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Text

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Introduction

A discussion of differing conceptions of human rights requires not only a consideration of rights but of human nature. This discussion will be limited to a consideration of Aristotle's and John Locke's understanding of man and human rights. Indeed, given Aristotle's account of the nature of man, one may persuasively argue that Aristotle has no conception of human rights per se. Rather, Aristotle indicates that human beings as such possess duties or obligations to the political community stemming from their very nature. ¹ In contrast, John Locke, the thinker most commonly associated with natural rights or human rights, ² argues that man's primary concern is for himself and his preservation. ³ Locke speaks of rights that predate political life and which inhere in individuals by virtue of being human beings. Moreover, the political community comes into being for the sake of securing the individual and his rights. ⁴ The difficulties posed by Aristotle's conception of man and John Locke's are distinct and fundamental and the conclusions of each position are problematic as a basis of human rights.

Aristotle's focus on the perfection of man's function - both as a political and rational animal - as his end or his happiness, fails to recognize particular individuals let alone their happiness; while Locke's emphasis on the individual and his freedom as primary reduces to a mere tool the role others play in an individual's pursuit of happiness. ⁵ Locke's understanding of man as an autonomous **[*390]** individual, unfettered by God or nature classically understood, leaves man at the mercy of his autonomous will. According to Locke, the political community and thereby its most fundamental virtue - justice - have no foundation other than man's will. ⁶ Thus the problems

¹ See Leo Strauss, *Natural Right and History* 129-34 (1953).

² *Id.* at 165.

³ John Locke, *The Second Treatise on Civil Government*, Ch. III, P 17, at 15 (Prometheus Books 1986) (1690).

⁴ *Id.* Ch. VIII, P 95, at 54.

⁵ See Strauss, *supra* note 1, at 226-29, 239.

associated with each thinker's position are manifest in moral or political life and hence in their inability to address human rights comprehensively. Although both Aristotle and Locke are incapable of providing a solid foundation for human rights, Aristotle provides a more sound foundation for human rights as he bases his understanding of man and his end on nature, and thereby provides a more intelligible argument than Locke.

I. Aristotle's Conception of Man and Natural Justice

In Aristotle's *Nicomachean Ethics*, the end of all man's actions, including virtue and friendship, is happiness.⁷ That is, happiness is the end of man, that for which man exists. As Aristotle understands man to be a social and political animal by nature, this happiness includes others and is not simply "selfish."⁸ He is quite clear that no one would consider a life without friends and a family happy. Although Aristotle emphasizes that man is concerned with being virtuous not simply with knowing what virtue is, he is, nonetheless, concerned with defining happiness rather than whether anyone has or will attain it.⁹ Aristotle also argues that one does not deliberate on the impossible; hence virtue and happiness are attainable.¹⁰ Indeed, all that we do as members of families and as citizens is for the sake of happiness. Although happiness is the end of all our actions, what happiness consists in is not immediately evident to man. Happiness requires self-examination; indeed man's happiness apparently requires one to investigate what life is about. According to Aristotle, the perfection or completion of a "thing's" nature is found in the perfection of its function.¹¹ This is no less true for man, the rational and political animal. Thus man's desire for happiness is linked to his [*391] particular function, reason and reason in community, or, in other words, philosophy and political life or moral life. If man is to be virtuous, he must possess some knowledge of man's nature and of his natural end.¹²

Man must be all that his nature calls him to be. But what is the nature of man? Man is a rational animal who is naturally social and political.¹³ From these observations Aristotle concludes that happiness consists in a life of virtue, both moral and intellectual virtue.¹⁴ According to Strauss,

The good life is the life that is in accordance with the natural order of man's being, the life that flows from a well-ordered or healthy soul. The good life simply, is the life in which the requirements of man's natural inclinations are fulfilled in the proper order to the highest possible degree, the life of a man who is awake to the highest possible degree, the life of a man in whose soul nothing lies waste. The good life is the perfection of man's nature.¹⁵

Moral and intellectual virtue led Aristotle to speak of two kinds of lives and two corresponding types of happiness. The highest level of happiness is that found in the contemplative life which is attained through the highest faculty of man.¹⁶ Through philosophy, man realizes that there is something higher than political life. Political life is certainly real and important, for without it the leisure necessary for the philosophical life would not be available. Nevertheless a hierarchy is clearly evident. Practical or political life provides man with the means to become self-sufficient. Man's

⁶ See *id.* at 212 n.62, 228-29.

