Classical Theories of Liberty

Lecture 2

Locke
The plan for today...

1. Liberalism and republicanism

2. Is Locke a republican?

3. Natural liberty and civil liberty

4. The social contract
§1. Liberalism and republicanism
A theory of liberty is an answer to the question...

In what sense if any is liberty something that ought to be respected or promoted...?

A liberal thinks there is such a sense...
Locke clearly is a liberal in this sense...

‘...the end of Law is not to abolish or restrain, but to *preserve and enlarge* Freedom...’

*(Second Treatise, Chapter 6, L306)*
Question 1...

Is it sufficient for liberty that the constraints are *actually* absent...?

Or is it necessary that the constraints are also absent *in other nearby possible worlds*...?
Question 2...

Is it sufficient for liberty that *arbitrary* constraints are absent...?

Or is it also necessary that *non-arbitrary* constraints are absent...?
The *liberal* conception of liberty...

Liberty involves the *actual* absence of *arbitrary* and *non-arbitrary* constraints...

The *republican* conception of liberty...

Liberty involves the absence of *arbitrary* constraints in the actual world *as well as in other nearby possible worlds*...
<table>
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<th>Absence in the actual world...</th>
<th>Absence in nearby possible worlds...</th>
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<td>...of arbitrary constraints</td>
<td>Republican conception</td>
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<tr>
<td>...of arbitrary/non-arbitrary constraints</td>
<td>Liberal conception</td>
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Hobbes subscribes to a liberal conception...

‘...according to [the] proper, and generally received meaning of the word...

...A FREE-MAN, is he, that in those things, which by his strength and wit he is able to do...

...is not hindred to doe what he has a will to.’

(Leviathan, Chapter 21, T146)
What matters for Hobbes is whether we are actually constrained... 

It doesn’t matter for Hobbes whether the constraint is arbitrary... 

It doesn’t even matter for Hobbes whether the constraint is artificial...
We can distinguish three varieties of Hobbesian liberty...

*Corporeal liberty* is the *actual* absence of *physical* constraints...

*Natural liberty* is the *actual* absence of *obligations arising from the Law of Nature*...

*Civil liberty* is the *actual* absence of *obligations arising from commands of the Sovereign*...
Suppose a slave has a master who just happens not to prevent him doing exactly as he pleases...

Then he has the *liberty* to do as he pleases...

Suppose we just happen to have a sovereign who does not command us not to call him a plonker...

Then we have the *liberty* to call him a plonker...

But surely this is insufficient...?
§2. Is Locke a republican?
According to Locke...

...liberty consists in the absence of artificial constraint...

‘Liberty is to be free from restraint and violence from others...’ (Second Treatise, Chapter 6, L306)
‘...Law... is not so much the Limitation as the direction of a free and intelligent Agent to his proper Interest...

...and prescribes no farther than is for the general Good of those under that Law...

...that ill deserves the Name of Confinement which hedges us in only from Bogs and Precipices.’ (Second Treatise, Chapter 6, L305)
So according to Locke...

...a constraint doesn’t limit our liberty if...

...it prevents us from acting contrary to our interests...

...and is in that sense non-arbitrary.
There is *some* evidence that Locke also thinks it is insufficient that the constraint is actually absent...

‘...who could be free, when every other Man’s Humour *might* domineer over him?’ (Second Treatise, Chapter 6, L306, my emphasis!)
We are free only if...

...it is not the case that somebody else could very easily impose constraints upon us...

...i.e. there is no nearby possible world in which they do impose constraints upon us...
Cf. Liberty as non-domination...

‘One party dominates another just so far as they have the capacity to interfere on an arbitrary basis in some of the other's choices’ (Philip Pettit, Republicanism, p.272)
§3. Natural liberty and civil liberty
‘The Natural Liberty of Man is to be free from any Superior Power on Earth...

...and not to be under the Will or Legislative Authority of Man...

...but to have only the Law of Nature for his Rule.’

(Second Treatise, Chapter 4, L283)
In the state of nature there is one person who constrains our choices...

...namely God...

...but since these constraints (i.e. the laws of nature) are non-arbitrary, they do not limit our liberty...
‘The Liberty of Man, in Society, is to be under no other Legislative Power...

...but that established, by consent, in the Common-wealth...

...nor under the Dominion of any Will, or Restraint of any Law, but what the Legislative shall enact…’

(Second Treatise, Chapter 4, L283)
‘...*Freedom of Men under Government*, is...

...A Liberty to follow my own Will in all things, where the Rule prescribes not...

...and not to be subject to the inconstant, uncertain, unknown, Arbitrary Will of another Man.’

*(Second Treatise, Chapter 4, L284)*
In society there are other constraints on our choices...

...civil laws promulgated by the the commonwealth...

...but since once again these constraints are non-arbitrary, they do not limit our liberty...
‘Reason... teaches all Mankind, who will but consult it...

...that... no one ought to harm another in his Life, Health, Liberty, or Possessions...

...Every one as he is bound to preserve himself... so by the like reason... ought he, as much as he can, to preserve the rest of Mankind...’

(Second Treatise, Chapter 2, L271)
In the state of nature we are subject to a number of constraints...

We are obliged not to kill or maim ourselves or others...

We are obliged not to enslave others...

We are obliged not to take what belongs to others...
‘...Men being all the Workmanship of one Omnipotent, and infinitely wise Maker...

...they are his Property, whose workmanship they are...

...made to last during his, not one anothers Pleasure.’

(Second Treatise, Chapter 2, L271)
P1  We are the products of God’s labour.

P2  If X is the product of Y’s labour, X is Y’s property.

C1 We are God’s property.

P3  If X is Y’s property, nobody else may destroy X without Y’s permission.

C2 We cannot destroy ourselves without God’s permission.
§4. The social contract
‘...that all Men may be restrained from invading others Rights... and the Law of Nature be observed...

...the *Execution* of the Law of Nature is in that State, put into every Mans hands...

...whereby every one has a right to punish the transgressors of that Law to such a Degree, as may hinder its Violation...’

*(Second Treatise, Chapter 2, L271)*
So in the state of nature...

...each of us has the right to punish people that we judge to have violated the rights of others...

...each of us is judge and executioner of the law of nature...
But this leads to some obvious problems...

People will disagree about how exactly to interpret the Law of Nature...

They will disagree about whether or not the law has been broken in a particular case...

They will disagree about the appropriate punishment...

And this may well lead to war...
‘...the end of Civil Society, being to avoid, and remedy those inconveniences of the State of Nature...

...which necessarily follow from every Man’s being Judge in his own Case...

...by setting up a known Authority, to which every one of that Society may Appeal...’

(Second Treatise, Chapter 7, L326)
So Locke thinks we have good reason to give up our executive right...

But what if giving up this right to the community puts us at risk of being *arbitrarily* constrained...?

What if it actually reduces our liberty...?
Suppose I disagree with one of you about whether I am obliged to give you ten pounds...

We appeal to the community to decide and it finds in your favour...

It follows that I am constrained to give you ten pounds even though it would be in my interests not to...

So isn’t this a limitation on my liberty...?
It isn’t what is in my private interest that matters...

I am constrained to give you ten pounds...

This is not in my *private* interest...

But it is in the *public* interest...

So it is not a limitation of my liberty...
But what if I am constrained to give you ten pounds...

...and this isn’t in the public interest either...?

This is certainly a limitation of my liberty...

But it isn’t something the community has a right to enforce...
‘...Tyranny is the exercise of Power beyond Right...’

(Second Treatise, Chapter 18, L398)
Next week

Rousseau