

In *The Dream and the Nightmare*, p. 137:

Magnet accuses Rawls of advancing the idea that “the justification of the whole society” should be: “...the condition of the poor..”

He suggests it should be “... the overall national wealth or freedom or virtue or artistic achievement or true democracy” by which we judge or justify our “social system.”

Magnet is outraged that “the condition of the poor” should “...stand as a mute, unanswerable judgment upon the Haves and the social system they uphold.”

Rawls does say:

"Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override... Therefore, in a just society the...rights secured by justice are not subject to political bargaining or to the calculus of social interests." (Theory of Justice, pp. 4-5)

Social Contract Theory: Hobbes, Locke and Rawls

- ④ Social Contract Theory
- ④ Thomas Hobbes
- ④ John Locke
- ④ The Idea of "Social Justice"
- ④ John Rawls and "justice as fairness"

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Social Contract Theory

1. Political authority derives from the consent of the governed, and this consent can be understood on the model of a contract, a mutual agreement.
2. There must be some motivation for making this agreement: fear, industriousness, a sense of justice...
3. We must have the capacity to assess our situation and make a rational choice about which agreements are in our individual best interests. (But who counts as "we" and what counts as "rational"?)

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Comparing Hobbes and Locke

I. Natural rights

II. Theory of property (State of Nature)

III. The Social Contract

Ia. Hobbes on “natural rights”

☺ Hobbes:

By “nature” men are equal in power, constant in desire, actively engaged in gaining acquisitions, dominion and glory.

To be in a “State of Nature” - without civil authority - is to be at war

Every man has a “right” to everything and anything that will further his ends, “even to another’s body.”

Ia. Hobbes on “natural rights”

☉ Hobbes (cont.):

Therefore, we ought to (Reason dictates that we should) “endeavor peace.”

“...that a man be willing to lay down this right to all things; and be contented with as much liberty against all men as he would allow against himself.”

“That men performe their covenants made.”

Ib. Locke on "natural rights"

☉ Locke

"...all Men are naturally in... a State of perfect Freedom to order their actions and dispose of their Possessions, and Persons as they think fit...without asking leave, or depending upon the Will of any other Man."

All men are born equally to "all the same advantages of Nature... also... without Subordination or Subjection to one another."

But this equality, while retained in one respect, gives way in another respect prior to the social contract.

IIa. Hobbes' Theory of Property:

- ④ In a condition of "Warre" each has a Right to Everything, without "leave" from others.
- ④ We lay down this right, by agreement, each relinquishing a claim to some things, because we desire Peace (even thus "reduced" in our Rights) in preference to a life that would be "solitary, nasty, poor, brutish and short."
- ④ Thus Property as a "privileged Right" to some things depends on the existence of a social contract and a civil authority than can be counted on to enforce it.

I Ib. Locke's Theory of Property:

- ③ The Earth, all the Fruits it produces and the Beasts it feeds belong to Mankind in common.
- ③ "...yet every Man has a Property in his own Person. This no Body has any Right but to himself. The Labour of his Body, and the Work of his Hands, we may say, are properly his."
- ③ Since what belongs to all in common will have no use to anyone in particular, "... there must of necessity be a means to appropriate them in some way...[so they can be] at all beneficial to any particular Man."

I Ib. Locke's Theory of Property:

- ④ If everything belongs to everyone in common, how can private property be justified?
- ④ If it can be, and if there are no limits to what one can appropriate, then how can we avoid Hobbes' conclusion, that in the State of Nature we are in a War of All against All?

I Ib. Locke's Theory of Property:

- ⊗ Suppose one denies "One's labor is one's own" and takes the position:

"One's capacity for labor is part of the Common domain."

- ⊗ Could this be defended? Are there any grounds for the position that one's labor, and one's capacity for labor, belongs to one's family, tribal group, City-State...?
- ⊗ (Consider Socrates' argument in the Crito that he was not free to avoid an unjust punishment.)

I Ib. Locke's Theory of Property:

④ Conditions determining individual appropriation in the State of Nature:

1. God has given to Man abundantly.
2. "But how far has he given to us? To enjoy. As much as any one can make use of to any advantage of life before it spoils; so much he may by his labour fix a Property in" §31, ll. 7-9
3. Lock also suggest that "enough should be left, and as good, that others are not deprived."

