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The Political Philosophy of the Internet - From Locke’s State of Nature to His Social Contract

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The Political Philosophy of the Internet - From Locke’s State of Nature to His Social Contract / Efrat Shuster

“They have but few laws, and such is their constitution that they need not many. They very much condemn other nations, whose laws, together with the commentaries on them, swell up to so many volumes; for they think it an unreasonable thing to oblige men to obey a body of laws that are both of such a bulk, and so dark as not to be read and understood by every one of the subjects.”

Thomas More, Utopia (1885).

Introduction

At the dawn of the Internet age in the mid 1990s, some believed the Internet would form a utopian social society.1 Some still do.2 Those who believe in the Utopian aspect of cyberspace usually equate the online world with the John Locke’s seventeenth century notion of the ‘state of nature;’3 a state of perfect freedom and equality.

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2 See supra note 1.
The Internet has progressed and changed from what was once considered the essence of freedom. Cyberspace is a complex structure in an intangible place. Through recognition of the parallels to Locke’s ‘state of nature,’ this article will concentrate on Locke’s ‘social contract theory’ as it can apply to the Internet. It will demonstrate the possible applications of Locke’s social contract in the non-tangible cyberspace, and explore Locke’s premises and conclusions through the history, structure, and community of the Internet.

This article shows similarities to Locke’s theory as a way to interpret the Internet and understand it in the realm of political philosophy. Philosophers have spent many years trying to comprehend modern societies through political philosophy. In the past, these societies were always in a tangible place defined by physical boundaries. The world has evolved tremendously in the last two decades. Technological progress has broken down borders and people are globally connected through the Internet, resulting in a new social structure that has nothing to do with territory. In his time, Locke’s philosophy was a breakthrough, and endures as a starting point for many other political philosophers. Now is the time to explore Locke’s theory in respect to the non-tangible place of cyberspace.

First, I will address the fact that the Internet is not a physical place, and thus might be inconsistent with Locke’s state of nature. I will attempt to explain why, despite this difference, the Internet is the best example we have today to prove a hypothesis that was first introduced three hundred and twenty years ago. I will analyze Locke’s ‘state of nature’ and show how it appears to fit the Internet in its early stages, in the mid 1990s.
Second, I present Locke’s ‘law of nature’ and the problems he believed to derive from this law in the ‘state of nature’. I will then claim that the same problems existed, and to some degree still exist, on the Internet. After I present the problems of this new social form, I will propose Locke’s ‘social contract’ as a solution to the problems of the Internet’s ‘state of nature.’

Third, I will note that a political society is coherent with Locke’s theory of the ‘social contract’. I will attempt to define the ‘Internet society.’ Then I will review Locke’s explanations of a political social society and examine whether they are applicable to the Internet society.

Finally, I examine the possibilities of applying Locke’s ‘social contract’ on the Internet. I conclude that although the Internet society has begun constructing and entering into its own ‘social contract’, the Internet’s entangled structure and its multiple participants make it difficult to predict a Lockean ‘social contract’.

The state of nature

In the early days of the Internet, the utopian point of view was a common perspective of individuals who were discovering and entering cyberspace⁴. At first glance, it is obvious why it was very appealing for the growing community of Internet users to consider

themselves in the Lockean state of nature, described by Locke as “a state of perfect freedom . . . within the bounds of the law of nature . . . A state also of equality.”

Perfect freedom is an alluring idea. Believing it could actually exist on the Internet, John Perry Barlow asserted in his Declaration of Independence of Cyberspace (1996):

Governments of the Industrial World ... You have no sovereignty where we gather 
... . . . I declare the global social space we are building to be naturally independent 
of the tyrannies you seek to impose on us . . . . Cyberspace does not lie within 
your borders. Do not think that you can build it . . . It is an act of nature.

Barlow probably did not believe that the Internet itself is an act of nature, as we all know that people create it. But Barlow saw it as a place to start again as a new society, free of any governmental influence. For him, as well as for many others, Cyberspace epitomized the Lockean ‘state of nature’.

