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LOCKE

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No explication of Locke's political philosophy will accommodate everything Locke said in the course of his forty years of moral and political theorizing. Nevertheless, one account does capture much more of what is philosophically central, distinctive, and interesting in Locke's political thought than alternative accounts. On this account, Locke defends an essentially secular, rights-based, liberal individualism. In this essay I present a streamlined and philosophically sympathetic version of this Locke; I do not attempt to explicate or rebut alternative understandings of Locke. I draw primarily from Locke's two most important and best-known works in political philosophy—the Second Treatise (ST) from his Two Treatises of Government and A Letter Concerning Toleration (LCT). I also draw upon Locke's early lectures, Essays on the Law of Nature (ELN), and some passages from Locke's First Treatise (FT) and his Essay Concerning Human Understanding (ECHU). My presentation starts with the Lockean state of nature and persons' natural and property rights and moves on to the inconveniences of the state of nature, the contractual formation of government, and the conditions under which political power may justly be resisted. I then turn to Locke's basic case for religious toleration and the place of religious toleration within Locke's overall political doctrine.

1. Freedom

At the core of Locke's liberalism is the endorsement of freedom and law and the condemnation of slavery and tyranny. An individual is free to the extent that he is not precluded from disposing as he sees fit of his own person and (legitimately acquired) possessions. A regime is lawful to the extent to which each individual's right to freedom is respected. The pre-political state of nature is lawful insofar as within it individuals respect the moral rights that individuals possess within it (and abide by other strictures of the law of nature). The political state is lawful insofar as the enactments and practices of those with political power respect the finer delineations of individual moral rights which it is the business of political authority to draw and enforce. In this way, freedom and law are complementary; an individual enjoys freedom to the extent that others in their transactions with him abide by the law of nature that governs the state of nature or abide by the positive law that provides a more determinate specification of the law of nature in the political state (ST: §135).

This view of the connection of freedom and law must not be confused with the Rousseauist-Kantian view that an individual's freedom consists in his compliance with the law. Furthermore, it differs from the Hobbesian-Benthamite view that freedom is a matter of acting as one desires. Locke rejects this Hobbesian-Benthamite view because on
it each person's freedom requires infringements on other persons' freedom and each person's exercise of his right to freedom requires infringements upon others' rights to freedom. "Freedom is not," as we are told, "A Liberty for every Man to do what he lists: For who could be free, when every other Man's Humour might domineer him?" (ST: §57). "To be subject to law that requires one to allow others to dispose of their own persons and possessions as they see fit is not an infringement upon one's liberty" (ST: §57).

To be denied freedom is to be treated as a slave. To be subjected to unlawful political power is to be subjected to tyranny. Slavery and tyranny are, therefore, the antinodes of freedom and law. Furthermore, Locke links the law of nature and the finer delineations of that law in the political state to reason. For the law of nature is grounded in our existence as rational beings and is identified by reason. Compliance with the rights and obligations that (in part) constitute the law of nature or with that law's finer positive articulations is at least a necessary condition of practical rationality. Thus, unlawful action in violation of those rights and obligations is also contrary to reason. Such action reflects arbitrary, i.e., unlawful and unreasonable, will. Freedom, then, is also a matter of not being subject to the arbitrary will of others; and the fuller statement of the basic background contrast that frames Locke's political thought is: freedom, law, and reason versus slavery, tyranny, and arbitrary will.

2. Property

The core claim that freedom is non-interference with one's disposal of one's "whole property" seems to imply that persons have rights to freedom in virtue of having rights over particular objects—most saliently, rights over themselves. Putting matters this way highlights the crucial role of property in Locke's explication of freedom and of the right to freedom. Conceptually, the realization of freedom and lawfulness is linked to the recognition and respect for property. In practice, recognition and respect for mine and thine is the key to social order, peace, and prosperity. Nevertheless, saying that persons have rights to freedom in virtue of having proprietorship over particular objects might make persons' moral claims to freedom too conceptually dependent upon an independent identification of their rights. Such an identification of those rights could not appeal to—since it would have to be the ground of—persons' moral claims to freedom. A more promising understanding of Locke's position is that each person's basic moral claim to freedom is to some considerable extent best codified in terms of ownership claims. Ownership is the characteristic mode through which the basic right to freedom is expressed.