⁷ Aristotle, *Nicomachean Ethics*, Bk. I, Ch. 7, at 14-16 (Martin Ostwald trans., Bobbs-Merrill 1962) [hereinafter *Nicomachean Ethics*].

⁸ Aristotle, *The Politics*, Bk. I, Ch. 2, at 37 (Carnes Lord trans., Univ. of Chicago Press 1984) [hereinafter *Politics*].

⁹ See *Nicomachean Ethics*, *supra* note 7, Bk. I, Ch. 3, at 5-6.

¹⁰ *Id.* Bk. III, Ch. 3, at 60-61.

¹¹ *Id.* Bk. I, Ch. 7, at 16-17.

¹² See Strauss, *supra* note 1, at 127.

¹³ *Politics*, *supra* note 8, Bk. I, Ch. 2, at 37.

¹⁴ *Nicomachean Ethics*, *supra* note 7, Bk. I, Ch. 13, at 32.

¹⁵ Strauss, *supra* note 1, at 127.

¹⁶ *Nicomachean Ethics*, *supra* note 7, Bk. X, Ch. 7, at 288.

physical and moral needs are met through political life. Not simply life, but the good life is secured through political community or civilization. Secure in body and trained in moral virtue through law, man is free to consider his world, to contemplate. But this world for Aristotle was a given; it was not generated by man. ¹⁷ Man's nature was to be discovered not created. Man may or may not attain his end, happiness, as determined by his nature.

[*392] Central to an understanding of virtue, then, is the determination of man's nature. If man is also a political and social being by nature, then virtue is only attainable through political life and cannot be understood outside of a political context. And as we know, the political virtue is justice. In other words, man belongs in civil society. ¹⁸ Civil society encompasses all the other associations of men, including the family, and is more effective than the family in securing virtue. "Paternal injunctions, which rely for their effectiveness on the natural love between father and son," only secure decent behavior among the "generous-minded." ¹⁹ It seems that the only association "capable of securing the conditions of virtue and satisfying all of man's earthly needs and aspirations, is the city" whose end is "the complete human good." ²⁰ Although the political association promotes the "complete life," it must first secure the existence of men. ²¹ "The common good and the end of political authority is in the first instance peace ... together with the ability to counteract the forces that threaten to destroy it Over and beyond mere survival, the city has as its purpose the promotion of the good life or virtue among its citizens." ²² Although the final end of the city is the promotion of virtue, it must first secure its preservation. It must quell discord. How best do we secure this peace or unity of the city? How do we prevent the various claims of power from destroying peace, the necessary condition for the good life? For without peace there will not be a city and without a city there will not be virtue. "Without justice, "where will there be a place for generosity, or love of country, or loyalty, or the inclination to be of service to others or to show gratitude for favours received?" ²³ Man is naturally social and political; he belongs in civil society. Civil society may only be secured through justice. "'For these virtues originate in our natural inclination to love our fellow-men, and this is the foundation of Justice.' The key word, of course, is natural." ²⁴ Hence if virtue is to flourish man must **[*393]** secure justice. In so far as men are to live together, they must share a common end, a common good. As we know, the embodiment of right reason is law. ²⁵ Justice is to be secured through law. Thereby the preservation of the existence of the city is found in the rule of law -

The stability and efficacy ... of any regime, is best secured by the rule of law Laws are the privileged instrument of politics and stand in relation to the works of man as universals to particulars. It is through them more than through any other agency that the ruler promotes justice and moral goodness among the citizens. Moral virtue is acquired precisely by the repetition of those acts which the law prescribes or by habitual living and education under good laws. ²⁶

¹⁷ See Leo Strauss, *The City and Man* 14 (1964).