I Ib. Locke's Theory of Property:

Introduction of Money

Differences in "Industry" (industriousness) will result in differences in Property.

Nuts can be exchanged for apples...

Shiny metal can be exchanged for anything perishable...

"...if he would [do this]...and keep those by him all his Life...he [thereby] invaded not the Right of others, he might heap up as much of these durable things as he pleased; the exceeding of his just Property not lying in the largeness of his Possessions, but the perishing of any thing uselessly in it." §46, ll. 27-30

I Ib. Locke's Theory of Property:

- ④ Why would one accumulate Money beyond one's needs?

Not "miserly hoarding"

Money is likened to Land: it can be put to productive use (not merely exchanged). By being unequally distributed, Money...

"... by compact transfers that profit, that was the reward of one man's labour, into another man's pocket." Just as one can give the use of one's excess land over to a tenant, so "...the same unequal distribution of money...can bring me a tenant for my money."

IIb. Locke's State of Nature, part II:

All have the Right to Property since it arises from the Right to preserve one's life.

The natural propriety of one's own labor gives one a basis for Property, for individual appropriation.

Men barter and make exchanges, guided simply by Reason.

The use of Money in commerce arises naturally, and the "spoilage limitation" no longer limits the accumulation of wealth.

Differences in Industry are multiplied, and Men are divided into those who have Property and those who retain possession only of their labor.

IIb. Locke's State of Nature, part II:

Prior to the introduction of civil authority, what had been a Common Wealth, has been turned into a division between Men of those who have Property and those who only have their labor.

But the working class does retain the right to put its labor on the market at the going price.

Locke has arrived at a justification for class division without denying that all men have the same basic rights, and without raising class division as a "constitutional" issue.

EQUAL RIGHTS ARE ASSURED IN SUCH A WAY THAT CLASS DIVISION IS LEFT UNAFFECTED.

IIIa. Hobbes' Social Contract

Society is fragmented and driven into the struggle of each against all.

The principal concern is the preservation of life.

The only sure way to ensure Peace is that each transfers his natural rights of acquisition and protection over to an all powerful, absolute civil authority.

Hobbes does not address class division – neither what would justify it, nor what would secure it.

IIIb. Lockes' Social Contract

There is a natural division between the Propertied and the Unpropertied in society.

This division arises not because of differences in Rights (as would be true in a traditional aristocracy), but because of differences in Industry (industriousness).

Those without Property must be occupied entirely with their own living, only selling their own labor but only joining it to the Property of others.

This excludes them from consideration of the larger well-being of society, and thus from joining the Social Contract. The Unpropertied can only be concerned with their individual self-interest and cannot rise to the level of Reasonable participation in the Body Politic.

IIIb. Lockes' Social Contract

At least the Unpropertied can be assured that they will be "taken into account":

Class division (commerce based on Money) has resulted in their condition being better than it would be were they living in an "Unciviliz'd" condition (as they do in the Americas).

The wealth of the few will, in fact, "trickle down."

In cases of "extreme want," charity will provide.

“Social Justice”

- ④ All humans are naturally “equal,” on “equal footing” with one another.
- ④ This does not require that each individual be treated the same as every other individual.
- ④ “...the concept of equality has to do with the systematic treatment of representative persons, viewed in the abstract as members (and subjects) of some organized social whole.” (Philip Green, *Equality and Democracy*, p. 4)
- ④ “Similar treatment in similar circumstances” – but this only defines the problem.

Rawls and “justice as fairness”

③ Two principles of Justice [TJ, p. 53]:

“...each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.”

“...social and economic inequalities are to be arranged to that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all.”

Rawls and “justice as fairness”

④ “...to everyone’s advantage...”

“The Difference Principle”

Compare an “equal distribution” with a proposed “unequal distribution.” Make sure the “worst off” in the latter case will be “better off” than in the former.

Rawls and “justice as fairness”

The “Original Position”

Rather than imagining a State of Nature - how things would be without civil authority - imagine a “fictive assembly” that will choose a political organization.

We participate in this assembly from behind a “Veil of Ignorance”

We know nothing about our position, class, social status, natural assets, intelligence, strength, conception of the good, aversions, likes, our generation...

We must choose civil principles the consequences of which we are prepared to live with, whatever turns out to be our particular position.