

Difference between hobbes and locke and relationship to the emergence of rights

[Sociology](#), [Human Rights](#)



Writings from the works of the authors in question immediately display a distinct difference in their trains of thought. Hobbes and Locke take different paths but come to a similar conclusion, that of the necessity for the creation of civil government as authority over men, this is the basic bond that connects them. Their reasoning behind such a conclusion, though, begins with their differing and separate foundations. This discrepancy is notable in their discussions and separate ideologies of various aspects of the state of nature. As a result, their political orders diverge accordingly. Both men look toward the creation of civil order in order to protect not only the security of the individual, but also the security of the state. The Hobbesian state of nature is described as a very bleak and dreary place. Hobbes believed that people in this state were not guided by reason, but instead were guided by innate primal, animalistic instincts. Concepts such as the ideas of good and evil did not exist in the state of nature, and man could use any force necessary in order to protect his life and goods around him. Hobbes called this condition the "war of all against all" - displaying that no morality existed and people lived in a constant state of fear. Hobbes identified three causes of strife in the state of nature as being that of competition, which causes the invasion of others for gain; diffidence, which causes invasion for safety; and glory, which causes invasion for the maintenance of reputation. In the Hobbesian state of nature there existed no benefits or enjoyments people take for granted in modern society. He likened life to being "solitary, poor, nasty, brutish and short." In the state of nature described by Hobbes there is no notion of right and wrong, as there is no common power or law. Men in this state live with an overbearing sense of fear and grief, continuously on

the defence in order to protect themselves, and their possessions. Thus he stated that under these conditions a state was needed to protect people from other people. For Hobbes, there exists no law of nature because, "every man has a 'right' to everything". This is how he coins the idea behind people being in a state of constant war, because there is no natural law to restrict them. There is no natural law to support the notion of ownership or the concept of possession. A 'right' to everything only exists because there is no natural law to govern actions in the first instance. Locke on the other hand however suggests that natural law exists which individuals can access and understand. This allows us to differentiate between right and wrong as the state of nature has the law of nature to govern it. The only major inadequacy of the state of nature for Locke was that of property not being properly protected. Thus Locke's vision of the state of nature, unlike Hobbes description is more optimistic and civilised. Despite no civil societies existing, he states people were able to live in peace according to the laws of nature primarily due to the belief that God created man equal. Only when an individual violated the natural law could they be punished. Thus it can be seen that in contrast to Hobbes belief that the state of "war" was a natural part of the state of nature, Locke stated that the two were not the same. In the Lockean state of nature it is stated that people could exist without an established government or social contract, but that people would eventually enter into such a contract to better protect their rights and promote a more organized society. He observed that many people willingly lived in political societies where they were told what to do by a "superior" person or group. People left the state of nature whereby man was his own authority, as

despite being in a state of liberty it was also a state of inconvenience. Locke expressed that this was because without a common judge or any publicly established law, people could violate the natural law and thus violate other people's natural rights. He defined these natural rights as specifically being the right to life, liberty and property. Therefore he stated that people renounced the state of nature in order to preserve and better protect their natural rights. This is in contrast to Hobbes ideology, as he states self preservation is our most fundamental desire which leads us into conflict with others. This state of war he believed could only be suppressed if man gave up all his natural rights in place of a strong absolute monarch, who would promise not to abuse that position. He stated that because everyone acts primarily in their own self-interest, sooner or later a society that promoted liberty would disintegrate. Subsequent to which an absolute monarch by way of man surrendering completely all his natural rights would be the price of peace. It is also worth mentioning how both men's position on God differs. For Hobbes God was a figure to be honoured and the role of God in the state of nature was one of reverence. While recognising that men should be God fearing, he concluded that men are in fact more afraid of the reprisals of other mortal men. Locke states that God plays an active role in the life of man and concludes that there is in fact a divine providence more directly impacting the fate of man and his movement towards a political order than is the case in the Hobbesian state of nature. It can be seen that both Hobbes and Locke agree that government can only have the powers which the people transfer to it via a social contract. However the difference in argument is in the powers people hold. Because in the Hobbesian state of