¹⁸ *Politics*, supra note 8, Bk. I, Ch. 2, at 37-38; see also Ernest L. Fortin, St. Thomas Aquinas, in *History of Political Philosophy* 223, 230-31 (Leo Strauss & Joseph Cropsey eds., 2d ed. 1972); Martin Ostwald, *Explanatory Notes to Nicomachean Ethics*, supra note 7, at 111 n.1.

¹⁹ Fortin, supra note 18, at 229.

²⁰ *Id.*

²¹ *Id.* at 231.

²² *Id.* at 230-31.

²³ Frederick D. Wilhelmsen, *Christianity and Political Philosophy* 40 (1978) (internal citation omitted).

²⁴ *Id.* (internal citation omitted).

²⁵ See *Politics*, supra note 8, Bk. III, Ch. 16, at 114.

²⁶ Fortin, supra note 18, at 232.

Law on the one hand protects the city and on the other hand establishes an order within which virtue may flourish.²⁷ But, this law rests on nature itself. Thus, just as a discussion of human rights revolves around a discussion of human nature, a discussion of human nature revolves around a discussion of nature. Nature's authority lies outside of the will of man. As Strauss explains,

All knowledge, however limited or "scientific," presupposes a horizon, a comprehensive view within which knowledge is possible. All understanding presupposes a fundamental awareness of the whole: prior to any perception of particular things, the human soul must have had a vision of the ideas, a vision of the articulated whole.²⁸

Nature, for Aristotle, is an intelligible whole whose parts are also intelligible.²⁹ Although the parts themselves are intelligible, they ultimately find their completion through the whole. Man is by nature a member of partnerships. Every partnership has its end or purpose, but every partnership is not self-sufficient. That partnership which attains self-sufficiency or completeness is the city.³⁰ The citizen is the primary focus of Aristotle's discussion of political community.³¹

This discussion has thus far focused on what we might call the high practical end of man, moral virtue. One might conclude as [*394] modernity did that ancient philosophy failed to meet the original needs of man - food, shelter, and clothing - or the low practical needs of men. In so far as these needs were secured, it was only for a few men. Certainly, Aristotle understood self-sufficiency to include these primary needs of man as a review of Book V of his *Nicomachean Ethics* or *Politics* Book I makes clear.³² The city is based in need; needs which all men share. Consequently, the city must provide economic reciprocity and eventually a monetary system, a means by which needs are equated. Nevertheless, Aristotle's discussion of household management and business expertise occurs within the context of the greater discussion of virtue as the end of the city.³³ Wealth is an external good which supports the good life but which does not constitute the good life.³⁴ Wealth is only a means; the end is virtue or happiness. Business expertise separated from man's proper end has no limit and eventually leads one away from virtue. Consequently, the city must regulate economics through law. Aristotle terms the justice at work here retributive justice, a form of partial justice.³⁵ Retributive justice treats all men equally for it is directed at the basic needs of man, those needs which all men share equally, and the protection of men with respect to physical safety.³⁶ However, this is the only discussion of justice in which men are regarded as equal. Distributive justice, the other form of partial justice, is proportional not equal; the goods of the city such as honor, money, privilege, or more generally the things that can be divided are to be distributed on the basis of merit.³⁷ Those who benefit the city more should receive proportionately more of the city's goods than those who are of less worth to the city. Merit, of course, should be measured in terms of virtue and thereby these distinctions are rooted in nature and are just. However, such a standard of merit excludes most of the inhabitants of any city and certainly leaves "human rights" so to speak, out of place in Aristotle's political thought.

²⁷ See *id.* at 231.

²⁸ Strauss, *supra* note 1, at 125.

²⁹ See *id.*; see also *Politics*, *supra* note 8, Bk. I, Ch. 2, at 35-37.

³⁰ *Politics*, *supra* note 8, Bk. I, Ch. 2, at 35-37.

³¹ See *id.*

³² *Nicomachean Ethics*, *supra* note 7, Bk. V, Ch. 5, at 123-28; *Politics*, *supra* note 8, Bk. I, Chs. 8-9, at 44-49.