It is often held that for Locke the right of self-ownership is the sole original and non-acquired right. All other non-acquired rights are aspects of this one sturdy foundational right and all acquired rights arise through the exercise of this self-ownership right. This is mistaken. For, in his key arguments for natural rights in chapter II of the Second Treatise, Locke argues for a wider moral right to freedom, a right against being subordinated to the will of others. He casts the conclusion of his arguments broadly and disjunctively. "[N]o one ought to harm another in his Life, Health, Liberty, or Possessions." Except to do justice on an offender, no one may "take away, or impair, the life, or what tends to the Preservation of the Life, the Liberty, Health, Limb, or Goods of another" (ST: §6). A moral right over one's own person may be part of the codification of this broad right against being subordinated to others, but it does not seem to capture all of that right. For instance, self-ownership does not encompass each person's state of nature right that others abide by their agreements with him (ST: §14). Indeed, self-ownership as such is
3. The Law of Nature: Two Programs

On what basis does Locke assert each individual's basic original claim to freedom? Answering this question is complicated by the presence in Locke of two distinct, but not clearly distinguished, programs for determining the content of the law of nature. We can label one "the divine command program" and the other "the inborn constitution program." Throughout his life, Locke subscribed to one thesis that is characteristic of authoritarian political doctrines, namely, law must be the product of the will of the law-giver. A norm is a matter of obligatory law if and only if it is commanded by a relevant legislator. "[I]n order that anyone may understand that he is bound by a law, he must know beforehand that there is a lawmaker, i.e., some superior power to which he is rightly subject" (ELN: 102). Hence, the most basic moral law, namely, the law of nature, consists of the norms that God commands us to follow. Locke always attempts to steer clear of crudely voluntarist versions of this divine command doctrine. It is not God's mere will nor God's propensity to punish non-compliance with his commands that makes his commands obligatory law. God's will binds us because of the authority God possesses in virtue of his wisdom and goodness or in virtue of his being our creator (ELN: 116–17). Still, even moderate voluntarist seems to imply that we are to determine the content of the law of nature by detecting what God wills us to do (ELN: 102).

The problem for this program is that we have very little access to God's intentions and will. We know that God wills us to do "something" (ELN: 105); but we do not have any direct knowledge about what he wills. Indeed, over his lifetime Locke increasingly narrows the range of knowledge we can have about God and his intentions. See especially Locke's second and third letters on toleration (Locke 1823). We do, however, have access to certain fundamental and morally fertile facts about human nature; we have knowledge about our "inborn constitution" (ELN: 125). Locke might have gone on to say that our knowledge of our inborn constitution is the basis for certain inferences about what God commands us to do or to leave off; and these inferences from human nature enable us to carry out the divine command program.

Yet, when Locke shifts focus to our inborn constitution, his explicit contention is that persons' inborn constitution determines how they should conduct themselves. God has willed that beings with our natures exist. But then it is our inborn constitution—and not God's will—that determines how beings with such a nature should act. The law of nature

is a fixed and permanent rule of morals, which reason itself pronounces, and which persists, being a fact so firmly rooted in the soil of human nature. Hence human nature must needs be changed before this law can be either altered or annulled. ... Since man has been made such as he is, equipped with reason and his other faculties and destined for this mode of life, there necessarily result from his inborn constitution some definite duties for him, which cannot be other than they are.

(ELN: 125)
LOCKE ADDS THAT "these duties of his necessarily follow from his very nature" and that, therefore, "natural law stands and falls together with the nature of man as it is at present" (ELN: 126). Certain features of our human nature ground the norms that constitute the law of nature and that is why, as the inborn constitution program asserts, we are to identify the content of the law of nature through a study of our inborn constitution. Moreover, when Locke actually sets out to ground natural rights in the early chapters of the Second Treatise, he proceeds by way of this inborn constitution program. It is either our nature or our reason as it inspects our nature and identifies its normative implications that provides the content of the law of nature.