At this point, one could argue that no person in cyberspace is in the Lockean ‘state of nature’ since they are citizens or residents of a country in our physical world. Imagine a group of people on a deserted island after a plane crash: each person is from a different

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country; some do not even speak the same language.\textsuperscript{7} They can hardly communicate. How can they be in any other state?

Locke suggests that even a compact between people does not necessarily end their ‘state of nature.’\textsuperscript{8} He also gives an example of a Swiss and a Native American in the woods of America who exchanges promises. According to Locke, each of them is bound by the promise he made to the other, but, nevertheless, they are still in the ‘state of nature.’\textsuperscript{9}

Some might argue that the discussion of the deserted island example is not very relevant to the Internet since unlike the Internet a deserted island is a physical place. This objection may be addressed in several ways. First, with the progress of technology and modernization, we should start examining the state of human beings in cyberspace by using theories of political philosophy as we have done for so many years with respect to physical space. For now, these are the theories we are familiar with and they can help us begin to navigate through this new mysterious world of cyberspace. Second, as on the island, in cyberspace there was not, at least at the beginning, any authority to enforce the laws of nature. Until the dwellers of the island got back to civilization, they could not be prosecuted for committing crimes, like cannibalism or murder. Likewise, online actors

\textsuperscript{7} This is the premise for the American TV series \textit{LOST}, implying deeply that a person who is not in the “state of nature’ could be in this state in reference to others.

\textsuperscript{8} \textit{See} Locke, \textit{supra} note 5, at paragraph 14.

\textsuperscript{9} \textit{See id.}
are not punished in cyberspace, but could very well be punished by the states of the physical world.10

This conundrum exists because contrary to worldly states, the Internet is not a physical place.11 Some scholars see it as “a collection of places, a multiplicity of spaces.”12 In his article “Cyberspace as Place, and The Tragedy of The Digital Anticommons,” Dan Hunter explains the idea of perceiving cyberspace as we perceive a physical place. When people think and talk about cyberspace, they refer to it as a place.13 Although the people who are logged into the Internet are subject to the law of some territorial state, they also have a presence in a non-tangible place, known as cyberspace.14

Although Dan Hunter opposes the metaphor of the Internet as a place, he doesn’t completely refute the fact that people perceive the internet and address it as a place. Hunter is concerned of the limitations it inflicts as for applying property rules on to

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10 Another good example is the Yahoo! case, when selling Nazi memorabilia on Yahoo! which was forbidden in certain countries and not in others. This was prosecutable only in the countries which held this law, and not in the others. There was no authority to persecute in the entire cyberspace, as well as no law in the Internet society concerning this issue. See Jack Goldsmith, Tim Wu, Who Controls the Internet?: Illusions of a Borderless World, 2-12(2006).


12 See Bonnici, supra note 11, at 1.

13 See Dan Hunter, Cyberspace as Place, and The Tragedy of The Digital Anticommons, 91 CALR 439, 452 (2003). It is important to note that Dan Hunter is introducing the internet as a place metaphor to show the harm it done in regulating the internet. Later on in his article he refutes the idea of cyberspace as a place, by suggesting not using this metaphor at all.

14 See Bonnici, supra note 11, at 1.
Taking in consideration Hunter’s opinion, not using the place metaphor on cyberspace does put an impediment on discussing political philosophy that addresses a physical place. Still the challenge is clear, and it is time to face it.

**The Law of Nature**

It is paramount to say at this point that the ‘state of nature’ is not a state which has no law. On the contrary, Locke maintains that perfect freedom can only exist “within the bounds of the law of nature”. For Locke, the law of nature is that “no one ought to harm another in his life, liberty, or possessions.” He believes that the ‘law of nature’ helps people to co-exist in the ‘state of nature.’

