

# *The Misunderstanding of Lockean Political Philosophy in the American Founding Era*

Xinxun Li<sup>1,a,\*</sup>

<sup>1</sup>Emory University, 201 Dowman Dr, Atlanta, GA 30322, USA

a. lindaxinxun@gmail.com

\*corresponding author

**Abstract:** It has become a historical inertia that the public and academia deem Lock as the foundation of American politics. However, Locke never explicitly supports the separation of power. Unlike Modern Liberalism, there is no clear-cut definition identifying the boundary between the legislative and executive power. It is a common mistake to interpret the Declaration of Independence as originating from Lockean Liberalism. In reality, Lockean political philosophy and DOI bifurcate at several points within the *Second Treatise*: executive power and legislative power can be owned by the same person; the exercise of executive power can exceed the limits of the legislatures. Besides, the question of the origin of the executive power remains unsolved. This essay will point out these mysteries and academic misunderstandings by explaining that the Law of Nature is the foundational thought of *The Second Treatise*. This essay will also delineate conflicts in *The Second Treatise* but argue that the divine intention is the resolution to all the self-contradictions. This divine intention is set up by both normative and historical threads.

**Keywords:** John Locke, legislative power, executive power, Law of Nature, The Declaration of Independence

## 1. Introduction

The Declaration of Independence, a cornerstone of the United States' political foundation, famously proclaims, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness" [1]. Many scholars assert that the Declaration embodies Lockean Liberalism, with Jayne noting that John Locke's *Second Treatise* of Government profoundly influenced Jefferson and can be discerned in the Declaration of Independence [2]. Philosopher Leo Strauss further contends that modern natural rights and history commence with this historical document, thereby cementing Locke's pivotal role in the development of modern political thought. Consequently, a prevailing misconception has emerged, asserting that the Declaration of Independence finds its intellectual roots in Lockean political philosophy.

However, a closer examination of Locke's *Second Treatise* reveals a nuanced perspective. Although Locke extensively emphasizes self-preservation and freedom, which are safeguarded by the law of nature and God, the tricolon "life, liberty, and the pursuit of happiness" remains conspicuously absent from his writings. Some have equated the pursuit of happiness with property, another central theme in the *Second Treatise*. Yet, these concepts are inherently distinct. Arcenas aptly observes that

the tricolon “life, liberty, and property” never appears as such in the *Second Treatise*, and property cannot be conflated with the pursuit of happiness, as indicated by Locke himself [3]. Locke explicitly categorizes discussions of self-preservation, liberties, and estates under the umbrella of property, suggesting that if he intended to elucidate the tricolon, “property” alone would suffice [4]. Conversely, neither Thomas Jefferson nor other Founding Fathers limited the scope of the pursuit of happiness exclusively to property, rendering a more comprehensive interpretation imperative.

The genesis of this misunderstanding lies in the modern reinterpretation of Locke’s influence on the American Founding. Rather than aligning with the eighteenth-century Locke familiar to Jefferson and his contemporaries, the stereotype of Locke as the origin of the Declaration of Independence and Constitution reflects twentieth and twenty-first-century perspectives. In reality, Americans implemented Locke’s principles of government after establishing their constitution and political framework [3]. The popularization of Locke postdates 1776 when Blackstone initially differentiated between “political theory” and “political practice” [3]. Locke was primarily associated with the former category, mirroring the prevailing belief in the divergence of political theory and practical governance. However, this perception shifted as politicians and intellectuals recognized the parallels between Locke’s ideas and the American process of “state-building” [3]. Following independence, reflections on the harmonization of constitutional principles with political theory emerged [3]. For example, lawyer James Wilson highlighted Locke as the sole proponent of the idea of “people’s supreme power” residing in constitutions [3]. Scholars, commentators, and politicians gradually acknowledged the theoretical truths within Locke’s work that were already mirrored in American practice. This progression fostered the public’s assumption that Lockean political philosophy was the guiding light for the Declaration of Independence and the eighteenth-century Founding Fathers.

Nonetheless, if Locke indeed served as the foundation of the Declaration of Independence and other American constitutions, one would expect a greater emphasis on government administration and structural design. Locke would have delineated a clear demarcation between legislative and executive powers, akin to the concept of Checks and Balances. However, Locke’s *Second Treatise* reveals numerous internal contradictions. Questions arise concerning the origin and extent of a prince’s legislative power, as Locke provides inadequate clarification. The mere characterization of a prince as “wise” fails to elucidate the political structure Locke espouses. When a prince is deemed wise, it appears that he can transcend the limits between legislative and executive powers, thereby acquiring prerogative power and exemption from adherence to the law.