In the pursuit of the inborn constitution program Locke focuses on two morally fertile features of our human constitution. First, each person seeks his own happiness and is rational to do so. Although all good, i.e., all happiness, is "the proper object of desire in general," not every instance of happiness moves each particular man. Rather, each man is moved only by those instances of happiness "which make a necessary part of his happiness."

All other good, however great in reality or appearance, excites not a man’s desires who look not on it to make a part of that happiness wherewith he, in his present thoughts, can satisfy himself. Happiness, under this view, everyone constantly pursues, and desires what make any part of it: other things, acknowledged to be good, he can look upon without desire, pass by, and be content without.

(ECHU: II, 341)

In a fragment ("Thus, I Think") composed shortly before the publication of the Two Treatises, Locke declares that

'Tis a man’s proper business to seek happiness and avoid misery. ... I will therefore make it my business to seek satisfaction and delight and avoid uneasiness and disquiet and to have as much of the one and as little of the other as may be.

(Goldie 1997: 296)

Within Locke’s political writings, the stand-in for the desire for happiness and the rationality of its pursuit is the desire for (comfortable) self-preservation (FT: §88) and the rationality of its pursuit. And the crucial necessary interpersonal condition for the attainment of self-preservation is freedom, i.e., the protected liberty to dispose of one’s life, limb, and possessions as one sees fit (ST: §17). Thus, the crucial implication for political theory of the fact that each rationally pursues his own happiness is that each rationally pursues his own freedom. The second normatively portentous feature of our constitution is that persons, sharing a common nature, are morally equal beings; whatever original moral claims are ascribed to one person must also be ascribed to all other persons.

Intuitively, the first feature underwrites the idea that persons each have ends of their own to which they are rationally oriented; no person is made for another’s purposes. The subordination of another person to one’s own purposes falsely presumes that the other is made for one’s purposes and, thus, such subordination is unjustified (ST: §6). The first feature also underwrites the rationality of each person’s laying claim to freedom from the interference of others and, thus, by way of the second feature, each is ration-
ally required to acknowledge a like claim for others (ST: §§4–7). Other persons exist as equal and independent moral beings (ST: §6). This fact about other persons has some sort of directive import for one's conduct toward them. Locke often expresses this directive import by saying that, if others are not offenders, one ought to preserve them as long as that preservation does not come into competition with one's own. However, Locke immediately parses this call for one's preservation of mankind as the requirement not to "take away, or impair the life, or what tends to the Preservation of the Life, the Liberty, Health, Limb, or Goods of another" (ST: §6).

The normative significance of the existence of other persons who, like oneself, rationally seek their own self-preservation and freedom is not that one must also promote their preservation or freedom. Rather the import is that one must refrain from depriving others of the freedom that is the crucial interpersonal condition for their respective attainment of self-preservation and happiness. To demand more of others is to demand their subordination to one's own purposes and will. Locke does assert that each is required not to subordinate others to his will because we are each God's property. But this argument—based as it is on God's alleged ownership of us—is not an argument for our having rights against being subordinated (ST: §6).

4. Rightful Holdings

Locke also holds that private property rights in particular extra-personal objects—in acomas, bits of turf, or fields—can arise in the state of nature. Since, all these rights must be acquired, Locke needs to provide an account of how such rights can and do arise. Moreover, since Locke was convinced by Robert Filmer's arguments (Somerville 1991: 19–21) that private property rights could not arise through any general social contract, he needs to offer an explanation of such rights that does not appeal to any such compact (ST: §25).