³³ *Politics*, *supra* note 8, Bk. I, Ch. 13, at 52-53.

³⁴ *Nicomachean Ethics*, *supra* note 7, Bk. I, Ch. 5, at 9.

³⁵ *Id.* Bk. V, Ch. 3, at 118-19.

³⁶ *Id.*

³⁷ *Id.*

Individual character is not a concern or, more precisely, is only comprehensible to the extent that it contributes to the attainment of the end of the city. The notion of an individual person as distinct **[*395]** from the citizen is not a consideration. Each citizen should be trained to his appropriate virtue to attain the end of the city, but each is not guaranteed happiness. Nevertheless, the virtue necessary to one's role in the city is not necessarily sufficient to attain happiness individually. However, one should note that Aristotle does not place the individual citizen's happiness in opposition to the happiness of the city.³⁸ Indeed, virtue secures both the individual citizen's and the polis' happiness. Aristotle speaks of a city as particular; it forms its citizens to a particular character thereby revealing the ruling principle of the city.³⁹ This education of the citizen is the most important aspect of the city and encompasses the entire customs or mores of the people. Although the family is primary chronologically, the education is primary in terms of the end of the city.⁴⁰ This education secures the perpetuation of a particular type of citizen. One must note we are speaking of citizens not individuals. Aristotle does not descend beyond the two sets of couples that nature requires, male-female and natural master-natural slave, both of which come together to form the household, itself rooted fundamentally in nature.⁴¹ Thus, the city or public good is given greater political significance than the family or private good. Nevertheless, the city is ultimately rooted in the natural association of the family. There is no city without the family but man's final end is beyond the family and ultimately, the city.

Although the highest expression of human nature is found in the philosophic life, the justice of the philosopher cannot secure the city because philosophers qua philosophers do not care about the city. Thus, Strauss concludes, "Civil life requires a fundamental compromise between wisdom and folly" ⁴² As Strauss goes on to note,

both the obvious dependence of the philosophic life on the city and the natural affection which men have for men, and especially for their kin, regardless of whether or not these men have "good natures" or are potential philosophers, make it necessary for the **[*396]** philosopher to descend again into the cave, i.e., to take care of the affairs of the city... .⁴³

All men, including the philosopher, need the city and hence are obligated to it. Hence, Aristotle does not speak of the rights of men but of the duties of men to the political community.⁴⁴

Aristotle recognizes political life is not the highest end of man. "Man's natural desire for transcendence and therefore his desire to transcend political existence" leads to the philosophic life.⁴⁵ Aristotle is aware that "friendship, while of use to politics, cannot be reduced to politics"⁴⁶ and thus points "towards a felicity beyond the city,"⁴⁷ the perfect friendship of good men. Friendship is a consequence of man's nature and thereby rational.⁴⁸ Although Aristotle aspires to transcendence, it nevertheless,

is impossible for Aristotelian ethics to escape from the embrace of the Self, from a kind of transcendental egoism. Within the moral perspective of Happiness as the supreme Good, I cannot deliver myself, I can never be delivered of myself, I can never be freed from my egoistical love of myself... . By a curious paradox, it happens that all its

³⁸ Id. Bk. I, Ch. 3, at 4-5.

³⁹ See Politics, supra note 8, Bk. III, Ch. 3, at 89; id. Bk. III, Ch. 6, at 94.

⁴⁰ Id. Bk. I, Ch. 2, at 37.

⁴¹ Id. at 36.

⁴² Strauss, supra note 1, at 152.

⁴³ Id.

⁴⁴ See id. at 129-34.