To resolve this tension, John Dunn’s interpretation offers a paradigm shift by centering on natural law [5]. Dunn contends that Locke’s *Second Treatise* fundamentally revolves around the law of nature, which necessitates not only self-preservation but also care and compassion for others. Because the law of nature assumes paramount importance in the *Second Treatise*, a strict demarcation between legislative and executive powers becomes superfluous. If God designates someone as the representative of both powers, the need for Checks and Balances dissipates. This perspective provides a novel lens through which to reconsider Locke’s political philosophy and its compatibility with the American founding era.

In conclusion, while the influence of Locke’s political thought on the American Founding cannot be denied, a nuanced examination reveals that the Declaration of Independence’s tricolon, “life, liberty, and the pursuit of happiness,” does not find direct correspondence in Locke’s *Second Treatise*. The misunderstanding of Locke’s role in the American Founding can be attributed to modern reinterpretations of his ideas, which diverge from the eighteenth-century context in which the Founding Fathers operated. Furthermore, a comprehensive analysis of Locke’s writings raises questions about his commitment to a strict separation of legislative and executive powers. John Dunn’s focus on the law of nature offers an alternative perspective that challenges traditional interpretations of Locke’s political philosophy in the American context.

## 2. Locke's Self-Contradictions and the Intention of Natural Law

In the analysis of Locke's *Second Treatise*, the audience may encounter passages that seemingly contradict one another, particularly concerning the delineation of legislative and executive powers. Locke asserts that the supreme power resides in the legislative branch, describing it as the "first and fundamental natural law" [4]. Despite its supreme authority, those wielding legislative power, including its owner, are not granted arbitrary control over individuals' lives and property [4]. This legislative power is a product of the people's choice, based on their assessment of who can best safeguard their safety and property [4]. Importantly, this legislative power is non-transferable [4]. Conversely, the executive power is subordinate to the legislative power [4], with a significant distinction between the two being that the legislative power need not always be active, as society does not require constant lawmaking, whereas the executive power is perpetually engaged in enforcing laws and legislative decisions [4].

Yet, Locke's argument appears self-contradictory in several instances. For instance, in Chapter 11, titled "Of the Extent of the Legislative Power," Locke emphatically asserts that legislative bodies must rule uniformly and impartially, without exceptions based on factors such as wealth, personal preference, or position [4]. However, Locke undermines this principle in Paragraph 164, suggesting that if a ruler possesses wisdom, they are not bound by the law and may exercise power freely. This leaves us grappling with the definition of a "wise prince" and the boundaries of their authority. Could a wise ruler, under the banner of public good, rule differently for different individuals, a notion explicitly rejected in Chapter 11? This inconsistency raises questions about what actions by a ruler, beyond the confines of the law, Locke deems legitimate. The only plausible standard appears to be divine recognition. But does divine recognition equate to moral perfection? If so, then a ruler might act against the law. Moreover, how can the legitimacy of actions taken by a ruler beyond the law's scope be assessed? Does the wisdom of the ruler suffice as a safeguard, rendering the explicit separation of legislative and executive powers redundant? Consequently, the people may not be entirely sovereign, and the true sovereign may be God.

Secondly, Locke initially insists on the separation of legislative and executive powers to prevent the temptation of abuse when held by a single individual [4]. The convergence of both powers within one person could enable unchecked authority, jeopardizing the common good and public will. However, in Paragraph 151, Locke introduces an unexplained exception: some commonwealths may allow the prince to share in legislative power. Locke leaves this situation undefined, creating a paradox that contradicts the intended message of the Declaration of Independence. Such a problem is recognized by academia. Locke allows an executive discretion to co-exist with an unassailable legislative power in his constitutionalism to solve "political contingency" [6]. In a "board view", such executive prerogative is seen as an unparalleled authority allowing the prince to even set aside existing laws [6]. According to Locke's elucidation, if God permits someone to possess both powers, they may exercise them freely, undermining the argument in Paragraph 143. Therefore, if anything, Locke is not discussing power separation, but, as Jeremy Waldron mentioned, the unity of the two powers "in the same hands" [7]. Furthermore, this paragraph also contradicts Locke's own definition of executive power as subordinate to legislative power, as he states that such a person is "not supream by the legislative power, but by executive power."

In light of these contradictions, it becomes evident that the *Second Treatise*'s primary focus may not be the design of a political structure but the underlying intention within natural law. Locke offers minimal guidance on the type of government he favors, leaving readers uncertain about his preferred form of governance. He discusses a wise prince, a prince with both legislative and executive powers, and a prince endowed with prerogative power. Yet, he does not definitively specify the best government type, be it monarchy, oligarchy, or democracy. The absence of clarity on these crucial

aspects challenges the notion that the *Second Treatise* serves as a blueprint for the Declaration of Independence. Locke's central emphasis appears to be on the intention inherent in natural law.