nature man has a right to everything, he then has to transfer all these powers to the government, so it follows that the government then has the right to do as they wish, the sovereign is viewed as being above the law. Locke however placed emphasis on a two stage process. He stated that the first contract linked the people together as a political entity, and the other contract formed a government based on majority opinion. In the Lockean state of nature people did not have a right to do as they wished because actions were limited by the law of nature. Therefore people did not have the right to another's property, life or liberty. Thus, these rights could not be transferred to the government as people themselves did not have them in the first instance. He is therefore arguing for a limited government which will not affect certain rights, indeed it was Locke who first came up with the suggestion of a separation of powers. This is clearly in contrast to the Hobbesian view of government, whereby sovereignty is absolute and the people have to be compliant at all times even if they are discontented, as they have consented to the sovereign, subsequently authorising their actions. Here the social contract is better understood as a covenant through which authority of ruler-ship is established. For Hobbes the powers of the sovereign were indivisible, they could not be distributed or exercised jointly alongside others. Sovereignty had to be possessed by one single individual or an assembly of people, as this defined the existence of a commonwealth. Hobbes believed that to have a number of people purporting to share sovereignty did not in reality amount to having a state at all; instead remaining in a situation of, war of all against all. Thus for Hobbes an attempt to coerce political power from the sovereign is wrong as is forcefully taking

something that belongs to a person. The Lockean view of government divides power between government, through the legislative and the executive, but this too left scope for conflict between the two authorities. Locke contested that such a dysfunction in the workings of a government could be settled through a relationship of trust, whereby the powers of government constitute a fiduciary relationship to act for certain ends. However because in Locke's theory of the state of nature people are not completely incapable of fulfilling and completing contracts, he does not face such a severe problem in explaining how a social contract can be maintained, because it in essence strengthens government. However Locke has to balance this against the fact that many people also do not abide by contractual promises, creating a greater need for government and the social contract to create it. Yet because less people will abide by their covenant it is more likely that the government created by the contract will be prone to unstable and ineffective governance. Thus it can be said that where many people repudiate contracts, government is necessary, nonetheless in society there are also enough people who can comply with contracts to make the creation of government by a social contract possible. Locke himself implies the notion of trust between government and those being governed, thus diminishing the concept of a purely contractual relationship. Instead the relationship between government and the people is to be viewed as that of a fiduciary, whereby the governments powers are limited to the pursuit of the public good. Furthermore those in power are less likely to abuse their position due to the threat of rebellion which can become a reality according to Locke if oppression affects the majority of people, as in general people are

tolerant. Thus Locke's theory leans towards encompassing a revolutionary nature. Here, when a government is unjust or authoritarian Locke unlike Hobbes, acknowledges the right of oppressed people to resist tyranny and overthrow the government. "A tyrant has no authority". Hobbes also acknowledges that we are likely to breach contracts. He believes this is due to our innate selfishness because of which we are likely to act out of self-interest, especially when we can evade detection. For Hobbes the only means of avoiding this breakdown in our mutual obligation was to grant unlimited political power to a sovereign who could punish us, referring to the sovereign as the "sword of justice" and the "sword of war". However these two swords had to belong to the same person in order to strike. Therefore concurring that only when such a power exists can the distinction between right and wrong be recognized. Here it is necessary for men to enter into contracts, a mutual agreement made by individuals in order to exchange the right to the thing. Forming such a contract, according to Hobbes is in the best interests of every man. However it has been argued that the social contract agreed upon by the people is not a contract at all, rather a covenant, hence the sovereign at anytime is able to govern as he sees fit, therefore there are no guarantees that this chosen sovereign will rule with justice and reason, as he is required to do. Furthermore since the sovereign exists in a state of nature, he can also be viewed as being egoistic, and therefore is capable of ruling in his best interest, rather than in the interest of his subjects. Also the fact that the people must blindly approve and be obliged by all that the sovereign does, allows for no revolution. Hobbes theory therefore undermines the legitimacy of revolutions against the

government. Accordingly it can be noted that whereas Hobbes uses the social contract metaphor to establish authority, Locke utilises it to limit the authority of the ruler. It can be argued that Locke's theory is more pertinent to a contemporary understanding of rights. He provides a more encouraging and optimistic perspective of the state of nature and man living within it. His vision of a natural state is a "state of perfect freedom...where some nobler use than its bare preservation calls for it" Furthermore, created by the will of God in which the act of the majority passes for the consent of the whole, his political vision through the social contract can be seen as the epitome of consent of the governed. Although God owned the earth and had given it to us to enjoy and thus there was no right of property, Locke attached considerable importance to man's right to property. He did this by asserting that by mixing his labour with material objects, the labourer acquired the right to the thing he has created. This in turn went on to influence farmers under the American constitution on rights of property. On the contrary however Locke has also been hailed as the source of the idea of private ownership and vilified as the progenitor of modern capitalization.