⁴⁵ Wilhelmsen, supra note 23, at 16.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

principles are true (in particular, the very principle of eudemonism is true, in the sense that Happiness is the last subjective End of human life, or the last end relative to the human subject⁴⁹

In the final analysis, justice for Aristotle is a concession to the human, to the non-divine and as such justice stands in relation to perfect friendship as humans stand to the divine.⁵⁰ According to Aristotle, man outside of the city is either a beast or a god.⁵¹ Man qua man is a citizen, man as philosopher is godlike. For Aristotle, it is a gulf that cannot be bridged. The superior man can only recognize **[*397]** another superior man as an equal. Thus men as human beings are not equals who possess inherent dignity upon which to claim "rights."⁵²

II. Locke's Conception of Man and His Natural Rights

Let us now turn to John Locke and establish the horizon within which to understand his conception of man and his natural rights. As noted earlier, a discussion of human rights revolves around a discussion of human nature and a discussion of human nature revolves around a discussion of nature. Thus we must consider the status of nature in modern thought in general and in Locke's writings in particular -

Any consideration of modernity begins in Machiavelli, in Descartes, and in Bacon, whose principles are, respectively: (1) the rejection of any moral authority of the classical philosophers through the denial of any distinction between what men ought to do and what they in fact do; (2) the radical separation of thing, sense, and mind; (3) the proclamation of modern science as itself capable of meeting the "needs" of mankind in a way the ancients never could have thought.⁵³

Machiavelli rejects the ancient conception of nature as the measure of human action. Nature no longer provides an end to political or moral life.⁵⁴ Descartes begins with doubt and an explicit rejection of the sensory, leaving the world unintelligible to the human mind.⁵⁵ Finally, the needs of men which ancient and medieval philosophy did not meet are the focus of modern science. These needs cannot be met by turning to nature or the traditional understanding of human nature. Consequently a new approach must be found, a new efficient approach which will meet the material needs of man. Science, in the technological sense, takes prominence because it can effectively meet the material needs, the only real needs of man. However, this science could not achieve its ends without the removal of the artificial limits set by nature classically understood and the Christian God.⁵⁶ Man no longer must seek to understand what **[*398]** man is - as given by nature - but he is to make nature with his newly freed reason.

Locke's efforts are directed at the individual and his freedom.⁵⁷ Questions once addressed by philosophy and theology are relegated to the private realm. One is free to believe what he will so long as others are equally free.⁵⁸ Everyone's material needs are to be met as that is all we share as human beings.⁵⁹ Human nature and nature provide no limits or guidelines to human reason.⁶⁰ Man is free to be what he would be and reason will help him

⁴⁹ Jacques Maritain, *Moral Philosophy* (forthcoming), available at <http://maritain.nd.edu/jmc/etext/jmoral03.htm>.

⁵⁰ *Nicomachean Ethics*, supra note 7, Bk. X, Ch. 7, at 288-91.

⁵¹ *Politics*, supra note 8, Bk. I, Ch. 2, at 37.

⁵² See *Nicomachean Ethics*, supra note 7, Bk. V, Ch. 3, at 118-19; see also Strauss, supra note 1, at 134-35.

⁵³ James V. Schall, *At the Limits of Political Philosophy* 57 (1996).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.* at 57-58.

⁵⁷ See Locke, supra note 3, Ch. I, PP 1-3, at 7-8.

⁵⁸ See Strauss, supra note 1, at 249-51.

⁵⁹ See *id.* at 227-28.

secure it. ⁶¹ Thus the modern notion of the primacy of the individual is clearly evident in Locke's writings. As Strauss argues, "The quarrel between the ancients and the moderns concerns eventually, and perhaps even from the beginning, the status of "individuality." ⁶² The movement towards individuality would slowly erode the concern with virtue found in the ancients and Christianity.

Locke opens the Second Treatise with a dismissal of the claim of the origin of political authority descending from Adam. ⁶³ As this succession cannot be known, he turns to man's original condition, his natural state. ⁶⁴ However, Locke is not speaking of Aristotle's nature which reveals to man his natural end or good. Locke's conception of man and nature is nonteleological. ⁶⁵ Man's original condition is an apolitical state with no civil authority. ⁶⁶ At the outset of chapter two Locke does not appear to reject man's natural sociability for he allows for agreements between individuals, nor does he seem to reject some sense of moral order as he speaks of a law of nature. ⁶⁷ However, as the Second Treatise proceeds, Locke's account of man's movement from the state of nature to civil society makes clear that Locke finds the law of nature wanting just as nature itself is wanting. ⁶⁸ In the final [***399**] analysis nature is not particularly bountiful and the law of nature is not able to secure man's well being. ⁶⁹