*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 anothers Pleasure [4].*

This perspective aligns with John Dunn's interpretation, as outlined in "Consent in the Political Theory of John Locke." Dunn posits that the essence of Locke's philosophy lies in the divine order inherent in the state of nature. In this state, individuals adhere to the divine rule designed by God. Locke never explicates how humans come to know God's existence, but they assume God's benevolence and efficiency [5]. As people transition from the state of nature to civil and then political society, authority is established. Locke's writing is notably vague on the structure of this authority, as it derives its legitimacy solely from embodying God's purpose [5]. Locke refrains from specifying God's purpose or the divine order, recognizing that these are ineffable. Consequently, divine law is inscrutable, but it serves as the sole basis for evaluating the legitimacy of social arrangements through the will of all adult participants [5]. Thus, if the American Founders understood Locke correctly, there is no evidence within the *Second Treatise* that anticipates the American Constitution.

In conclusion, while Locke's influence on the American Founding is undeniable, a comprehensive examination of the *Second Treatise* reveals that it provides limited guidance on the structuring of government and the allocation of powers. Locke's primary emphasis appears to be on natural law and the intention inherent in it, rather than specifying the ideal form of governance. This interpretation aligns with John Dunn's perspective that Locke's political philosophy is rooted in the divine order of natural law, making it unlikely that the *Second Treatise* serves as a blueprint for the American Constitution.

### 3. Locke's Resolution of Tensions: The Origin of Executive Power in Paternal Authority

The tension that arises from the distinction between legislative and executive power, rooted in the concept of natural law, remains a central concern in Locke's *Second Treatise*. The resolution to this tension, particularly the question of how executive power is derived, can be found in Locke's historical argument that traces the origin of executive power to paternal authority over education.

Locke opens the *Second Treatise* by asserting that all individuals are created equal, a statement that notably excludes children [4]. This exclusion stems from the fact that children are not born with full possession of reason, a prerequisite for comprehending the law of nature. Without the ability to grasp natural law, one cannot truly be considered free. Liberty, as Locke explains, is a "privilege" enjoyed by those with reason, allowing them to exercise their will within the bounds of the law and safeguarding them from moral corruption [4]. The law of nature was initially bestowed upon Adam, the first rational human, and his descendants. However, the rest of humanity enters the world through natural birth, lacking reason in their early stages of life. Consequently, to reconcile the assertion that all humans are born free and rational, Locke contends that children are subject to the governance of their fathers. This paternal authority, mandated by God for the welfare of minors, requires children to honor and obey their parents throughout their lives [4].

This origin of paternal authority sets the stage for executive power, drawing from the same underlying logic as paternal authority. As Locke's exploration of paternal power unfolds, he recognizes that paternal authority, which demands guidance from fathers and obedience from children, effectively establishes the father as a "Government" [4]. Both the duties of a prince and a father involve protection rather than oppressive rule. The preservation of life and property, a fundamental responsibility for the father, encompasses the provision of nourishment and education for children. This duty to safeguard also entails making decisions on behalf of children, who lack the capacity for discretion before reaching the age of reason. Within the framework of natural law, children can

experience freedom. Analogously, in a political society, individual freedom arises through rational decisions made within the constraints of the law and submission to the elected prince.

Like the executive power vested in the prince, both paternal and executive rights can legitimize and govern specific groups of people. Moreover, when a father or prince inappropriately uses their authority to violate the life and property of their charges, a situation akin to a prince disregarding the natural rights of the people, both the father and the prince forfeit their authority over their subjects.

It is important to note that while there are similarities and shared foundational principles, there are distinctions between paternal rights and executive rights. For instance, paternal authority has a finite duration, terminating when children reach full maturity and develop reason. Additionally, executive power operates within the context of a political society, while paternal rights come into existence in the state of nature. However, it is crucial to emphasize that Lockean paternal rights diverge significantly from Filmer's absolute paternal authority. According to Filmer's perspective, all social relations progress from the family model, where the father is the absolute monarchy [8]. In the *Second Treatise*, both paternal and executive rights are defined by natural law and reason, stemming from God's mandate and requiring possessors to possess reason so they can guide those who may lack it. Conversely, Filmer's concept of paternal rights is characterized by absolutism.