Locke's explanation begins in the First Treatise (FT: §§86–8). Persons' natural rights to engage in self-preserving action (which is close to isomorphic with the natural right to freedom) must include a right to use and even acquire discretionary control over parts of the extra-personal world. For such use and (at least in some cases) such acquisition is necessary for the attainment of comfortable preservation. So persons have rights not to be precluded from using and even exercising ongoing discretionary control over portions of the extra-personal world; hence, the earth cannot originally be the joint property of mankind. For were it the joint property of mankind, each individual would need the consent of all others before making use of or appropriating anything; and, hence, no individual would have an original right to bring his powers to bear upon the world. Indeed, each individual would starve while waiting for everyone else to consent to his self-preserving actions (ST: §28). So there has to be some process by which individuals can generate private property rights without obtaining the consent of mankind.

In the Second Treatise Locke specifies the process that generates initial property rights. That specification builds on the original, non-acquired, right of self-proprietyship. Each self-owner has an original right over his own labor. When an agent brings his skills, insights, or energy to bear on some morally available material in the service of some intended transformation of that material, that agent invests his labor in the resulting object. Since the resulting object cannot then be taken from the agent without taking the labor that has been "mixed" with the object, taking that object without the agent's permission violates the agent's retained right to his labor. The agent has a
property right to the transformed object because taking it from him without his consent violates his retained right to his labor. Moreover, all raw material is morally available for acquisition through labor mixing precisely because the earth is originally unowned; for that is (almost) all that can be meant by saying that God has given the earth to all mankind in common. Locke also clearly believes that property rights established through the investment of one's labor can be transferred through simple barter and complex commercial interactions. Yet he offers no explanation of how the recipient of a freely transferred holding acquires a right to that holding not merely against the person who transferred it to him, but against the world at large. For Locke, as for other seventeenth-century theorists, the generation of initial just holdings was the only pressing question.

Locke maintains, however, that there are limits on how much one may "ingross" (ST: §31) through labor mixing and voluntary transfer. One cannot establish rights over what will spoil in one's possession and, more significantly, private acquisition must leave "erough, and as good" for others. Nevertheless, the general tenor of Locke's "Of Property" is that the progressive development of private property does not transgress either of these limitations. The case for the non-transgression of the spoilage proviso is simple. Labor mixing involves taking pains. Prior to the existence of money, no sensible person will take pains to acquire more goods that are susceptible to spoilage than he (or his household) can consume or can barter for consumables. After the appearance of hard money, any sensible person will exchange goods that will otherwise spoil for gold or silver coins (ST: §46).

The case for the non-transgression of the enough and as good proviso is more complex and more interesting. Locke strongly associates the initial acquisition of portions of the earth with the shift from a hunter-gatherer to an agricultural mode of self-preservation. An individual makes this shift by settling down and making a bit of the earth his own. In turning to agriculture, that individual will need and will take possession of much less land than he previously used in hunter-gatherer fashion. In settling down, that individual in effect donates to others the difference between his past pro rata share of the land that they all hunted and gathered in and the amount of land he makes his own. Thus, at this crucial early phase in the rise of private property, the enough and as good proviso is readily satisfied.

Things get more complicated after the appearance of money. For money vastly increases the prospects of economic advancement by facilitating and drawing people into trade. Money radically intensifies and extends the market. It radically increases the number and range of desirable goods that one may acquire through trade and the incentives that one has to develop and exercise one's own industry so as to be in position to enter into gainful trades. Money also, of course, provides a store for the increased wealth that becomes available to one from industry and trade. The effect of money is, therefore, to increase enormously the development and deployment of human capital. This explains, according to Locke, the vast difference in material well-being between societies that lack private property, money, extensive trade, and commercial development and societies that are blessed with these institutions. Indeed, the "godlike" prince is the ruler who establishes "laws of liberty" that "secure protection and encouragement to the honest industry of Mankind" (ST: §42). Differences of "degrees of industry" among men naturally give rise to differences in their wealth and these differences are enlarged with the magnification of industry and trade in commercial society. Yet everyone gains absolutely in this transition. The economic game is a positive sum game precisely because
wealth derives from the development and exercise of human capital. And, if anything, one person's increased industriousness provides inducements and opportunities for others' enhanced industriousness. In fact, Locke's very strong contention is that the worst off day laborer in commercial England is materially better off than the king of a large, fertile, but hunter-gatherer domain in America (ST: §41).