Let us return to our example of the deserted island. The people there could separate, and each find his own space and make it his home. Yet, each would face the danger of others invading his space. Assume, for example, that one of the individuals is a farmer who knows how to grow vegetables on the island. How can a merely assumed law protect her vegetables from being stolen or destroyed by other islanders?

Locke understands that although the ‘law of nature’ might exist, a person needs to “preserve his property, that is, his life, and estate, against the injuries and attempts of

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15 He believes the Internet greatness is as common space, and by reducing it to a place, it creates the misconception that it is an anticommun thus wrongfully and unnecessarily forcing physical property assumptions on the online environment. See Hunter, supra note 13, at 518.

16 See Locke, supra note 5, at para. 4.

17 See id, at para. 6.
other men, but to judge of and punish the breaches of that law in others."\(^{18}\) Locke realizes that people have an incentive to obey the law, and that this incentive is the acknowledgement that everyone has the right to punish those who violate the law: “Every one has a right to punish the transgressors of that law to such a degree, as may hinder its violation.”\(^{19}\)

It does seem simple enough and acceptable that he who violates another’s rights will be punished by any person, or persons in the ‘state of nature’. Unfortunately, this is not as simple as Locke first made it out to be\(^{20}\). He foresaw that it would create a problem, and thus wrote: “But though this is to be a state of liberty, yet it is not a state of license.”\(^{21}\) People would have a right but no authority to authenticate it, protect it, and enforce it. Locke actually spoke of this problem at length when he first introduced his ‘state of nature’:

> For the law of nature would, as all others laws that concern men in this world, be in vain, if there were nobody that in the state of nature had a power to execute the law, and thereby preserve the innocent and restrain offenders.\(^{22}\)

Returning to the Internet, it was clear that when more people began to familiarize with the system and became a part of it, conflicts of interest would begin to arise, and the once

\(^{18}\) See id, at para. 87.

\(^{19}\) See Locke, supra note 5, at para. 7.

\(^{20}\) Locke later on explains the complexity in this notion. It will be discussed later in this paper.

\(^{21}\) See Locke, supra note 5, at para. 6

\(^{22}\) See id, at para. 7.
quiet and peaceful space, previously populated by scholars, became the venue of disputes and fights among users, especially about the use of certain domain names.\footnote{See John Palfrey, \textit{The End of The Experiment: How ICANN's Foray Into Global Internet Democracy Failed}, 17 HARV. J.L. & TECH. 409, 429 (2004).} It was not as easy to punish violators, especially when power groups tried to take control. And since there was no appointed body to settle disputes and punish the guilty parties, it was also hard to identify the rights-holders.

Still, it is not always clear why people would like to leave the ‘state of nature’ where they can be absolutely free. Locke observes that “free, is full of fears and continual dangers”\footnote{Locke, \textit{supra} note 5, at para. 123.} and that the enjoyment of the right is “very uncertain and exposed to the invasion of others.”\footnote{Locke, \textit{supra} note 5, at para. 123.} That is why a person would like to join a society that is already united, or unite with others “for the mutual preservation of their lives, liberties, and estate . . .”\footnote{Locke, \textit{supra} note 5, at para. 123.} Locke thus claims that uniting into a society is crucial for survival as well as protecting one’s rights.

**The Internet Society**

In the example of the deserted island, the people there are not obliged to form a community. They all came from different communities around the world. Each of them could go his or her separate way and live an individual life on the island. Although all those who inhabit the island came from civilized societies, it does not necessarily mean
that they are all considered to be a society simply by virtue of their physical presence on the island together.

This leads us to the difficult question of the existence of the Internet society and its members, a question not easy to answer. When we refer to members of this society, are we talking about all those who use the Internet? Maybe just those who conduct business online, but not those who just use it for leisure? Or, could it be that the Internet society is comprised of software writers? Why not all of the above? Perhaps the term only denotes those individuals who do not form into a society.

