

"Of Political or Civil Society"

John Locke

1690

John Locke (1632–1704) wrote his *Second Treatise of Government* early in the 1680s and published it in 1690. In it Locke proposed a social contract theory of government and argued against the idea of "divine right," which held that rulers had a legitimate claim on their office because they were God's emissaries on earth. Locke believed that government derived from an agreement between men to give up life in the state of nature in favor of life in a political or civil society. They set up political society in order to guarantee their natural rights: life, liberty, and estate (or property). Locke's emphasis on a social contract that protected natural rights shaped the views of the American revolutionaries. This excerpt is from *Two Treatises on Civil Government, Second Treatise*, Chapter VII.

Conjugal society is made by a voluntary compact between man and woman, and though it consist chiefly in such a communion and right in one another's bodies as is necessary to its chief end, procreation, yet it draws with it mutual support and assistance, and a communion of interests too, as necessary not only to unite their care and affection, but also necessary to their common offspring, who have a right to be nourished and maintained by them till they are able to provide for themselves.

For the end of conjunction between male and female being not barely procreation, but the continuation of the species, this conjunction betwixt male and female ought to last, even after procreation, so long as is necessary to the nourishment and support of the young ones, who are to be sustained by those that got them till they are able to shift and provide for themselves. This rule, which the infinite wise Maker hath set to the works of His hands, we find the inferior creatures steadily obey.

And herein, I think, lies the chief, if not the only reason, why the male and female in mankind are tied to a longer conjunction than other creatures—viz., because the female is capable of conceiving, and de facto, is commonly with child again, and brings forth too a new birth, long before the former is out of a dependency for support on his parents' help and able to shift for himself, and has all the assistance is due to him from his parents, whereby the father, who is bound to take care for those he hath begot, is under an obligation to continue in conjugal society with the same woman longer than other creatures.

But the husband and wife, though they have but one common concern, yet having different understandings, will unavoidably sometimes have different wills too. It therefore being necessary that the last determination (i.e., the rule) should be placed somewhere, it naturally falls to the man's share as the abler and the stronger. But this, reaching but to the things of their common interest and property, leaves the wife in the full and true possession of what by contract is her peculiar right, and at least gives the husband no more power over her than she has over his life; the power of the husband being so far from that of an absolute monarch that the wife has, in many cases, a liberty to separate from him where natural right or their contract allows it, whether that contract be made by themselves in the state of Nature or by the customs or laws of the country they live in, and the children, upon such separation, fall to the father or mother's lot as such contract does determine.

For all the ends of marriage being to be obtained under politic government, as well as in the state of Nature, the civil magistrate doth not abridge the right or power of either, naturally necessary to those ends—viz., procreation and mutual support and assistance whilst they are together, but only decides any controversy that may arise between man and wife about them.

Master and servant are names as old as history, but given to those of far different condition; for a free man makes himself a servant to another by selling him for a certain time the service he undertakes to do in exchange for wages he is to receive; and though this commonly puts him into the family of his master, and under the ordinary discipline thereof, yet it gives the master but a temporary power over him, and no greater than what is contained in the contract between them. But there is another sort of servants which, by a peculiar name we call slaves who being captives taken in a just war are, by the right of Nature, subjected to the absolute dominion and arbitrary power of their masters. These men having, as I say, forfeited their lives and, with it, their liberties, and lost their estates, and being in the state of slavery, not capable of any property, cannot in that state be considered as any part of civil society, the chief end whereof is the preservation of property.

Let us therefore consider a master of a family with all these subordinate relations of wife, children, servants and slaves, united under the domestic rule of a family, which what resemblance soever it may have in its order, offices, and number too, with a little commonwealth, yet is very far from it both in its constitution, power, and end; or if it must be thought a monarchy, and the paterfamilias the absolute monarch in it, absolute monarchy will have but a very shattered and short power.

Man being born, as has been proved, with a title to perfect freedom and an uncontrolled enjoyment of all the rights and privileges of the law of Nature, equally with any other man, or number of men in the world, hath by nature a power not only to preserve his property—that is, his life, liberty, and estate against the injuries and attempts of other men, but to judge of and punish the breaches of that law in others, as he is persuaded the offence deserves, even with death itself, in crimes where the heinousness of the fact, in his opinion, requires it. But because no political society can be, nor subsist, without having in itself the power to preserve the property, and in order thereunto punish the offences of all those of that society, there, and there only, is political society where every one of the members hath quitted this natural power, resigned it up into the hands of the community in all cases that exclude him not from appealing for protection to the law established by it. And thus all private judgment of every particular member being excluded, the community comes to be umpire, and by understanding indifferent rules and men authorized by the community for their execution, decides all the differences that may happen between any members of that society concerning any matter of right, and punishes those offences which any member hath committed against the society with such penalties as the law has established; whereby it is easy to discern who are, and are not, in political society together. Those who are united into one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them and punish offenders, are in civil society one with another; but those who have no such common appeal, I mean on earth, are still in the state of Nature, each being where there is no other, judge for himself and executioner; which is, as I have before showed it, the perfect state of Nature.