Locke's state of nature posits the individual in a condition of liberty. He distinguishes this liberty from license with reference to the law of nature or reason as he sometimes terms it. ⁷⁰ Men are free to order their lives as they see fit under the guidance of the laws of nature. ⁷¹ All men are equally situated in this liberty with no man able to claim a natural basis for political authority. ⁷² This equality and liberty lead to the requirement of consent as the basis for legitimate political authority. ⁷³ But what would compel men to give up this natural liberty and equality? As it turns out, the law of nature is not sufficient to protect man's "natural rights." Man in the state of nature is free to order his life and to acquire those things necessary to secure his life. ⁷⁴ Man has a right to property which Locke understands as life, liberty, and estate. ⁷⁵ Man must be free to labor in order to secure food, shelter, etc. by means of which he sustains his life. ⁷⁶ Man's life is insecure without liberty and property; hence all men inherently have rights to these things. ⁷⁷ Nature does not reveal that some men are not in need. ⁷⁸ The natural needs of men are

⁶⁰ See Schall, *supra* note 53, at 58.

⁶¹ See *id.* at 57-58.

⁶² Strauss, *supra* note 1, at 323.

⁶³ Locke, *supra* note 3, Ch. I, P 1, at 7.

⁶⁴ *Id.* Ch. II, P 4, at 8.

⁶⁵ See Strauss, *supra* note 1, at 166.

⁶⁶ See Locke, *supra* note 3, Ch. IV, P 21, at 17.

⁶⁷ See *id.* Ch. II, P 4, at 8.

⁶⁸ See *id.* Ch. IX, P 123, at 69-70.

⁶⁹ *Id.* Ch. IX, PP 124-130, at 70-71.

⁷⁰ See *id.* Ch. II, P 6, at 9.

⁷¹ *Id.* Ch. II, P 4, at 8.

⁷² *Id.*

⁷³ *Id.* Ch. IV, P 21, at 17.

⁷⁴ *Id.* Ch. V, P 25, at 19.

⁷⁵ *Id.* Ch. VII, P 87, at 49.

⁷⁶ *Id.* Ch. V, PP 24-25, at 19.

⁷⁷ See *id.* Ch. IV, P 22, at 18; *id.* Ch. VII, P 87, at 49.

⁷⁸ See *id.* Ch. V, P 24, at 19.

universal needs and hence real, and so for Locke, a firm basis upon which to construct a new understanding of politics.⁷⁹ Man's freedom and equality in this pre-political state of nature leaves each man as guardian of his rights.⁸⁰ But when nature's stinginess is realized and some men have and others do not, man's property becomes insecure.⁸¹ Man runs from the state of nature to preserve himself.⁸² Man, not nature or God, grants political authority.⁸³

[*400] Locke's foundation of political power in consent separated from God or nature - teleologically understood - leaves all associations secondary to the individuals who form the contracts or consensual relationships. Locke finds it necessary to separate his argument not only from theological origins but also from natural origins such as the male/female union.⁸⁴ Marriage is no longer rooted in nature with an integrity of its own but is a mere contract of convenience.⁸⁵ Such a separation is required to counter Aristotle's rooting of the naturalness of the city in natural couplings which cannot exist without one another, the male/female and master/natural slave couplings.

Moreover, Locke must reformulate Natural Law as understood by the Christian tradition. Aristotle does not deny the naturalness of the family or household.⁸⁶ He argues that it is the basis of the city but that it can only find its full identity or completion within the city.⁸⁷ The household and the village are incapable of self-sufficiency; it is the city that guides them to their ultimate end, virtue.⁸⁸ However, Locke denies that nature reveals an end to mankind.⁸⁹ All nature reveals is that all men are equal and free to preserve themselves.⁹⁰ Nature does not provide for man's needs as well as man can. Man is limited in his satisfaction of his natural needs until he creates a means of exchange by which he can acquire without limit and in that process man produces bountifully.⁹¹ Man through his labor creates objects of value and produces far more than nature alone yields; it is nature that is niggardly.⁹² It is the stinginess of nature that creates a seeming moral limitation on acquisition which evaporates once a currency is agreed upon. Man's acquisitiveness is unleashed; he now may acquire without limit. The natural limit of waste withers away.

