

Philos 117AC, Fall 2017

Setting the Stage:

Robert Filmer, *Observations Concerning the Originall of Government*

Main Text:

John Locke, *Second Treatise of Government*, Ch. 5

Property rights

Essentially, property rights are clusters of (i) liberty-rights (i.e., permissions) to use, modify, destroy, abandon, etc. certain particular things, (ii) claim-rights (i.e., prohibitions on the actions of others) against others that they not interfere with one's doing so, and (iii) certain powers to alter those rights, such as by transferring one's property to someone else.

Some hold that property rights are "natural": that is, that one can have property rights independently of any social agreement or practice. Others hold that property rights are "conventional": that is, that one can have property rights only as a result of a social agreement or practice. Still others hold mixtures of those views.

Locke thinks that property rights are in large part natural. The reason for society and government is not so much to *establish* property rights as to *protect* pre-existing property rights (which are partly natural and, with the advent of money, partly conventional).

How, according to Locke, does someone acquire property rights?

- (i) If someone labors on part of the natural world, then he acquires property rights in it and what results from it,
- (ii) so long as it will not spoil and
- (iii) so long as he has left for others "enough and as good" of what he has taken from the natural world.
- (iv) People can also acquire property rights, second-hand as it were, as a result of transfers of property rights acquired by such labor.
- (v) People who lack sufficient goods to preserve themselves may have both claim-rights and liberty-rights to the surplus goods of those who have more than sufficient goods to preserve themselves. This means, it seems, that the latter lack full property rights in those goods.
- (vi) When money is instituted, by consent, this system of natural property rights changes.

What, according to Locke, *justifies* these natural property rights? Consider different views, each of which is suggested by Locke's discussion.

The self-ownership/labor-mixing argument:

1. People own themselves.
2. Therefore, people own their labor.
3. When people work on bits of the natural world, their labor becomes inextricably mixed with it.

4. Therefore, their property rights in their labor cannot be respected with recognizing property rights in these worked-on bits of the natural world. After all, to take those bits of the natural world from them is to take away their labor.

Objections:

- Why should you get *full* property rights in the thing, rather than simply property rights somehow *proportional* to your labor in them?
- This argument does not explain the no-spoilage condition.
- This argument does not explain the exception for charity.
- Suppose I steal your play-doh and start molding it. Now my labor is mixed with it. Does that mean that you can't take the play-doh back from me, because you would be taking my labor? Isn't the right response that I have forfeited my labor?
 - *Response:* In the case under consideration, unlike this play-doh case, the bit of the natural world that I work on is *not* the private property of some other particular person.
- But even if it wasn't any particular person's private property, it was *all of our collective property*. God gave us the world in common. Even if others aren't left worse off, don't they have a complaint? You cut off a piece of the world without asking. This is an objection that Filmer somewhat facetiously raises against the idea that God gave the world to all men in common.

Certainly it was a rare felicity that all the men in the world at one instant of time should agree together in one mind to change the natural community of all things into private dominion. For without such a unanimous consent it was not possible for community to be altered. For if but one man in the world had dissented, the alteration had been unjust, because that man by the law of nature had a right to the common use of all things in the world, so that to have given a property of any one thing to any other had been to have robbed him of his right to the common use of all things.

In other words: If God had given the world to all men in common, then private property could come into being only by unanimous consent. Such unanimous consent could never have occurred. However, we can all agree that private property has come into being. There *is* private property. Therefore, God did not give the world to all men in common.

Locke's self-preservation argument

1. God intends for people to preserve themselves and others, and they have a duty to God to do so.
2. God gave people the natural world in common, to use to preserve themselves.
3. In order to preserve themselves, however, people need *exclusive* use of bits of the natural world. (Seems true in some cases: food. But why in all cases?)
4. Therefore, God must have intended people to use exclusively bits of the natural world, and so people must have the right to do so.
5. Filmer's point: A right to exclusive use of a bit of the natural world cannot require unanimous consent, since unanimous consent is impossible.
6. The lesson Locke takes from Filmer's point: Since God appreciated Filmer's point, He must have intended there to be some *other* way for people to acquire rights to exclusive use of bits of the natural world, without unanimous consent.

7. One such way, which God might have had in mind, is laboring on a bit of the natural world. (But why assume that this *is* what God had in mind? Aren't there alternatives?)
8. Explaining the no-spoilage condition: Since our rights to exclusive use are based on our duty to preserve ourselves and others, we have no rights to exclusive use that does not serve that purpose. Something "spoils" when it cannot be used for self-preservation.
9. Explaining the enough-and-as-good condition: Since we have a duty to preserve others, we have a duty to leave enough and as good for them.
10. Explaining the charity-exception: We have a duty to preserve others, when doing so does not compete with our own preservation.

Money

Locke believes that things change when money arrives on the scene.

1. Money is conventional. It is instituted by consent. We tacitly agree to accept certain durable, but intrinsically useless things in exchange for intrinsically useful things.
2. Money provides us with a medium of exchange. This allows us to exchange surplus goods, which would otherwise spoil.
3. Money also provides us with a store of value. It doesn't spoil.
4. This allows us to acquire greater private property in the natural world without fear of violating the no-spoilage condition.
5. But it also makes it possible for us to acquire so much private property in the natural world that we *can*, for the first time, violate the enough-and-as-good condition.
6. Recall that the enough-and-as-good condition is really part of a disjunctive principle: In order to acquire private property in some part of the natural world, you must *either* (a) get everyone's consent to your acquisition or to a system that allows that kind of acquisition; *or* (b) labor on it, in compliance with the no-spoilage and enough-and-as-good conditions.
7. With the advent of money, we all in effect consent to a system of acquisition that is not governed by the enough-and-as-good condition. (The institution of money is the kind of unanimous consent to the division of the commons that Filmer thought impossible.)
8. Therefore, with the advent of money, it is no longer necessarily *wrong* to violate the enough-and-as-good condition, since one can satisfy disjunct (a) of the principle in 6 without satisfying disjunct (b).
9. In sum, money produces and justifies the inequality and scarcity that we observe today.

Objections:

- Is this consent free? Do people have much of a choice whether to go along with the institution of money?
- Even if it is free, is it informed? Can people be expected to foresee the consequences? Put another way, do they consent to those consequences?

Question: At the time Locke was writing this, Europeans were appropriating land in the New World, already inhabited by indigenous Americans. Under what conditions was this appropriation justified, according to Locke? For example, suppose the Europeans did not appropriate all of the land, cultivated what land they did appropriate, let none of their harvest spoil (perhaps because they sent it to market), and shared no system of money with the indigenous Americans.