Nevertheless, the incentives engendered by money and the world of commerce that money calls forth lead individuals so extensively to appropriate portions of the earth that enough and as good of the earth is not left for others to appropriate or even to use as would have been available had the earth remained an open commons. So it appears that in the second, money-engendered phase of a private property regime the enough and as good proviso is violated. Yet Locke denies this. Locke's explicit argument here falls back on his belief that in some relevant sense money arises through general agreement (ST: §36). Locke adds two further premises. First, if one agrees to a certain institution, one agrees to whatever are the obvious consequences of that institution and, second, it is an obvious consequence of the institution of money that enough and as good of the earth will not be left for some individuals. It follows that, wherever there is money, there has been universal agreement to enough and as good not being left for some individuals. Through the agreement that institutes money, this proviso has been set aside.

This is a bad argument for Locke. For money does not arise from general agreement. Moreover, Locke himself has vowed not to appeal to general agreement within his account of property rights. In addition, what one really wants to know is why, given its obvious consequences, everyone would agree to the institution of money. Locke's answer is that each would agree because each correctly anticipates being better off due to the introduction of money. Each correctly anticipates being better off with respect to the concern that motivates the enough and as good proviso, namely, how extensively one is "straitened" (ST: §36) by others in one's bringing one's powers to bear on the external world in pursuit of one's ends.

Initially, when one focuses on the use or appropriation of raw material, the concern about being straitened takes the form of concern about others not leaving enough and as good raw material. Yet Locke consistently emphasizes the relative unimportance of raw material in economic development. As one's environment develops economically, concern about straitening must increasingly take the more general form of concern about whether the overall receptivity of that environment—which now is largely constituted by the products of people's industry and their decisions about the disposition of those products—to one's exercise of one's industrious powers is at least as great as it would have been had private property and money not come on the scene. Since, on this more general measure of being straitened, an individual is not straitened by the development of property and commerce, the underlying motivation for the enough and as good proviso is satisfied and, hence, the proviso more broadly construed is satisfied—even if enough and as good raw material is not left for that individual to appropriate or use. (This sympathetic recasting of Locke's enough and as good proviso follows the general lines laid down in Robert Nozick's Anarchy, State and Utopia (1974: 178–82).)

Does this merely show that Locke's enough and as good proviso sets too low a baseline? Should one not be able to demand more of economic development than that it not diminish the receptivity of one's environment to one's laboring in the service of one's ends? Locke's answer is that to demand more than this simply on the basis of being in the presence of development engendered by other people's industry is to demand unjustly "the benefit of another's Pains" (ST: §34).
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For Locke, first-order rights to dispose as one sees fit of one’s person and legitimately acquired possessions imply second-order rights to enforce these rights, namely, to defend one’s rights, to extract compensation for the violation of one’s rights, and to punish violators of rights. In pre-monetary property regimes, the private exercise of these rights of enforcement causes little trouble because the boundaries that define people’s rights are simple and readily perceived and one’s neighbor really does not have that much to plunder or that much for one to seek through exaggerated demands for compensation (ST: §§51, 107). It is when property and contract become more varied and complex and there is more of value to contend over that frequent and serious inconveniences arise from individuals seeking to enforce the law of nature on the basis of their private judgments. As is well known, the Lockean remedy for these inconveniences is the establishment of government that provides known (positive) law, impartial judges, and reliable power to enforce the law and judicial decisions.