Webster’s dictionary defines society as “a voluntary association of individuals for common ends.” This definition seems to embody a notion of a ‘social contract’, to the extant that the individuals using the Internet wish to protect their online entities, and ventures as well, they do have a common interest. Those who are involved in and with the Internet have the same need to protect themselves in cyberspace as the farmer on the island has to protect her vegetables.

Webster’s dictionary also defines society as “The quality or state of being connected: relationship.” This actually brings us to a statement well known about the Internet, that

27 The Internet Society addressed here is not to be confused with ISOC, a non-profit organization formed in 1992, to provide leadership in Internet related standards, education, and policy. More information about ISOC is available at http://www.isoc.org/isoc/.
28 See Webster Third New International Dictionary, definition 3.
29 See id, definition 2.
everyone on the Internet is connected to everyone else.\textsuperscript{30} Although this statement is usually used as a technical term of connection, not a personal one, Paul Schiff Berman, in his article “The Internet, Community Definition, and The Social M of Legal Jurisdiction,”\textsuperscript{31} suggests that people develop friendships and business relationships, even fall in love online.\textsuperscript{32} But even if there is an Internet society, it does not necessarily mean that it is a political society.

For Locke, political society is crucial for his theory. When addressing the problem of enforcing the ‘law of nature’ (as well as other laws that concern men) he emphasizes the importance of forming a political social society. He goes even further to explain that even the formation this sort of society is not enough:

\begin{quote}
\ldots no political society can be, nor subsist, without having in itself the power to preserve the property… and punish the offences of all those of the society.\textsuperscript{33}
\end{quote}

\textsuperscript{30} Connected has actually been used as a technical term according to the Internet, see for example The World Intellectual Property Organization at \url{http://www.wipo.int/pctdb/en/wo.jsp?wo=2004095754&IA=US2004011756&DISPLAY=DESC}.


\textsuperscript{32} He also comments that people develop these relationships regardless of physical proximity, for this also see the discussion about the Internet not being a Physical place and the opinions discussing that on the chapter on the ‘state of nature’ in this article. Debashis “Deb” Aikat, \textit{Cyberspace of the People, by the People, for the People, Understanding the Web: social, political, and economic dimensions of the Internet} 23, 26 (2000).

\textsuperscript{33} Locke, \textit{supra} note 5, at para. 87.
Recognizing this obstacle is actually the first step toward creating a society that will find a way to overcome it. But is the Internet society a political society? Locke finds it necessary for a political society to have the power to enforce its laws on the individuals in that society.\(^{34}\)

We must remember that people who use the Internet already belong to their own political societies in the country they live in, where they are subjected to their country’s rules and laws. According to Locke, in order to enter a society, a man has to consent. What consists as consent for the purpose of entering a society?

\begin{quote}
\begin{center}
every man that hath any possession or enjoyment of any part of the dominions of any government doth thereby gives his tacit consent, and is as far forth obliged to obedience to the laws of that government, during such enjoyment, as anyone under it...\(^{35}\)
\end{center}
\end{quote}

This pertains only to a society that already has a form of government. Talking about consent to obey to the law of a government, Locke is talking about an individual who would like to join an already existing political society. To reach a government in Locke’s theory there should be first a political society. Because the political society is derived from the ‘social contract’ it is of the essence to consider a social contract for the Internet society.

\(^{34}\) Locke, supra note 5, at para. 87.  
\(^{35}\) Locke, supra note 5, at para. 119.
The Social Contract

Locke realized that society, just by being one, cannot advance beyond the ‘state of nature’ without having an agreement to do so. Based on this realization, he developed his theory of the ‘social contract’. Sir Ernest Barker, in his introduction to the book Social Contract, explains that the concept of the ‘social contract’ is composed of two ideas: the idea of the ‘contract of society’, and the idea of the ‘contract of government.’

The contract of society is designed first and foremost to concentrate all law-enforcement powers in the hands of the public, as opposed to the individual members. The individuals who previously held their own powers in the ‘state of nature’ now have to give some of those powers up to the entire public. As Locke clearly states:

Wherever therefore any number of men are so united into one society as to quit everyone his executive power of the law of nature, and to resign it to the public, there and there only is a political civil society.

