

# *The Constructive Aspect of Locke's Social Contract Theory*

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**Abstract:** John Locke's thought on natural law possesses both destructive and constructive qualities. Its destructiveness lies in the profound critique of the divine right of kings, whereas its constructiveness is primarily articulated through a systematic exposition of social contract theory. The foundation of social contract theory is built upon the support for individual freedom and rights, economic freedom, and property rights. The transition from the state of nature to the formation of government is key, involving the partial surrender of people's rights, while the essence of effective government operation is the limitation of state power. Human rights and the contract grant legitimate life to the government, while the implementation of separation of powers and the rule of law ensures the practical realization of human rights. Locke's social contract theory has a profound impact on modern democratic politics and the construction of the rule of law, warranting repeated reading and contemplation.

## 1. Introduction

John Locke, a 17th-century English philosopher, penned what would become a seminal work in Western political philosophy—"Two Treatises of Government"—during his exile in the Netherlands. This book deeply explores the legitimacy of political power, the relationship between social contracts and natural rights, and lays the groundwork for individual freedom, the principle of the rule of law, and representative democracy. Importantly, his theory of limited power provides a systematic theoretical foundation for later Western political philosophy, modern democratic regimes, and global rule of law construction. The book is not only a classic but also serves as a bridge connecting past and present philosophical thoughts, offering profound philosophical insights for understanding and constructing a more just and free society under the rule of law. Locke's destructiveness in natural law thought stems from refuting the divine right of kings, while its constructiveness is found in the systematic theoretical foundation and meticulous deductive logic framed around social contract theory.

## 2. The construction basis of social contract theory

During his exile in the Netherlands, John Locke, a 17th-century English philosopher, penned what would become a seminal work in Western political philosophy: "Two Treatises of Government." This book delves deeply into the legitimacy of political power, the relationship

between social contracts and natural rights, and lays the groundwork for individual freedom, the principle of the rule of law, and representative democracy. However, its most significant contribution lies in Locke's theory of limited government, which provides a systematic theoretical foundation for later Western political philosophy and the modern democratic regime, as well as global rule of law construction. The book is not only a classic work but also serves as a bridge connecting past and present philosophical thoughts, offering profound philosophical insights into understanding and constructing a more just and free rule of law society. Locke's natural law thought is characterized by its rebuttal of the divine right of kings, establishing a systematic theoretical foundation and meticulous deductive logic for social contract theory.

## 2.1 Advocacy of Individual Freedom and Rights

John Locke's advocacy for individual freedom and rights occupies a pivotal position in 17th-century political philosophy, setting a stark contrast with his contemporaries. In his "Two Treatises of Government," Locke proposes a more optimistic conception of the state of nature, viewing it as a fundamentally peaceful environment where people follow rational natural laws. These laws advocate for the principle of equality, ensuring everyone enjoys basic natural rights to life, liberty, and property. These rights, seen as divinely granted, provide a solid foundation for the construction of social contract theory. In sharp contrast is Hobbes's portrayal in "Leviathan," where he depicts the state of nature as a state of interpersonal conflict, dominated by fear and mistrust, describing people's lives as "solitary, poor, nasty, brutish, and short." He believed that to avoid the "war of all against all" inherent in the state of nature, people need to transfer their power to a sovereign or government. Hobbes's view of government emphasizes absolute authority and the absolute obedience of the people to the government, rendering individual freedom insignificant before governmental authority. In contrast, Locke sees the state of nature as a relatively peaceful state where people live based on natural laws that support the concepts of equality and natural rights.

Traditional Confucian thought in China also explores individual rights. Mencius advocated for a divinely sanctioned monarchy, where the legitimacy of rulers is based on their benevolence, emphasizing that rulers should prioritize the welfare of the populace. He believed an ideal monarch places the love for his people foremost, embodying the principle that "the people are the most important, the state is next, and the ruler is the least." This people-centered ideology, although expressing a form of "sovereignty of the people," still emerged under the premise of feudal governance and centralized power, aiming at constructing an ideal model for monarchical governance. In essence, its core lies in the legitimacy of monarchical power, rather than individual freedom and rights. In contrast, Locke's social contract theory emphasizes the consent of the people and that the primary task of the government is to protect individuals' natural rights.

Locke's advocacy for individual freedom and rights was particularly significant against the turbulent political backdrop of his time in England. His theory reflected a challenge to traditional authority, emphasizing the importance of reason and personal experience. Locke believed that the government should be limited, its power constrained by law to protect individuals' natural rights. This perspective not only posed a significant challenge to the divine right theory prevalent at the time but also laid the theoretical foundation for the development of democratic politics and capitalist economic systems later on. His views not only laid the groundwork for the concepts of modern democratic and rule-of-law states but also had a profound impact on modern society, emphasizing the importance of individual rights and the limitation of governmental power.

