

### 1. Locke’s state of nature (part I)

Locke and Hobbes both begin from a state of nature that gives us reason to make an agreement to establish a state  
But they arrive at very different conclusions about the nature of the ideal state, and the reasons that ground political obligation

Locke’s state of nature has the following features:

LAW OF NATURE: a moral duty (rather than principle of rationality), owed equally by and to all people, not to “harm another in his life, health, liberty, or possessions” (Locke, *Two Treatises of Government*, second treatise, chapter 2, section 6),

ENFORCING THE LAW: all people have equal right to apply and enforce the law of nature

CONFLICT: conflicting judgements about the law of nature are inevitable, and too easily lead to violence

### 2. Locke on establishing the state

The state is established to make **applying and enforcing the law objective**

Benefits of establishing the state:

- An authority with power to enforce judgements about natural law
- A codification of the law to reduce disagreement about it
- An objective authority to arbitrate disagreements

For Locke, this argument justifies a specific kind of state, with the following features:

- The state comprises three distinct powers
  - Sovereign
  - Hereditary assembly
  - Elected Assembly
- It is accountable to the law
- Its authority is fiduciary i.e. it can legitimately govern only insofar as it retains the trust of the people

### 3. Locke’s state of nature (part II)

Based on the above we might try to define the state of nature, in contrast to civil society, as:

*Def1*: Person A is in the state of nature if and only if A lives under no authority to settle disputes

*Problem with Def1*: two people can authorise a third to settle their dispute privately, without the need for a political community

*Def2*: A is in the state of nature if and only if A is not a member of a legitimate political community  
(where “legitimate political community” means a society subject to an authority that delivers objective judgements in accordance with natural law)

*Problem with Def2*: what determines whether a person is a member of a given political community?

*Def3*: A is in the state of nature if and only if A has not voluntarily agreed to join some legitimate political community (**introducing consent**)

*Problem with Def3*: sometimes states break down; it is possible for us to return to the state of nature

*Def4*: A is in the state of nature if and only if A has not voluntarily agreed to join (or is no longer a member of) some legitimate political community

*Problem with Def4*: Locke thinks being in the state of nature depends on who we are interacting with e.g. we can be in a civil society with fellow citizens of our state while in a state of nature with visiting aliens from a different legitimate state

*Def5*: A is in the state of nature with respect to B if and only if A has not voluntarily agreed to join (or is no longer a member of) some legitimate political community of which B is a member (**introducing relationality**)

For more on this see John Simmons, *On the Edge of Anarchy: Locke, Consent, and the Limits of Society* (Princeton, NJ: Princeton University Press, 1993), chapter 1

### 4. Hobbes contra Locke

	Hobbes	Locke
State purpose	Keep the peace	Objective application of natural law
Model of the state	Absolute monarchy	Constitutional-parliamentary monarchy
Resistance legitimate?	Only when life is threatened	When trust in government breaks down
Role of consent	Hypothetical consent justifies the state	Actual consent justifies the state
Political obligation	Grounded in rationality	Grounded in agreement

### 5. Objections to social contract theory - Hume

Are legitimate governments really founded on consent? Hume contends not

- Plenty of stable governments are founded by conquest or dynasty

- If consent is to be found in ancient history, how could it justify modern government?
- Tacit consent is no more legitimate than the “tacit consent” of a captive passenger on a ship

Do Hume’s objections work against SCT? This depends on the claim of SCT

If SCT claims “The state is legitimate because we **gave** it consent”, then the objections land

If SCT claims “The state is legitimate because if asked, we **would** consent to it”, then the above objections don’t work.

But Hume would raise another objection: on what basis can we make this prediction about whether citizens would consent?

If SCT claims “The state is legitimate because if asked, we **should** consent to it”, then again the above objections don’t work.

But Hume has yet another objection: what additional work does consent do in a theory of PO that grounds the legitimacy of the state in the rationality of having a state?

## 6. Objections to social contract theory – Rousseau/Wollstonecraft

*Jean-Jacques Rousseau’s challenge:* Hobbes’/Locke’s state of nature psychology is not universally valid

Life in the state of nature is “nasty, brutish and short” only if populated by citizens of modern European society. Their self-interest, competitiveness, jealousy, and paranoia are character traits developed by modern institutions, and not innate to all human beings.

Counter: the case for 17<sup>th</sup> century political stability still stands; an English citizen of the time might be artificially self-interested and violent, but he is nonetheless irredeemably self-interested and violent

Counter-counter:

1. This concedes a lot
2. Education could undo the bad effects of modern society and make us virtuous enough not to need the state

*Mary Wollstonecraft’s challenge:*

Rousseau’s proposals to educate us out of the vices of modernity extend only to men because he thinks women are naturally intellectually inferior.

But Rousseau’s criticisms of Hobbes and Locke can be turned against his own theory: because women are the intellectually inferior “fairer sex” in modern society only because they are raised to be that way

With the right education women too should be active participants in a political community, regardless of whether that is a state of nature or law-governed civil society

## Recommended further reading:

Jean-Jacques Rousseau ‘Discourse on the Origin and Foundations of Inequality Among Men’ in *The Discourses and other early political writings* edited by Victor Gourevitch (Cambridge University Press, 1997)

Mary Wollstonecraft ‘A Vindication of the Rights of Woman’ in *A Vindication of the Rights of Men with a Vindication of the Rights of Woman and Hints*, edited by Sylvana Tomaselli (Cambridge University Press, 1995).

## 7. Feminist criticism of social contract theory

Objection 1: SCT mischaracterises the purpose of the state because of a male-dominated perspective of the state of nature

(specifically, SCT’s state of nature individual is motivated by self-interest and rational principles that serve self-interest)

Objection 2: SCT justifies obligations imposed on members of society in no position to consent

Counter: SCT is capable of just treatment of all people if its principles are extended to all members of society

Objection 3: SCT’s inherent conservatism is incapable of dealing with private injustices

Counter: SCT is compatible with moral principles that would prevent private injustices

Counter-counter: if we need to appeal to moral principles anyway, does consent and contract become redundant?

## Recommended further reading:

Annette Baier, ‘Review: Pilgrim’s Progress’ *Canadian Journal of Philosophy* 18.2 (1988) pp.315-330

Holly Brewer ‘Slavery-entangled philosophy’ *Aeon* 12 September 2018:

<https://aeon.co/essays/does-lockes-entanglement-with-slavery-undermine-his-philosophy>

Carole Pateman *The Sexual Contract* Stanford University Press (1988)

**Next week:** fair play theory and natural duty

Recommended reading for next week:

Richard Arneson, ‘The Principle of Fairness and Free-Rider Problems’, *Ethics*, 92 (1991-82): 616-33.

George Klosko, *The Principle of Fairness and Political Obligation*. 2nd ed. (Lanham, MD: Rowman & Littlefield, 2004), ch. 2 ‘The principle of fairness’.

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