Thus, the people who are in the ‘state of nature’ can agree among themselves to unite into a society while relinquishing their own individual power of punishing infringers of the law of nature, to the whole. Locke connects the social contract with a civil society; it seems that to Locke ‘social contract’ cannot exist without ‘civil society’. Locke elaborates:

36 See ERNEST BARKER, SOCIAL CONTRACT ESSAYS BY LOCKE, HUME, AND ROUSSEAU, xii (1947).
37 Locke, supra note 5, at para. 89.
Those who are united into one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them and punish offenders are in civil society one with another.38

To understand why people should choose to unite in a contract which relinquishes some of their individual power and puts authority over them in order to decide and enforce rules and laws upon them, even though they can not be forced into it, Locke emphasizes benefits of safety that results:

Men being… by nature all free, equal. And independent, no one can be put out of his estate and subjected to the political power of another without his own consent, which is done by agreeing with other men, to join and unite into a community for their comfortable, safe, and peaceable living.39

In the case of the Internet, those who could be injured or troubled by the shortcomings of the ‘state of nature’ entered into agreements resulting in ICANN40. ICANN—Internet Corporation for Assigned Names and Numbers—was founded in 1998 as a non-profit organization. ICANN coordinates the unique name and number identifiers of computers

38 Locke, supra note 5, at para. 87.
39 Locke, supra note 5, at para. 95.
all over the world. Its website states clearly that the organization is “dedicated to keeping the Internet secure, stable and interoperable”.  

ICANN was founded more than ten years ago, and it seemed to represent the beginning of a social contract in the Internet society. Yet today issues like spam, Internet security, and phishing are still beyond ICANN’s control. Although it points to a beginning of unity and the relinquishing of power in order to ensure safety and security in the world of cyberspace, it only addresses limited aspects and rights of the members of the Internet society.

In light of this state of affairs, it is clear that it is not enough just to unite into a society and form a simple manifestation of a ‘social contract’. Consistent with this insight, Locke recognizes that in order to exit the problematic ‘state of nature,’ as explained before, it is crucial to establish a strong and valuable ‘social contract.’ But before this contract can be attained, individuals in the ‘state of nature’ need to unite into a society that enforces the law. He calls this state “the commonwealth”:

Wherever any number of men, in the state of nature, enter into society to make one people, one body politic under one supreme government… puts men out of a state of nature into that of commonwealth, by setting up a judge on earth with

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41 For more information about ICANN See ICANN’s website, available at http://www.icann.org/en/about/

42 See Shahan, supra note 3, at 344.

43 Locke does not mean commonwealth as a form of government or as a democracy. He means any independent community, the word civitas in Latin, See Locke, supra note 5, at para. 133.
authority to determine all the controversies and redress the injuries that may happen to any member of the commonwealth.\textsuperscript{44}

Locke claimed that men uniting into commonwealth and putting themselves under government to preserve their property\textsuperscript{45} do it with the end purpose of three goals in mind: First, establishment of law, which is consented to by all.\textsuperscript{46} Second, authorization of an impartial judge, who is to decide on conflicts according to the law;\textsuperscript{47} and third, establishment of a power that will back up the sentences of the judge and carry them out.\textsuperscript{48} Locke determined that the primary reason to unite into a commonwealth is to create legislative, judicial, and executive powers that derive from the ‘social contract.’

In terms of the Internet society it seems that it is getting in way over our heads. The Internet does not (yet) have a form of its own government, at least not one that is completely separated from the governments of the physical worldly states. Some will argue that this lack of governmental structure proves that the Internet, unlike other societies, can and does avoid the ‘social contract’. After all, the Internet society has not gathered into a ‘social contract’.