## 2.2 Support for Economic Freedom and Property Rights

In Locke's view, property obtained through labor is an inalienable right, and he repeatedly emphasizes that everyone has the right to acquire and enjoy property through their own labor. This perspective not only highlights the individual's control over the fruits of their labor but also provides a philosophical foundation for the later establishment of private property systems and capitalist economic systems. According to Locke, the establishment of property rights is a key factor in societal stability and prosperity, and the government must respect and protect this right, thereby providing logical support for his social contract theory.

Specifically, in the state of nature, everyone naturally possesses basic rights and has the right to punish those who infringe upon these rights. However, in this state, everyone's rights are constantly under threat, and the enjoyment of one's property is neither stable nor secure. This instability and insecurity arise, firstly, from the lack of codified law as a unified standard, making it difficult to regulate individuals' subjective tendencies to pursue benefits and avoid harm, and to spontaneously form consensus and order in the state of nature. Secondly, there is a lack of judges to make fair legal judgments, and thirdly, there is an absence of power to enforce judgments. Individuals in the state of nature act as both judges and enforcers, and based on personal bias and strength, individuals will act selfishly in disputes, not only posing potential dangers to life, liberty, and property from resistance to punishment but fundamentally calling for fair judgment.<sup>[1]</sup> The absence of these three elements in the state of nature undoubtedly exposes individuals' private property to public view, constantly risking plunder. Therefore, the primary reason people willingly unite to form a government is for the protection of individual private property.<sup>[2]</sup> Hobbes, as an advocate for absolute monarchical theory, proposed that when people transition from the state of nature to civil society, they relinquish certain privileges and rights they possessed in the state of nature.<sup>[3]</sup> In contrast, Locke argues that the contract people form with the government involves only the transfer of some powers. This represents the constructive aspect of Locke's social contract, whereby individuals, while retaining their basic rights such as liberty, delegate the power to punish others to the government for the effective execution of justice throughout society. It can be said, "to avoid the inconveniences of the state of nature that disrupt people's property, people unite into societies."<sup>[4]</sup> In his view, one of the government's key functions is to protect private property, preventing external infringements and unfair taxation.

Locke's theory was revolutionary for its time. His emphasis on property rights and the redefinition of the role of government not only challenged the divine right theory but also laid the foundation for the concepts of modern democratic politics and the rule of law states. He wrote that the only way to give up one's natural freedom and accept the constraints of civil society is through agreement with others, forming a community. This is for the pursuit of comfortable, safe, and peaceful living among each other, and for the more secure enjoyment and stronger protection of property, preventing harm from outside the community.<sup>[5]</sup> By emphasizing the importance of property rights and the limiting duties of the government, Locke's social contract theory became an important pillar of Western liberalism and democratic institutions.

## 3. The Logical Deduction of Social Contract Theory

### 3.1 The Transfer of Rights

John Locke interprets Christian doctrine in a personalized manner, utilizing theological terms and concepts, as well as natural law bestowed by God, to elucidate the origins of human natural rights, thereby establishing the basic logic for arguing social contract theory.<sup>[6]</sup> In "Two Treatises of Government," John Locke posits that natural law has a divine origin. This view not only provides a

foundation for the legitimacy of the modern political order but also explains the legitimate sources of political power and the rationality of citizens' right to rebellion. To fully comprehend Locke's political thought, one must go beyond purely political perspectives and delve into the theological and metaphysical foundations of his political philosophy. Locke uses natural law to argue for the origin, purpose, and legitimacy of political society, demonstrating natural law's role as a bridge between the sacred and the secular, the ideal and the real. In his theory, obedience to political authority is not based on utilitarian purposes but originates from the principles of natural law.

Locke's social contract theory contrasts sharply with Hobbes's views, especially regarding the state of nature, the reasons for forming government, and its roles and functions. The explanations of two different states of nature also give each philosopher's discourse on the nature and purpose of the social contract its distinctive features. Hobbes believed that to escape the harsh state of nature, people agree to form a centralized government, transferring all their rights to an absolute sovereign (or body) to ensure safety and order, a form of government akin to absolutism. On the contrary, Locke proposes that people enter into government through a social contract, aiming to better protect their natural rights, especially life, liberty, and property. In Locke's view, the legitimacy of government stems from the consent of the people, and its power should be constrained by law to prevent violations of natural rights. Locke further emphasizes that if the government fails to protect these basic rights or attempts to deprive them, the people have the right to overthrow it. Locke's social contract theory presents a unique solution to the issue of governmental legitimacy. He believes that the source of government power comes from the voluntary surrender of some natural rights by the people, to establish a contract aimed at protecting basic rights. This deductive reasoning provides a model for the establishment of the rule of law and the construction of modern state systems. This stands in stark contrast to Hobbes's view, which suggests that once established, central authority is almost unchallengeable.