Whereas Aristotle limits acquisition to supplying the needs of the household and city for which there is a natural limit (or enough), Locke makes no such distinction.⁹³ He cannot. Aristotle's end is **[*401]** virtue and virtue may need material support but that material support is only a means to the end. Just as man needs these external goods, so man needs bodily goods but they are subordinate to man's true good, virtue, the good of the soul.⁹⁴ Locke's man

⁷⁹ Strauss, supra note 1, at 227-29.

⁸⁰ See Locke, supra note 3, Ch. III, P 13, at 13.

⁸¹ Id. Ch. IX, P 123, at 69.

⁸² Id. at 69-70.

⁸³ Id. Ch. IX, P 131, at 71-72.

⁸⁴ See Strauss, supra note 1, at 215-19.

⁸⁵ See Locke, supra note 3, Ch. VII, PP 79-81, at 45-46.

⁸⁶ Politics, supra note 8, Bk. I, Ch. 2, at 35-36.

⁸⁷ Id. at 37.

⁸⁸ Id.

⁸⁹ Schall, supra note 53, at 62-63.

⁹⁰ See Locke, supra note 3, Ch. II, P 4, at 8.

⁹¹ Id. Ch. V, PP 46-47, at 29-30.

⁹² See id. Ch. V, P 42, at 27; see also Strauss, supra note 1, at 242.

⁹³ Compare Politics, supra note 8, Bk. I, Ch. 9, at 48, with Locke, supra note 3, Ch. V, 46, at 29.

⁹⁴ Nicomachean Ethics, supra note 7, Bk. I, Ch. 8, at 19-20.

has no soul. He understands man only materially. Thus Locke's discussion of property consumes the discussion of political life. Man is simply an acquiring being who never is at rest.⁹⁵ The commonwealth is to secure peace so that man can acquire more and more property. But Locke seeks to limit political power in the name of the individual right to property.⁹⁶ The political community is a danger to man.⁹⁷ Reason is in the service of his material nature.⁹⁸ Reason attempts to secure his life, liberty, and property.⁹⁹ Reason tells him to cede the complete liberty of the state of nature for the security of the commonwealth.¹⁰⁰ The only reason man would leave the equality and liberty of the state of nature is to better his material well-being, his preservation.¹⁰¹ He enters the social contract as a means to secure his property albeit broadly understood.¹⁰² He may also void that contract when it fails to achieve its ends.¹⁰³ The political community, no community, is given greater weight than the security of the individual.¹⁰⁴ Indeed it is security from or freedom from others, individually or collectively, that Locke seeks to establish through his state of nature.¹⁰⁵ In the end, Locke is led to deny that man is naturally social or that happiness involves others in more than a material sense - that is as means to his own private ends.¹⁰⁶ Ironically, in a scheme that denies that slavery is natural, Locke leaves all men slaves. At least Aristotle secured happiness, if only to a few.

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Conclusion

The modern shift of concern from education in virtue to acquisition presupposes that man is a morally autonomous unit bound neither by nature nor God.¹⁰⁷ Thus, the education of children is with a view to supplying their material needs. He who provides sustenance and training or apprenticeship is deserving of the honor of a parent. This education is utilitarian and ignores the natural origin of the family and consequently of the political community. Natural affection does not bind families but utility. The political community is simply expedient and efficient; it is a utilitarian construct neglecting any ultimate concern with the purpose of things. Such a view of man and political life ultimately asserts that self-preservation is the only standard by which one may understand the actions of human beings.¹⁰⁸ Man is no longer understood as social and political by nature.

Following from the principles of modern thought, man's private life, his household, takes prominence over public life and duty.¹⁰⁹ Indeed, the individual is the fundamental political reality; not even the family retains its privileged position in nature. Thus the household, like the city, is merely a convenience with no natural integrity of its own.

