

Wahlfach: Politische Philosophie und Philosophie des Rechts
Optional Course: Political and Legal Philosophy

(Einheit 6/Lesson 6: Absolutism, English Empiricism, Social Contract: Hobbes and Locke)

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Weiterführende Quellen und Materialien / Useful Sources and Materials:

Kunzmann/Burkhard/Wiedmann, dtv-Atlas Philosophie¹¹, München 2003

J. S. McClelland, A History of Western Political Thought, London/New York 2003
(Routledge paperback)

Bertrand Russell, History of Western Philosophy, London/New York 2003 (Routledge paperback)

Roger Cotterrell, The Politics of Jurisprudence. A Critical Introduction to Legal Philosophy², Philadelphia 2003

Alt aber gut (mind and thought challenging): *Egon Friedell*, Kulturgeschichte der Neuzeit I-II, München 1993 (dtv-Taschenbuch, erstmals erschienen 1927–1931, English versions available)

Michael D. A. Freeman, Lloyd's Introduction to Jurisprudence, 7th ed. London 2001

General Internet-Links History of Philosophy:

<http://plato.stanford.edu/contents.html> (Stanford Encyclopedia of Philosophy)

<http://www.fordham.edu/halsall/mod/modsbook.html> (Internet Modern History Sourcebook)

<http://www.philosophypages.com> (Philosophy Pages: Timeline of Western Philosophy)

<http://homepage.newschool.edu/het/home.htm> (History of Economic Thought Website)

<http://homepage.newschool.edu/het/schools/optimist.htm> (Social Philosophers and Commentators)

<http://encyclopedia.thefreedictionary.com/Timeline%20of%20Western%20philosophers>

<http://www.iep.utm.edu> (Internet Encyclopedia of Philosophy)

http://www.csudh.edu/phenom_studies/western/western.htm (History of Contemporary Western Philosophy)

Weiterführende Literatur für Einheit 6/Further Reading for Lesson 6:

Rainer Specht, John Locke, München 1989

Hobbes: Leviathan (1651)

Locke: Two Treatises of Government (1679/80)

Internet-Links on Hobbes and Locke:

Deutsch:

http://de.wikipedia.org/wiki/Thomas_Hobbes

http://de.wikipedia.org/wiki/John_Locke

English:

http://en.wikipedia.org/wiki/Thomas_Hobbes

<http://plato.stanford.edu/entries/hobbes-moral/>

http://en.wikipedia.org/wiki/John_Locke

<http://plato.stanford.edu/entries/locke/>

Text Examples

Grotius, De jure belli ac pacis libri tres (1625), Preliminary Discourse

VIII. This Sociability, which we have now described in general, or this Care of maintaining Society in a Manner conformable to the Light of human Understanding, is the Fountain of Right, properly so called; to which belongs the Abstaining from that which is another's, and the Restitution of what we have of another's, or of the Profit we have made by it, the Obligation of fulfilling Promises, the Reparation of a Damage done through our own Default, and the Merit of Punishment among Men. (...)

XI. And indeed, all we have now said would take place, though we should even grant, what without the greatest Wickedness cannot be granted, that there is no God, or that he takes no Care of human Affairs. (...)

Hobbes, Leviathan (1651), part 1 "Of Man", ch. 13

So that in the nature of man, we find three principal causes of quarrel. First, competition; secondly, diffidence; thirdly, glory.

The first maketh men invade for gain; the second, for safety; and the third, for reputation. The first use violence, to make themselves masters of other men's persons, wives, children, and cattle; the second, to defend them; the third, for trifles, as a word, a smile, a different opinion, and any other sign of undervalue, either direct in their persons or by reflection in their kindred, their friends, their nation, their profession, or their name.

Hereby it is manifest that during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war as is of every man against every man. For war consisteth not in battle only, or the act of fighting, but in a tract of time, wherein the will to contend by battle is sufficiently known: and therefore the notion of time is to be considered in the nature of war, as it is in the nature of weather. For as the nature of foul weather lieth not in a shower or two of rain, but in an inclination thereto of many days together: so the nature of war consisteth not in actual fighting, but in the known disposition thereto during all the time there is no assurance to the contrary. All other time is peace.

Whatsoever therefore is consequent to a time of war, where every man is enemy to every man, the same consequent to the time wherein men live without other security than what their own strength and their own invention shall furnish them withal. In such condition there is no place for industry, because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving and removing such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.

Locke, An Essay concerning Human Understanding (1689), book 1, chapter 1

1. The way shown how we come by any knowledge, sufficient to prove it not innate. It is an established opinion amongst some men, that there are in the understanding certain innate principles; some primary notions, koinai ennoiai, characters, as it were stamped upon the mind of man; which the soul receives in its very first being, and brings into the world with it. It would be sufficient to convince

unprejudiced readers of the falseness of this supposition, if I should only show (as I hope I shall in the following parts of this Discourse) how men, barely by the use of their natural faculties, may attain to all the knowledge they have, without the help of any innate impressions; and may arrive at certainty, without any such original notions or principles. For I imagine any one will easily grant that it would be impertinent to suppose the ideas of colours innate in a creature to whom God hath given sight, and a power to receive them by the eyes from external objects: and no less unreasonable would it be to attribute several truths to the impressions of nature, and innate characters, when we may observe in ourselves faculties fit to attain as easy and certain knowledge of them as if they were originally imprinted on the mind.