The question remains: why did Locke draw executive power from paternal power, and how did this resolve the tension between legislative and executive power? It might be tempting to assume that Locke aligns with Filmer in this regard, but such an interpretation is mistaken. The puzzle can be unraveled by considering the notion of discretion. Discretion is inherently unpredictable and often random, yet undeniably essential. As earlier discussed in the *Second Treatise*, legislative power is not always active since society does not perpetually require new legislation. However, the enforcement of laws is a perpetual necessity, and unforeseen situations may arise. Consequently, executive power must act flexibly and adapt to emerging circumstances for the common good [9]. Such capriciousness is challenging to articulate within a normative structure. Hence, Locke approaches it through the lens of an enduring historical power—paternal authority. A prince vested with executive power possesses a measure of discretion, especially in critical matters, necessitating a historical perspective to fully appreciate its role and importance.

#### 4. Conclusion: Locke's Historical Narrative and the Role of Executive Power

The historical narrative presented in the *Second Treatise* plays a pivotal role in shaping the concept of executive power within Locke's political philosophy. This narrative highlights the significance of paternal rights, which are ordained by God through the law of nature. Consequently, it becomes clear that the law of nature serves as the cornerstone of Lockean political thought. The concept of divine power plays a very powerful role in Lockean thoughts, and the law of nature fills in all the vagueness of the *Second Treatise* [10]. When an individual is elected as a prince, they acquire both the authority to rule and to legislate, a dynamic that is not bound by the separation of powers. With this perspective in mind, it becomes evident that the Declaration of Independence does not find its origins in the *Second Treatise*.

It is of utmost importance to grasp the genuine intent behind Locke's political theory, as well as the theories of other authors and scholars in similar contexts. In contemporary society, leaders often seek to build their ideologies and structures on the foundations of preceding or foundational theories. To establish a valid and compelling premise, it is imperative not to merely seek superficial similarities between modern and ancient viewpoints but to discern the underlying intentions. This approach is crucial to avoid the oversimplification or distortion of ancient intellectual products. While historical works can offer valuable insights and inspiration, new generations must engage with them rationally and interpret them accurately to preserve their historical value.

In conclusion, Locke's *Second Treatise* underscores the critical role of natural law and historical narratives in shaping the concept of executive power. This nuanced understanding enables us to appreciate the true nature of Locke's political philosophy and its implications for contemporary governance. It serves as a reminder of the importance of contextual interpretation and caution against oversimplification when drawing connections between past and present political thought.

## References

- [1] "Declaration of Independence: A Transcription." National Archives and Records Administration, National Archives and Records Administration, [www.archives.gov/founding-docs/declaration-transcript](http://www.archives.gov/founding-docs/declaration-transcript). Accessed 25 Sept. 2023.
- [2] Jayne, Allen. "Locke and the Declaration." *Jefferson's Declaration of Independence: Origins, Philosophy, and Theology*, 1st ed., University Press of Kentucky, 1998, pp. 41–61. JSTOR, <http://www.jstor.org/stable/j.ctt130jgm.7>. Accessed 26 June 2023.
- [3] Arcenas, Claire Rydell. *America's Philosopher: John Locke in American Intellectual Life*. The University of Chicago, 2022.
- [4] Locke, John. *Locke: Two Treatises of Government*. Edited by Peter Laslett, Cambridge University Press, 1988.
- [5] Dunn, John. *The Political Thought of John Locke: An Historical Account of the Argument of the 'Two Treatises of Government'*. Cambridge University Press, 1969.
- [6] Ward, Lee. "Locke on Executive Power and Liberal Constitutionalism." *Canadian Journal of Political Science / Revue Canadienne de Science Politique*, vol. 38, no. 3, 2005, pp. 719–44. JSTOR, <http://www.jstor.org/stable/25165850>. Accessed 30 Oct. 2023.
- [7] Waldron, Jeremy. "Separation of Powers in Thought and Practice." *Boston College Law Review*, vol. 54, no. 2, 2013, pp. 433–468. HeinOnline.
- [8] Kelly, Kristin A. "Private Family, Private Individual: John Locke's Distinction Between Paternal and Political Power." *Social Theory & Practice*, vol. 28, no. 3, July 2002, pp. 361–80. EBSCOhost, [search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=7581177&site=ehost-live&scope=site](http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=7581177&site=ehost-live&scope=site).
- [9] Kleinerman, Benjamin A. "Can the Prince Really Be Tamed? Executive Prerogative, Popular Apathy, and the Constitutional Frame in Locke's 'Second Treatise.'" *The American Political Science Review*, vol. 101, no. 2, 2007, pp. 209–22. JSTOR, <http://www.jstor.org/stable/27644441>. Accessed 30 Oct. 2023.
- [10] von Leyden, W. "John Locke and Natural Law." *Philosophy*, vol. 31, no. 116, 1956, pp. 23–35. JSTOR, <http://www.jstor.org/stable/3749204>. Accessed 30 Oct. 2023.