5. Government

This establishment involves two stages. The first is the creation of “political society” to which contracting individuals transfer their second-order rights to act as executors of the law of nature. The second is political society’s establishment of a governmental structure and selection of key governmental officers who are contractually bound to political society to preserve that structure and to serve the purposes for which political society is created. It would be unwise to trace the details of Locke’s tangled discussion of who consents at what point, within which stage, and with what resulting sort of obligation. But certain general features of Locke’s position are worth emphasizing. With one important qualification, the only state of nature rights that are surrendered are the rights of defense, restitution, and punishment. First-order rights to life, liberty, and estate are retained by all—except that Locke imagines that each contracting individual agrees to contribute to the public enforcement of rights (ST: §§88, 140) and this presumably includes being subject to taxation to cover the costs of that enforcement. Moreover, the purpose of the establishment of known (positive) law, impartial judges, and reliable force is the protection of property in its broad sense of life, liberty, and estate (ST: §§88, 123, 131, 138). “The great end of men’s entering into society is the enjoyment of their properties in peace and safety” (ST: §134). Since these rights do not owe their existence to government, their retention constrains all governmental activity; the function of positive law is merely to more finely articulate and enforce the law of nature.

The Obligations of the Law of Nature, cease not in Society, but only in many Cases are drawn closer, and have by Humane Laws known Penalties annexed to them, to inforce their observation. Thus the Law of Nature stands as an Eternal Rule to all Men, Legislators as well as others.

(ST: §135)

To think that men would surrender more of their rights to establish more extensive political authority is “to think that Men are so foolish, that they take care to avoid what Mischiefs may be done them by Pole-Cats or Foxes; but are content, nay, think it Safety, to be devoured by Lions” (ST: §93).

Numerous passages in the Second Treatise emphasize the role of majority rule within political society and within any legislature created by political society (ST: §§96, 97).
However, those majorities only have the authority to select among competing measures aimed at the protection of individuals’ moral rights. For the community and any majority within it only acquire from consenting individuals the right to advance “the ends for which they unite into Society” (ST: §99, §222). Since “no Body has an absolute Arbitrary Power over himself, or over any other, to destroy his own Life, or take away the Life or Property of another” (ST: §135), no valid transfer of rights can result in the community or any majority within it having such an authority.

The establishment of governmental authority does not fundamentally alter persons’ original equal moral standing. Acts of taxation by the government are morally permissible only insofar as they are akin to the enforcement of contractual commitments to pay for services rendered. Government officials who engage in actions that would be criminal if performed by a private citizen are themselves criminals.

The Injury and the Crime is equal, whether committed by the wearer of a Crown, or some petty Villain. The Title of the Offender, and the Number of his Followers, make no difference in the Offence unless it be to aggravate it. The only difference is, Great Robbers punish little ones, to keep them in their Obedience; but the great ones are rewarded with Laurels and Triumphs ...
(ST: §176)

Due to the power at his command, the chief executive officer—the monarch—poses the greatest danger of this criminality (ST: §218). Such criminality vindicates resistance. In some cases, the chief officer—usually through his minions—engages in isolated violations of the rights of some subject. In these cases, if no legal recourse is available, resistance by the individual is permissible even though it is likely to be imprudent (ST: §208). In other cases, the chief officer either subverts the constitutional order established by political society or instigates widespread attacks on people’s property. In these cases, the aggrieved party is that mysterious thing called “political society.” Individuals as members of political society may both resist and replace the ruler. Indeed, actions by the ruler that justify resistance by political society also “dethrone” the ruler (ST: §239), so the people’s resistance is not rebellion against legitimate authority.

But, who shall judge whether rights have (sufficiently) been violated? Locke insists that ultimately “every Man is Judge for himself, as in all other Cases, so in this” (ST: §241). Yet Locke also holds that the transfer of rights that creates political society involves the surrender of the right of private judgment (ST: §87), and it does seem that individuals can only exit the state of nature through some sort of mutual disavowal of private judgment. Perhaps we can reconcile these contentions by considering precisely why people agree to accept public articulations of rights and public decisions about common measures for the protection of those rights.