One possible explanation as to why the Internet has not evolved yet into a Lockean social contract commonwealth is that human beings have not “inhabited” cyberspace long

\textsuperscript{44} Locke, \textit{supra} note 5, at para. 89.
\textsuperscript{45} Locke, speaking about property, means – estate and life, \textit{supra} note 5, at para. 87.
\textsuperscript{46} Locke, \textit{supra} note 5, at para. 124.
\textsuperscript{47} Locke, \textit{supra} note 5, at para. 125.
\textsuperscript{48} Locke, \textit{supra} note 5, at para. 126.
enough to develop a social contract that can fully account for the new and changing conditions of cyberspace. These conditions are different from the conditions of the physical world, whose metes and bounds are well known and understood by humans. Hence, the formation of a social contract that will pertain to cyberspace is likely to take some time.49

Continuing with this line of thought, there are some in the Internet society who claim that they agreed upon Internet governance structures. Those structures were not formed by a document specifying their existence and commitments, but were agreed upon silently with little to no resistance by the Internet society. In trying to make Internet governance more clear and viable, the Working Group on Internet Governance (WGIG), operating under a mandate from the World Summit on the Information Society (WSIS) 50 came up with a definition for “Internet governance”:

Internet governance is the development and application by governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programs that shape the evolution and use of the Internet.51

51 See Shahan, supra note 3, at 325.
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This definition realizes the unique construction of the Internet, portraying all the parties who have an effect on the Internet and are affected by it which are operating in cyberspace. It is crucial to understand that these are the building blocks of what we call 'the Internet society'.

As we examine the actors who play a role in Internet governance, we can notice different and not necessarily related characters. In order to conclude whether it fits, in one way or another, into Locke’s ‘social contract’ theory, we cannot simply presume that they all have the same role; we need to carefully examine the roles played by each and every one of them.

The first characters are governments. It could be quite disconcerting to some that governments are part of the Internet governance. This is especially true for those individuals who dreamed that the Internet would be a space free from government control. We cannot avoid the fact that governments are also a part of the Internet society, as they of course use the Internet as a tool, and they are also influenced by it in matters of security, economics, politics, etc.

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52 See this article, the chapter on the Internet society.
53 See supra note 4.
54 The case is a good example for the different influence on different countries See supra note 10. As well we can also put our mind to security issues, at posted secret information, hacking into secured government sites. The GAC – organization where 200 governments could discuss policies affecting the Internet, but it only provides advice to ICANN, it doesn’t oblige it. See Shahan, supra note 3, at 344.
Although the society of those individual nation-states has already yielded governance powers via a separate social contract to their governments, it does not mean that the governments cannot also be a part of another society. Consider the United Nations: in that body, member states give up some of their autonomous powers to pursue their own interests as well as to protect themselves among the whole of the UN society. They relinquish their power to the UN governance of which they are a part. Similarly, the governments of states relinquish power to a larger Internet government defined by the WGIG. Although this government is not a structure as organized the UN, it is still a form that legisitates Internet laws and enforces them.

The second character is the private sector. The private sector refers to firms and households which do not belong to a government, but play an essential role in the economic realm. The private sector is mainly responsible for the Internet’s growing and changing infrastructure. It therefore influences the stability of the Internet, the number of people who can connect to it, the Internet’s speed, and other infrastructure outcomes. Thus, the private sector is responsible for the foundation of the Internet, and an inextricable source of the Internet society. It must also partake of Internet governance.

55 See Symposium program, Commentary by Experts, 4 NW. U.J. INT’L HUM. RTS. 39, 89-90 (2005). In the symposium there is a discussion about the UN forming from a social contract by the different states governments.

since each change and/or improvement of the infrastructure influences the entire society of the Internet.\(^57\)

The third character is civil society. “Civil society” refers to all the others who use the Internet, and do not belong to the government, or the private sector. Civil society is comprised of individuals from all over the world.\(^58\) It only makes sense that the civil society will be a part of the Internet governance, especially if its intent is to protect the individuals; they have to be a part of it to assure it does.