### 3.2 The Limitation of Power

In the context of the government constructed by social contract theory, Hobbes tends towards absolute centralization, whereas Locke is a precursor to modern constitutional democracy and the theory of separation of powers. Concerning centralization and decentralization issues, we can also observe in traditional Confucian philosophy, represented by the legalist thoughts of Shang Yang and Han Fei, a consensus that the implementation of rule of law is determined by historical development and human nature's inclination towards benefit and aversion to harm.<sup>[7]</sup> Traditional Chinese thought integrates the state with monarchical power and human nature, characterized by a distinct moral color. In such a unique historical context, the consent of the people was never mentioned. Essentially, this is because ritual law represents a pathological legal culture demanding a relationship of obedience between unequal parties (ruler and ruled).<sup>[8]</sup>

Coinciding with the British bourgeois revolution of the seventeenth century, Locke, through experiencing significant historical events such as the English Civil War and the Glorious Revolution, gradually recognized a core aspect of his natural law thought: "The foundation of rule of law lies in the social contract, originating from the consent of the people, with the people needing to cede part of their rights." Locke advocates for the separation of legislative, executive, and judicial powers as a mechanism to prevent the abuse of government power. He believes that humans inherently possess natural rights, such as life, liberty, and property.<sup>[9]</sup> To more effectively safeguard these rights, people delegate a portion of their power to the government through a social contract. Locke argues that the legitimacy of the government stems from the consensus and authorization of the people, emphasizing that the existence of the government should serve the interests of the people. In Locke's ideal government, individual rights are not eroded or completely lost due to the

establishment of the government. The government originates from the protection of the people's peace, safety, and public welfare, and is in a relationship that progresses hand in hand with individual rights and interests. The government amalgamates the rights of many individuals to form national legislative, judicial, and executive bodies. The legislative body enacts laws to protect individuals' life, liberty, and property, and the scope of this power is not allowed to expand arbitrarily. The judicial body, staffed by upright judges, delivers fairer judgments on disputes, upholding and safeguarding the legitimate rights and interests of individuals. The executive body ensures the smooth execution of laws domestically, and seeks reparation for damages caused by other countries, preventing invasions and aggression.<sup>[10]</sup> Locke's political philosophy emphasizes that the authority of the government comes from the consent of the people, laying the foundation for the development of democratic politics. The social contract theory he proposes is the core of his natural law thought. This theory posits that the authority of the government comes from the consent of the people, which is the cornerstone of modern democratic thought. This notion has facilitated the shift of political power from absolutism to democratic governance. Locke contends that government actions should be constrained by law to prevent the abuse of power, which is one of the core ideas of modern constitutional democracy. Locke champions the principle of the rule of law, advocating that governmental power should be subjected to legal constraints, which is a key element of modern constitutional democracy.

#### **4. Modern Interpretation of Social Contract Theory**

The lack of an accurate grasp of the fundamental spirit of Eastern and Western cultures hinders substantial progress in this field.<sup>[11]</sup> Locke's social contract theory has profoundly influenced the basic principles of modern separation of powers and the rule of law, which continue to play a central role in contemporary political and legal practice, with significant implications for the modernization of the rule of law in China.

##### **4.1 Evolution of the Principle of Separation of Powers**

Locke's principle of the separation of powers directly responds to Hobbes's theory of absolute centralization. Hobbes believed that to avoid chaos in the state of nature, an absolute and centralized sovereign government must be established. In contrast, Locke, in his "Two Treatises of Government," offers a different view. He contends that the concentration of governmental power threatens individual natural rights; therefore, governmental power must be divided and constrained. Locke advocates for dividing government power into legislative, executive, and judicial branches to prevent any single branch from becoming overly concentrated and abusing power. As an important founder of modern principles of separation of powers, Locke firmly opposed Hobbes's advocacy for absolute monarchy, emphasizing that state power should be constrained by law. He believed that the government should seek the welfare of the people, not exercise tyranny over them. This view played a key role in the establishment of constitutional systems later on. Such division of power is intended to ensure that the government does not infringe upon individual natural rights, especially property rights, freedom of speech, and personal safety. Locke proposed that the government should be divided into legislative, executive, and judicial branches, each independent and limited, to protect individuals' natural rights, particularly property rights. In Locke's view, legislative power is the most important but must be controlled and supervised by the populace.

