states to have any economic power in the world. Regardless, the population of the vast majority of contemporary states creates a situation that diminishes the impact individuals can have on the laws governing their lives. Not only do their votes carry less individual weight, but it is also difficult to bring about change in the popular mentality. In a small community, an individual can make her arguments known to the entire community relatively easily. But when a community numbers in the millions or billions, the majority is so large, diverse, and geographically distant that it is nearly impossible to effectively make one's position known.⁶ One must then follow the collective decisions with little avenue for discussion. This consequence is definitely problematic for the contemporary individualists. After being forced to enter into a pre-existing society and accept the status quo, she now finds herself with the difficult challenge of convincing millions of people to change their views. Until she can accomplish this, Locke is clear that she must abide by the decisions of the majority on pain of being unjust.

There remains one option in Locke's view, rebellion. If individualists can determine that the government's laws are arbitrary or are infringing on their inalienable rights, Locke clearly states that they would be justified in inciting a revolution. However, this final option isn't much of an option after all. Even though there are no contemporary states minimal enough to fit Libertarian standards, there are contemporary states, such as the United States of America, Canada, and Western European states, where

⁵ Obviously, there were large groups of people contained under one government in the past, such as those in the Roman or British empires. These differ from contemporary states, however, in that they were ruled by militant means and were undemocratic. The issue of size comes into play when states are democratic since the larger number of voters affects the influence one citizen has on policies.

⁶ This claim is intended as a generalization. There are indeed places where millions of people live in close proximity to each other or where the population is not extremely culturally diverse. However, in the vast majority of states, distance and diversity play the role discussed.

rebellion would not be justified under Locke's view. Such rebellion would be unjust because current individualist grievances do not constitute, according to Locke, justifiable grounds for rebellion. Take, for instance, the Libertarian issue of lower taxation. In the states mentioned above, the government does not tax arbitrarily and so the only other option is to determine that such tax laws infringe on natural rights. The right to own property is indeed a natural right, and a government that takes property without consent is indeed tyrannical and should be rebelled against. But Locke clearly argues that having to pay taxes is not an infringement on natural rights. In fact, he states that "Governments cannot be supported without great Charge, as 'tis fit everyone who enjoys his share of the Protection, should pay out of his Estate his proportion of the maintenance of it. But still it must be with his own Consent, i.e. the Consent of the Majority" (380). Taxation is necessary for government, and it is part of the price people pay for security. People cannot be taxed without their consent, but, since people in the contemporary situation must consent to join some government and since every government in the world currently taxes, people must give consent to be taxed.⁷ Similar results can be obtained for other Libertarian grievances. The problems Libertarians have with their governments may or may not be legitimate, but they are not so extreme as to justify revolution based on Locke's theory.

It follows, then, that if individualists find themselves in a state that is not aligned with their views, rebellion would be justified or unjustified. If it is unjustified, they may, within the realm of just actions, only choose to leave for another state or obey the established rules while attempting to bring about change in the popular mentality. In either case, they must live in a society not aligned with their views. If rebellion is justified, the individualist could help bring about the rebellion and overthrow the current government. At this point, a new government would be created based on the views of the majority of the members of the new society. If it happens that these people are Libertarians, then a Libertarian state could be justly created. However, it is most likely that the majority of the revolutionaries would have less individualistic views and decide to create another

⁷ The only country that is known not to tax today is Waveland; however, because Waveland's territory is so small and barren, citizens of Waveland must live in another country and are therefore still subject to taxation.

non-minimal state. Provided that this new state is not arbitrary and protects natural rights, individualists are again in a situation where they must submit to the will of the majority. Thus rebellion offers a chance for the creation of a Libertarian state, but the chance is very small. Whether or not rebellion is justified under Locke's view (which, in the modern situation, it most likely would not be), rebellion is still the most likely option that individualists will be forced to choose when trying to change a non-minimal government.

Thus we see the dilemma that contemporary individualists face if they follow Locke's theory. Since all land is occupied by some state, they must choose to consent to a pre-existing state. Upon doing so, they bind themselves to following that state's laws. Since laws are established by majority rule, those with minority views must obey laws with which they do not agree. The option of rebellion would either be unjust or would very likely lead only to the creation of another non-minimal state, both of which leave individualists in an undesirable position once again. The only other option is to bring about gradual change by convincing the majority to change their views. However, since the majority in many states is so large, this is an extremely difficult and lengthy process. In the meantime, they must follow their society's laws.

Conclusion

Locke's political system was revolutionary in its treatment of individual rights. Society, in Locke's view, is comprised of a group of consenting individuals who bind together for their common prosperity and security. Though Locke's system originally provided much support for individualists and resulted in increased political and economic liberty when implemented, it does not offer much support in our contemporary situation; the lack of unoccupied land and number of highly populated states prohibit it from doing so. Locke's theory, if applied to our modern world, would force people to consent to the rules of an existing society and give them little recourse for changing policies to be more aligned with their views.

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