15. The steps by which the mind attains several truths. The senses at first let in particular ideas, and furnish the yet empty cabinet, and the mind by degrees growing familiar with some of them, they are lodged in the memory, and names got to them. Afterwards, the mind proceeding further, abstracts them, and by degrees learns the use of general names. In this manner the mind comes to be furnished with ideas and language, the materials about which to exercise its discursive faculty. And the use of reason becomes daily more visible, as these materials that give it employment increase. But though the having of general ideas and the use of general words and reason usually grow together, yet I see not how this any way proves them innate. The knowledge of some truths, I confess, is very early in the mind but in a way that shows them not to be innate. For, if we will observe, we shall find it still to be about ideas, not innate, but acquired; it being about those first which are imprinted by external things, with which infants have earliest to do, which make the most frequent impressions on their senses. In ideas thus got, the mind discovers that some agree and others differ, probably as soon as it has any use of memory; as soon as it is able to retain and perceive distinct ideas. But whether it be then or no, this is certain, it does so long before it has the use of words; or comes to that which we commonly call "the use of reason." For a child knows as certainly before it can speak the difference between the ideas of sweet and bitter (i.e. that sweet is not bitter), as it knows afterwards (when it comes to speak) that wormwood and sugarplums are not the same thing.

Locke, Two Treatises of Government (1690), book II, ch. 2, 7, 11

But though this be a *state of liberty*, yet it is *not a state of licence*: though man in that state have an 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, but where some nobler use than its bare preservation calls for it. The *state of nature* has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all *equal and independent*, no one ought to harm another in his life, health, liberty, or possessions: for men being all the workmanship of one omnipotent, and infinitely wise maker; all the servants of one sovereign master, sent into the world by his order, and about his business; they are his property, whose workmanship they are, made to last during his, not one another's pleasure: and being furnished with like faculties, sharing all in one community of nature, there cannot be supposed any such *subordination* amongus, that may authorize us to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for our's. Every one, as he is *bound to preserve himself*, and not to quit his station wilfully, so by the like reason, when his own preservation comes not in competition, ought he, as much as he can, *to preserve the rest of mankind*, and may not, unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another.

And that all men may be restrained from invading others rights, and from doing hurt to one another, and the law of nature be observed, which willeth the peace and *preservation of all mankind*, the *execution* of the law of nature is, in that state, put into every man's hands, whereby every one has a right to punish the transgressors of that law to such a degree, as may hinder its violation: for the *law of nature* would, as all other laws that concern men in this world 'be in vain, if there were no body that in the state of nature had a *power to execute* that law, and thereby preserve the innocent and restrain offenders. And if any one in the state of nature may punish another for any evil he has done, every one may do so: for in that *state of perfect equality*, where naturally there is no superiority or jurisdiction of one over another, what any may do in prosecution of that law, every one must needs have a right to do. Sect. 8. And thus, in the state of nature, *one man comes by a power over another*; but yet no absolute or arbitrary power, to use a criminal, when he has got him in his hands, according to the passionate heats, or boundless extravagancy of his own will; but only to retribute to him, so far as calm reason

and conscience dictate, what is proportionate to his transgression, which is so much as may serve for *reparation* and *restraint*: for these two are the only reasons, why one man may lawfully do harm to another, which is that we call *punishment*. In transgressing the law of nature, the offender declares himself to live by another rule than that of reason and common equity, which is that measure God has set to the actions of men, for their mutual security; and so he becomes dangerous to mankind, the tie, which is to secure them from injury and violence, being slighted and broken by him. Which being a trespass against the whole species, and the peace and safety of it, provided for by the law of nature, every man upon this score, by the right he hath to preserve mankind in general, may restrain, or where it is necessary, destroy things noxious to them, and so may bring such evil on any one, who hath transgressed that law, as may make him repent the doing of it, and thereby deter him, and by his example others, from doing the like mischief. And in the case, and upon this ground, *every man hath a right to punish the offender, and be executioner of the law of nature*.

(...) Man being born, as has been proved, with a title to perfect freedom, and an uncontrouled 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, by settled standing rules, indifferent, and the same to all parties; and by men having authority from the community, for the execution of those rules, 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 who 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 shewed it, the perfect state of nature.

(...) Though the legislative, whether placed in one or more, whether it be always in being, or only by intervals, though it be the supreme power in every common-wealth; yet, first, It is not, nor can possibly be absolutely arbitrary over the lives and fortunes of the people: for it being but the joint power of every member of the society given up to that person, or assembly, which is legislator; it can be no more than those persons had in a state of nature before they entered into society, and gave up to the community: for no body can transfer to another more power than he has in himself; and 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. A man, as has been proved, cannot subject himself to the arbitrary power of another; and having in the state of nature no arbitrary power over the life, liberty, or possession of another, but only so much as the law of nature gave him for the preservation of himself, and the rest of mankind; this is all he cloth, or can give up to the common-wealth, and by it to the legislative power, so that the legislative can have no more than this. Their power, in the utmost bounds of it, is limited to the public good of the society. It is a power, that hath no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the subjects. The obligations of the law of nature cease not in society, but only in many cases are drawn closer, and have by human 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. The rules that they make for other men's actions, must, as well as their own and other men's actions, be conformable to the law of nature, i.e. to the will of God, of which that is a declaration, and the fundamental law of nature being the preservation of mankind, no human sanction can be good, or valid against it.