⁹⁵ See Strauss, *supra* note 1, at 251.

⁹⁶ See *id.* at 233-34.

⁹⁷ See *id.*

⁹⁸ See Locke, *supra* note 3, Ch. IX, P 123, at 69.

⁹⁹ *Id.* at 69-70.

¹⁰⁰ See *id.* at 69.

¹⁰¹ *Id.*

¹⁰² See *id.*; see also Strauss, *supra* note 1, at 232.

¹⁰³ See Locke, *supra* note 3, Ch. XIX, P 222, at 119.

¹⁰⁴ See *id.* Ch. XIX, P 230, at 123.

¹⁰⁵ See Strauss, *supra* note 1, at 232-34.

¹⁰⁶ See *id.* at 235-36.

¹⁰⁷ A few modern thinkers who make such a shift are Machiavelli, Hobbes, and Locke. See *id.* at 178; see also Schall, *supra* note 53, at 62.

¹⁰⁸ See Strauss, *supra* note 1, at 250.

¹⁰⁹ See *id.* at 248.

There is no greater end to be fulfilled whether familial, political, or philosophic; only the individual end of a man is of concern. Once contracts, which now include not only the social contract but also the marriage contract, are no longer useful or pleasant, man is free to discard them. Others only contribute to or inhibit one's individual end and will be treated with a view to their usefulness to the attainment of one's end, whatever it may be. They are merely tools or instruments, means to our own individual ends. There is no inherent dignity to individuals which must be acknowledged or acted upon. Men merely relate to one another as equal partners in contracts of convenience.¹¹⁰ Since men share nothing in common but basic needs, Locke's focus becomes the securing of these natural [*403] needs that nature and God do not secure for men.¹¹¹ Life becomes an endeavor to acquire these needs in a hostile environment. Man's reason must be directed to creating a safe environment within which he may live comfortably secure in his liberty. As the individual human being is the fundamental reality, and the commonwealth is merely a convenient creation of man, justice has no natural basis. The recognition of the claims of others requires the commonwealth, for in so far as man's rights are to exist they must be enforced by the commonwealth. One is left to wonder how natural these rights are in fact. Natural rights oddly enough are not rooted in man's nature in the sense of how man experiences life but in an abstraction from human experience.

Both Aristotle and Locke fail at the same point, the individual, who is more than a citizen and more than a physical being. Reality presents one with an individual whose happiness is related to the happiness of his family and fellow citizens but it is not experienced identically with these others. The failure of both these political theorists can be found in their approach to man. Aristotle is unable to see man as more than a good or bad reflection of human nature and Locke only sees man as a material being.¹¹² Locke's failure may be more elusive but certainly is more pronounced, for he does not see what is before him. Aristotle may not have had the complete picture, but he knew others were integral to actual human life as Books VIII and IX of his Ethics make abundantly clear.¹¹³ His account of friendship is full of references to affection and personal involvement that make life pleasant, and worth living.¹¹⁴ Nevertheless, he could not reconcile this individual experience with supreme happiness as described in Book X.¹¹⁵ All men, not only philosophers, must be recognized as persons, not simply particular natures or particular bodies if human rights are to be acknowledged.

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¹¹⁰ Locke's emphasis in *The Second Treatise* seems to be property. The discussion of property in Chapter five is characterized by exchange. Men relate to one another as buyers and sellers and those who have and those who seek to take. See Locke, *supra* note 3, Ch. V, at 19-30.

¹¹¹ See *id.* Ch. IX, P 130, at 71.

¹¹² Compare Locke's emphasis on man's preservation and material well-being with Aristotle's emphasis on the divine quality of the best men who are god-like even if only in moments of contemplation of eternal truths.

¹¹³ See *Nicomachean Ethics*, *supra* note 7, Bk. VIII, at 214; *id.* Bk. IX, at 245.

¹¹⁴ *Id.* Bk. IX, Ch. 12, at 271-72.

¹¹⁵ See *id.* Bk. X, Ch. 7, at 289-91.