Xia Yong in his research emphasizes that the core of the rule of law should be the restraint and supervision of power, reflecting the principles of Locke's separation of powers. He argues that an effective rule of law system should be based on the balance of power to ensure that governmental power is neither overly concentrated nor abused.<sup>[12]</sup> Xia Yong's view aligns internally with Locke's

separation of powers principle, establishing a mechanism of mutual independence and checks and balances among the legislative, executive, and judicial branches of government. Meanwhile, Su Li's research, starting from China's specific national conditions, suggests that the construction of the rule of law should conform to China's actual situation, developing a rule of law model with Chinese characteristics. He believes that while Western experiences of the rule of law are worth learning from, the development of the rule of law in China should not simply imitate Western models but should be adjusted and reformed in accordance with China's historical background, cultural heritage, and social conditions. Su Li's perspective emphasizes the localization of the rule of law, suggesting that the legal system should be compatible with the country's socio-cultural background and values. Combining Locke's principle of separation of powers with Xia Yong and Su Li's insights offers important revelations for the construction of the rule of law in China. Firstly, Locke's principle of separation of powers stresses the division and balance of governmental powers, crucial for China to build an effective legal system that constrains the abuse of government power. Secondly, Su Li's emphasis on the localization of the rule of law highlights the importance of adapting legal construction to China's national conditions, meaning that while drawing on Western rule of law experiences, China needs to adjust and reform its existing legal system based on its socio-cultural characteristics and historical background.<sup>[13]</sup> The combination of Locke's principle of separation of powers with Xia Yong and Su Li's viewpoints provides a diversified and practical perspective for the construction of the rule.

#### 4.2 Reflection on the Concept of Rule of Law

Locke's perspective on the rule of law emphasizes that the legitimacy and authority of government are rooted in the law, which should be based on the consent of the people. He believes that the law must occupy a central position in protecting individual natural rights, especially property rights, advocating that even the highest legislative body cannot surpass the law, as the law represents the will of the people. This view holds significant importance for the formation of modern rule of law. Locke considers the rule of law to be key in restricting governmental power and protecting citizens from arbitrary and tyrannical rule, a perspective widely recognized in modern democratic societies. The rule of law means that both the government and citizens must abide by the law, and that laws should be fair, transparent, and maintained open and accountable throughout their creation and implementation, ensuring that laws serve as a protection of citizens' rights rather than tools for rulers. Additionally, Locke emphasizes that to protect individual natural rights, governmental actions must be constrained by law and established upon the consensus of the populace. This has been broadly accepted in modern society, with the rule of law becoming the cornerstone for maintaining citizens' rights, social order, and promoting justice. In contemporary settings, whether in democratic or transitional states, the rule of law is considered essential for achieving fairness, justice, and preventing the abuse of power, providing theoretical support for the establishment of democracy and the rule of law through his social contract theory.

Within the context of China's rule of law, Locke's concept of limited government offers a valuable perspective to help understand and explore the distribution of power and the construction of the rule of law in modern China's political system. The rule of law perspective presented in Locke's writings stresses that the legitimacy and authority of the government should derive from the law, which, in turn, should be based on the consent of the people. This theoretical framework aligns with Xia Yong's view that the rule of law should be founded on the restraint and supervision of power, reflecting the essence of Locke's principle of separation of powers, that is, preventing any single party's power from becoming overly centralized and abused by dividing the powers among different governmental institutions. Su Li's argument, originating from China's unique

socio-cultural background, embodies Locke's modern application of the principle of popular consent, suggesting that the construction of the rule of law should consider both internationally accepted principles and local social, cultural, and political features. The perspectives of Xia Yong and Su Li not only represent a modern interpretation and application of Locke's theories but also provide theoretical guidance and practical pathways for the deepening of the rule of law construction in China. Their ideas emphasize adherence to the principles of balance of power and popular consent within China's rule of law construction, while considering China's unique historical and social conditions, to ensure the legal system meets international standards and adapts to domestic realities. This approach, integrating Locke's theories with the realities of China, offers a development model for China's rule of law construction that is both universally applicable and distinctly characterized by Chinese features.

## 5. Conclusion

Locke's theory finds extensive application in contemporary political and legal practices. For instance, the constitutions of modern democratic states often contain clauses that protect individual freedoms and rights, directly reflecting Locke's theory of natural rights. Additionally, democratic politics' electoral systems, government accountability mechanisms, and judicial independence all mirror Locke's view that the government should be based on the consent of the people and subject to oversight. In the economic sphere, Locke's emphasis on property rights has influenced the development of the modern market economy system, especially regarding the protection of private property and the encouragement of economic freedom. Locke's social contract theory not only posed a significant theoretical challenge to the doctrine of divine right of kings but also had a profound impact on the development of modern political and legal systems in practice. From the principle of separation of powers to the importance of the rule of law, Locke's theory provides an important theoretical foundation and practical guidance for building a more just and free society globally, undoubtedly making it a focal point of research in the field of Chinese legal theory.

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