And thus the commonwealth comes by a power to set down what punishment shall belong to the several transgressions they think worthy of it, committed amongst the members of that society (which is the power of making laws) as well as it has the power to punish any injury done unto any of its members by any one that is not of it (which is the power of war and peace); and all this for the preservation of the property of all the members of that society, as far as is possible. But though every man entered into society has quitted his power to punish offences against the law of Nature in prosecution of his own private judgment, yet with the judgment of offences against the law of Nature in prosecution of his own private judgment, yet with the judgment of offences which he has given up to the legislative, in all cases where he can appeal to the magistrate, he has given up a right to the commonwealth to employ his force for the execution of the judgments of the commonwealth whenever he shall be called to it, which, indeed, are his own judgments, they being made by himself or his representative. And herein we have the original of the legislative and executive power of civil society, which is to judge by standing laws how far

offences are to be punished when committed within the commonwealth; and also by occasional judgments founded on the present circumstances of the fact, how far injuries from without are to be vindicated, and in both these to employ all the force of all the members when there shall be need.

Wherever, therefore, any number of men so unite into one society as to quit every one his executive power of the law of Nature, and to resign it to the public, there and there only is a political or civil society. And this is done wherever any number of men, in the state of Nature, enter into society to make one people one body politic under one supreme government; or else when any one joins himself to, and incorporates with any government already made. For hereby he authorizes the society, or which is all one, the legislative thereof, to make laws for him as the public good of the society shall require, to the execution whereof his own assistance (as to his own decrees) is due. And this puts men out of a state of Nature into that of a commonwealth, by setting up a judge on earth with authority to determine all the controversies and redress the injuries that may happen to any member of the commonwealth, which judge is the legislature or magistrates appointed by it. And wherever there are any number of men, however associated, that have no such decisive power to appeal to, there they are still in the state of Nature.

And hence it is evident that absolute monarchy, which by some men is counted for the only government in the world, is indeed inconsistent with civil society, and so can be no form of civil government at all. For the end of civil society being to avoid and remedy those inconveniencies of the state of Nature which necessarily follow from every man's being judge in his own case; by setting up a known authority to which every one of that society may appeal upon any injury received, or controversy that may arise, and which every one of the society ought to obey. Wherever any persons are who have not such an authority to appeal to, and decide any difference between them there, those persons are still in the state of Nature. And so is every absolute prince in respect of those who are under his dominion.

For he being supposed to have all both legislative and executive, power in himself alone, there is no judge to be found, no appeal lies open to any one, who may fairly and indifferently, and with authority decide, and from whence relief and redress may be expected of any injury or inconveniency that may be suffered from him, or by his order. So that such a man, however entitled, is as much in the state of Nature, with all under his dominion, as he is with the rest of mankind. For wherever any two men are, who have no standing rule and common judge to appeal to on earth, for the determination of controversies of right betwixt them, there they are still in the state of Nature, and under all the inconveniencies of it, with only this woeful

difference to the subject, or rather slave of an absolute prince. That whereas, in the ordinary state of Nature, he has a liberty to judge of his right, and according to the best of his power to maintain it; but whenever his property is invaded by the will and order of his monarch, he has not only no appeal, as those in society ought to have, but, as if he were degraded from the common state of rational creatures, is denied a liberty to judge of, or defend his right, and so is exposed to all the misery and inconveniencies that a man can fear from one, who being in the unrestrained state of Nature, is yet corrupted with flattery and armed with power.

In absolute monarchies, indeed, as well as other governments of the world, the subjects have an appeal to the law, and judges to decide any controversies, and restrain any violence that may happen betwixt the subjects themselves, one amongst another. This every one thinks necessary, and believes; he deserves to be thought a declared enemy to society and mankind who should go about to take it away. But whether this be from a true love of mankind and society, and such a charity as we owe all one to another, there is reason to doubt. For this is no more than what every man, who loves his own power, profit, or greatness, may, and naturally must do, keep those animals from hurting or destroying one another, who labour and drudge only for his pleasure and advantage; and so are taken care of, not out of any love the master has for them, but love of himself, and the profit they bring him. For if it be asked what security, what fence is there in such a state against the violence and oppression of this absolute ruler, the very question can scarce be borne. They are ready to tell you that it deserves death only to ask after safety. Betwixt subject and subject, they will grant, there must be measures, laws, and judges for their mutual peace and security. But as for the ruler, he ought to be absolute, and is above all such circumstances; because he has a power to do more hurt and wrong, it is right when he does it. To ask how you may be guarded from harm or injury on that side, where the strongest hand is to do it, is presently the voice of faction and rebellion. As if when men, quitting the state of Nature, entered into society, they agreed that all of them but one should be under the restraint of laws; but that he should still retain all the liberty of the state of Nature, increased with power, and made licentious by impunity. This is to think that men are so foolish that they take care to avoid what mischiefs may be done them by polecats or foxes, but are content, nay, think it safety, to be devoured by lions.

But, whatever flatterers may talk to amuse people's understandings, it never hinders men from feeling; and when they perceive that any man, in what station soever, is out of the bounds of the civil society they are of, and that they have no appeal, on earth, against any harm they may receive from him, they are apt to think themselves in the state of Nature, in respect of him whom

they find to be so; and to take care, as soon as they can, to have that safety and security, in civil society, for which it was first instituted, and for which only they entered into it.

No man in civil society can be exempted from the laws of it. For if any man may do what he thinks fit and there be no appeal on earth for redress or security against any harm he shall do, I ask whether he be not perfectly still in the state of Nature, and so can be no part or member of that civil society, unless any one will say the state of Nature and civil society are one and the same thing, which I have never yet found any one so great a patron of anarchy as to affirm.

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