

John Locke as an Effective Defender of Liberty

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The test of a great political thinker could be the method by which he welds the concepts of liberty and law. They are not mutually exclusive but neither can both liberty and law exist together without restrictions being placed on each. The problem then is how much law and how much liberty should be allowed. And at what point must law interfere with liberty? Locke addresses both these questions in a Hegelian manner. That is, he tries to join the two extremes of law and liberty not only by maintaining that there is a happy medium between both but by perceiving law as the ultimate earthly protector of liberty. Thus the concepts of law and liberty, far from being mutually exclusive, are made mutually dependent by way of the contract made between man and society. Yet the problem of maintaining the law and liberty is not entirely solved on this theoretical basis alone. To aid in its application, the terms of this social contract must specify the liberties being protected as well as the extent to which a government can issue the laws with the aim of preserving liberty. Thus Locke conceives of a civil government with executive and legislative power to preserve every man's right to life, liberty, pursuit of happiness, and

property. The essence of Locke's argument is based on the assumption that true liberty actually exists for every individual such that the process of protecting that liberty by law holds valid. Because of his failure to consider the almost complete absence of liberty in conditions of economic deprivation, Locke can only be said to be an effective defender of liberty insofar as it already exists for an individual.

The State of Nature was in Locke's mind a state of perfect freedom where the law of nature was to be observed by virtue of reason and enforced by all. Even this original condition of man did not allow unlimited liberty. Writes Locke, "Though man in that state have uncontrollable liberty to dispose of his person or possessions, yet he has not liberty to destroy himself or so much as any creature in his possession. . . no one ought to harm another in his life, health, liberty, or possessions."¹ An individual can have as much freedom as does not encroach upon that of another. Liberty, then, in the state of nature is already circumscribed by the complexities of living in a gathering of people or community. In his account of the formation of a political society, Locke envisions individuals giving up "all the power necessary to the ends for which they unite into society, to the majority of the community. . . ."² Now the Liberty and property which

were his to protect are subject to the will of the majority and its representatives. This is because the state of nature was not only one of perfect freedom, it was also one in which the "enjoyment" of that freedom is "very uncertain."

Succumbing somewhat to the view that life could indeed become as Hobbes stated "nasty, brutish and short,"³ Locke saw security outside the state of nature. The formation of a political society, in effect, withdrew the equality, liberty and executive power from the individual and granted the protection of a society in their stead. Locke rejects absolute monarchy as a viable form of government for the simple reason that it leaves one man in the state of nature.

Instead Locke offers a revolutionary alternative to circumvent the problem of concentrating power in one body of government. He proposes that two bodies be formed where one would perform the legislative function and the other would possess the executive power. The idea is perceived as a conflict of two antagonistic powers where each is capable of being limited by the other. It is in the conflict between the two bodies of government that Locke sees the liberty of the people preserved. For those who make laws, in order to secure their own liberty and well-being, must do so with that goal in mind since they themselves will be forced to obey those laws by virtue of the power of the executive.

"Where the good of the whole is so considered as it ought," writes Locke, "the legislative power is put into the hands of diverse persons who duly assembled, have by themselves or jointly with others a power to make laws, which when they have done, being separated again, they are themselves subject to the laws they have made, which is a new and near tie upon them, to take care that they make them for the public good."⁴ Liberty is thus forced to be preserved out of the frailty of human nature, as Locke saw it. Furthermore, Locke does not, like Hobbes, deny the wisdom of overthrowing a tyrannical government. Yet he approves of revolt only in cases of extreme oppression the judgement of which can come only after an appeal to heaven.

For all his distrust of giving one man too much power, Locke does, however, give the executive unlimited emergency power. The executive's prerogative includes the decision to summon the legislature when necessary and the ability to make laws and take actions in the event that the legislative is not in session. "This power," writes Locke, "to act according to discretion for the public good without the prescription of the law, and sometimes even against it, is that which is called prerogative."⁵ Thus those things that the law does not cover are subject to the power of the executive. From this nation there arises a serious threat to liberty since emergency

powers can include ruthless suppression of the rights of individuals in circumstances where it is not for the good of the people. In this case, Locke allows for rebellion cautioning, however, that petty inconveniences do not merit the overthrow of the executive since this would lay "a perpetual foundation for disorder."⁶ The inconveniences must be "so great that the majority feel it and are weary of it, and find a necessity to have it amended."⁷

In any case, the fact remains that Locke is more than successful in defending the liberty of individuals in a society. He considers that insomuch as the law of nature commanded by reason is the ultimate law which is to be enforced by a government, that law allows for a great amount of individual liberty. He did not believe that government should make itself felt in every aspect of man's life and an enlightened self-interest on the part of the legislature would prevent an inordinate amount of interference. Yet the concept of liberty is so blatantly abstract and thus subject to various extremes in interpretation that it seems foolhardy to attempt to define what Locke conceived it to be. But whatever Locke did, he never dealt with politics in the abstract. He was an empirical thinker who dealt with the concept of liberty entirely in terms of the material world. For Locke, liberty was the freedom of an individual to create his own goals and

achieve success as he saw fit within the limits of the law.

As much as he dealt with his idea of liberty in terms of the material world, Locke failed to consider what the lack of economic security did to his concept of liberty. The absence of economic freedom quite obviously eradicates any form of liberty, and thus the necessity of preserving a non-existent entity by law is superfluous. A man in conditions of economic deprivation has no property to do with as he pleases, can not even plan for a pursuit of happiness, and is a slave to the means by which he can feed himself from day to day. In the event he fails to find economic opportunity in order to secure a bare living, he is left political society which is concerned with preserving its liberty and has no provision for ascertaining that it exists for every individual in that society. The question is then formed as to whether it is not true that society is forcing that man into choosing a state of nature where he can preserve himself by hook or crook and achieve a far better measure of liberty than by living by the laws of the land. Would it not be better for society itself if it created laws that would preserve economic freedom and thereby secure liberty for all? Locke allows no room for this type of speculation. He was a defender of liberty who was not concerned with its creation.

Liberty and law thus exist in harmony in Locke's conception of political order. Neither is unlimited but both are dependent upon the other for their execution. For civil law, according to Locke, is made by contract out of the state of perfect freedom itself while liberty remains reliant on laws based on the law of nature. Perhaps the innate simplicity of this type of reasoning is what appealed to the founders of America's democracy. At the time that Locke's defense of liberty was incorporated into the U.S. Constitution as a basic philosophical doctrine, the young country had no problem of unemployment or lack of economic opportunity. Today the variables that govern liberty's existence have changed because of the dwindling economic resources and the global threat of overpopulation. The cry for social change is no longer based on a defense of liberty; it has become one which questions and demands its very existence.