People agree to forego insistence upon their divergent judgments about which specifications and measures best protect property and, hence, they agree to abide by positive “Humane laws” (ST: §135) that draw closer the Law of Nature. For it is insistence on one’s own judgment about precisely how the Law of Nature should be construed that generates the state of nature inconveniences. Lockean contractors do not, however, agree to be bound by whatever public articulations or common measures are issued or enforced. They only agree to be bound by public delineations and decisions about common measures that can reasonably be construed as best securing persons’ rights. Private judgment on behalf of one’s own favorite among the reasonable articulations or measures
is excluded. Nevertheless, each person retains the right to judge whether the conduct of political authorities can reasonably be construed as securing rights. If that conduct is privately judged to be within the range of the reasonable, the individual must take himself to be bound to comply. However, if governmental conduct is privately judged to be outside this range, the individual need not take himself to be bound to comply.

This position is suggested by Locke in *A Letter Concerning Toleration*.

[The private judgment of any Person concerning a Law enacted in Political Matters, for the publick Good, does not take away the Obligation of that Law, nor deserve a Dispensation. But if the Law indeed be concerning things that lie not within the Verge of the Magistrate's Authority ... men are not in these cases obligated by that Law, against their Consciences.]

*(LCT: 48)*

Locke's stance in the Letter is that any law restricting peaceful religious activity is beyond "the Verge of the Magistrate's Authority." No such law can reasonably be construed as protective of rights because no peaceful religious activity infringes upon anyone else's rights of life, liberty, or estate. "If any man err from the right way, it is his own misfortune, no injury to thee" *(LCT: 31)*.

6. Religious Toleration

No agent's mismanagement of his own worldly affairs opens him up to legitimate coercive interferences; and the same anti-paternalist point applies to his mismanagement of extra-worldly affairs *(LCT: 34)*. Nor does the judgment that another's religious practices are sinful ground legitimate coercive interference. For "it does not follow, that because it is a sin it ought therefore to be punished by the Magistrate" *(LCT: 43)*. Only those acts may be punished that are "prejudicial to mens Rights [or] break the publick Peace of Societies" *(LCT: 44)*. Moreover, legal restrictions on peaceful religious activities—backed as they are with punishments—reveal neither a concern for others' rights nor for the well-being of those subject to those punishments. Instead, such measures reveal "intemperate Zeal" and the desire for "Temporal Domination." It is not credible that someone who would deliver "his Brother ... to be burnt alive, does sincerely and heartily concern himself to save that Brother from the Flames of Hell in the World to come" *(LCT: 35)*.

No man (or Church) can transcend his (or its) own private judgment about what one must do to attain salvation: "every Church [and person] is orthodox to it [and him] self." Hence, the proposal that only those magistrates who adhere to the correct path for salvation have the authority to impose that orthodox path is merely "great and specious Words" *(LCT: 32)*. For every magistrate will take this proposal as a vindication of his imposition of his own favored, hence, orthodox path. The solution lies not with any surrender of private judgment per se but, rather, with a recognition of the "Verge" of each individual's private judgment. In pursuit of salvation, each individual may dispose of himself and his possessions in accordance with his private judgment. Religious liberty, as with liberty in general, is a matter of respect for mine and thine. Indeed, one's protected liberty to engage in some religiously motivated activity has nothing to do with its religious motivation and everything to do with one's right to dispose as one sees fit of the resources employed in that activity. I may sacrifice a calf in my religious ceremonies
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if, but only if, it is my calf (LCT: 42). Crucially, others’ permitting me to engage in this ceremony does not involve their endorsement of it but, rather and merely, their recognition of my ownership of the calf.

The solution to religious conflict is the de-politicisation of religion. Such de-politicisation engenders peaceful, albeit competitive, coexistence among distinct churches. The search for religious truth is best advanced by such a marketplace in religious ideas (LCT: 46) for very much the same reasons as the search for material well-being is advanced by the economic market. A framework of positive law that clearly delineates people’s individual rights and protects those rights against violation is called for by our existence as morally equal and independent beings. At the same time, the establishment of this framework—the institution of “laws of liberty”—enables individuals to create the complex of peaceful and mutually beneficial interactions that constitute a flourishing civil society.

Related Topics

Hobbes, Hume and Smith on Justice, Kant, Anarchism, Liberalism, Natural Law and Rights Theory, Libertarianism, Freedom, Rights, Toleration

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Further Reading