Furthermore philosophers such as Jean-Jaques Rousseau believed that the notion of private property and public authority had destroyed natural liberty which lead to inequality, misery and slavery. In the middle ages, where the concept of rights first came in to being, rights and liberties featured as concessions. Concessions that were specifically drawn from the sovereign. This went through a process of development, and then featured in the heart of a constitutional order through revolution. Locke's theory states that a sovereign that abuses its powers can be overthrown, and this is in

accordance to our contemporary understanding of rights, whereby we can take action against the state if we are discontented by the actions of those who govern us. It can be seen that the process of establishing and institutionalizing rights has had a powerful effect on politics. Based on notions of trust and duty the political subject of subject and sovereign has progressed in to relationship of citizen and state founded on rights and contract. It is argued that citizens can now enforce their rights through judicial rather than political action. Thus Locke was correct in asserting that in a case of breach of trust, people had a natural right to revolt. Therefore in the aftermath of the American and French revolutions, emerged a new era in political history whereby the role accorded to rights was within the political structure. Prior to the revolutions, rights and liberties were invariably treated as concessions to be extracted from the sovereign. The post — war recognition of human rights and their expression in the form of, for example the Universal Declaration of Human Rights in 1948 can be viewed as a common standard of achievement, in that it's validity has been drawn from a general universal consensus. It can be seen that just as Locke's natural rights included refraining from invading others rights, or hurting one another, the 1948 Universal Declaration of Human Rights has in today's contemporary society similar notions. Furthermore the Nuremberg trials established the principle that certain crimes could be constituted as crimes committed against the whole of humanity. Judgements such as this represent an important recognition of the principle that the law is not necessarily the sole determinant of what is right. Thus it can be seen that there is an essentially idealistic idea behind rights discourse. Furthermore as these are secular

discretions we ends up struggling to find an objective foundation for what we call this rhetorical claim. Furthermore Locke's theory purported to state that a natural right of man was that of self preservation. Indeed in contemporary society the state exists not only to promote relatively limited objectives but to also preserve and protect the citizens fundamental rights. The essence of rights discourse has changed the traditional relationship of state and citizen, whereby it is now inverted and the basic " natural" rights of the citizen are the primary focus. It can however be noted that in the time Locke was writing, the emphasis he placed on rights such as those of property are today not so prominent. Instead in modern contemporary society political issues such as those of how to balance freedom of speech and privacy rights are of concern. It can be concluded that the Lockean vision of the social contract is the more pertinent theory to aid our understanding of contemporary rights, in that it's vision is similar to the governmental system most countries have in place today. Yet the concept of a right is still contested, upon which there still is no majority agreement. Rights have evolved from being political claims, to legal entitlements and now a change in rights becoming universal requirements can be seen. However we have also seen and continue to see states of anarchy across the world, thus the Hobbesian theory of social contract can not be completely disregarded. Not only this but the Hobbesian social contract is reminiscent of contemporary tyrant rulers, and it should also be noted that such oppression does still exist under the title of communism in countries such as China. Thus rights remain an idealised concept, based on the notion that all people are born equal with the same rights as this can be seen to clearly untrue. This has lead us to

objectively justify rights through religion as can be seen in the drafting of the American Declaration of Independence. In a secular age however, this justification is unreliable, and so where some critics disregard natural rights completely, likening them to a belief in unicorns, it can be said that rights can begin to be justified by looking towards the structure of ethical order that is innate to human beings. Bibliography Books C W Morris, *The Social Contract Theorists: Critical Essays on Hobbes, Locke and Rousseau* (Rowman & Littlefield Publishers Inc, Oxford, 1999) L B Curzon, *Q & A Series, Jurisprudence*, (3rd edn, Cavendish Publishing Ltd, London 2001) L B Curzon, *Jurisprudence* (2nd edn, Cavendish Publishing Ltd, London 1995) p26. J Hampton, *Hobbes and the Social Contract Tradition* (Cambridge University Press, 1996) J S McClelland, *A History of Western Political Thought* (Routledge, London 1996) M Loughlin, *Swords and Scales, An Examination of the Relationship. Between Law and Politics* (Hart Publishing, Oxford 2000) M Svensson, *Debating Human Rights in China: A Conceptual and Political History* (Rowman & Littlefield Publishers Inc 2002) N Bobbio, *Thomas Hobbes and the Natural Law Tradition* (The University of Chicago Press 1993) R Wacks, *Understanding Jurisprudence, An Introduction to Legal Theory* (Oxford University Press, 2nd edn 2009) R Wacks, *Jurisprudence* (5th edition Blackstone press limited 1999) Websites T Hobbes, *Leviathan Part 1* Ebook download, (First published 1651, Republished 2008 by Forgotten Books, www.forgottenbooks.org) <http://www.forgottenbooks.org/info/9781605069777>. J Locke, *Second Treatise Of Government*, The Project Gutenberg EBook of *Second Treatise of Government*, by John Locke, <http://www.gutenberg.org/files/7370/7370-h/7370-h.htm>.

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