It is implied from the above definition that Internet governance is comprised of representatives of the different actors of the Internet society. However, there is no mention of a governing body that will be in charge of or take part in one of the 3 powers – Legislative, Judicial, and Executive. But it is possible to believe in the idea of the contract of society without believing in the social contract of government,\(^59\) and formal, traditional rulers are not a strictly necessary condition. Indeed, the social contract concept suggests that a community may be self governing.\(^60\) The definition of Internet governance does contain the idea of self governance as Locke portrayed it. The

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57 As we have seen in the ‘Internet society’ chapter in this article, people connect through the Internet if something will change is the infrastructure it will than change the dynamics between the players on line.

58 When Locke first came up with the concept of ‘social contract’, he was referring to the uniting of individuals and relinquishing part of their autonomy to governance which will enforce the law and protect them.

59 See Barker, supra note 36, at xiii.

60 See id, at xiii. 
definition does not omit any part of the Internet society, which is versatile. We can conceive of the Internet community as self governing.  

The second part of the definition of Internet governance concerns the most important rule of the Internet governance, the legislative power. Of course the commonwealth Locke is talking about is a society characterized by a materialization of the social contract. The first and most important step in building the commonwealth is the legislative power. For Locke, the legislative power should be a very clear and distinct power:

… The first and fundamental positive law of all commonwealth is establishing of the legislative power.

The problem with the Internet is that although there is legislation concerning it, it is produced by different states which have implemented different laws concerning cyberspace and the use of it, and not by a legislator or legislators which are agreed upon by the entire Internet society, and derive from their ‘social contract.’

Massive efforts to regulate the Internet have affected the judicial and executive parts of Internet governance, or the lack thereof. With no judicial authority over the whole community in cyberspace, governments of different countries can only adjudicate and

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63 Legislating the Internet – find pin cites for laws concerning the Internet.
enforce their laws on the people in their own national dominion, which can foment defiance from the Internet community that finds way to overcome, overrule, and go around it. 64

What is interesting about the current structure of Internet governance is that the variety of decisions and actions made by the different actors that comprise it. It is very dynamic and susceptible to constant changes. If a party of this government or of the Internet society will reject a law concerning the Internet, they might go around the rules; they will manipulate the technology of the Internet to make the law void. 65

Time will tell what will become of the Internet society, and its formation as a political society. It is impossible to ignore the difference between the Internet society and other societies. It is going to be fascinating to follow its development through out the years. It is unfortunate that political philosophers usually write philosophy as a retrospective of how a certain political society was formed, but now we are given the chance to witness it at first hand, with no speculation. We sit in the front seat for what seems to be a “new” opportunity for political philosophy. Now is the time for us to explore the Internet through the eyes of political philosophy, as was done here with John Locke’s theory of the social contract.


65 See id, the war in the United States concerning P2P technology. Everytime the music industry manage to win a suit against infringers, hundreds of new technologies show up.
Conclusion

The Internet has presented us with a rare and wonderful opportunity to explore John Locke’s theory of the ‘social contract’ and to study its actual implementation in a society which is in the midst of its political existence and evolution, rather than a historical society, as was often done by Locke and his followers.

As I have shown, John Locke’s ‘social contract’ political philosophy theory can be applied to the Internet. Locke’s ‘state of nature’ shares similar characteristics to the Internet realm. While the special condition of the Internet as a non-tangible place might present a difficulty in applying a political philosophy theory premised on physical places, this is a debatable premise, especially in light of the opinions of scholars who argue that we should conceptualize the Internet as a real physical place, because this is how people who use it see it. More importantly, as technology progresses every day and our world changes rapidly, we cannot restrict our application of philosophical theories only to tangible places.

Second, Locke’s ‘law of nature’, which is an axiom to his ‘state of nature’, applies on the Internet just as it does in the physical world. The ‘law of nature’ is a postulate for people’s survival: no one ought to harm another’s life, liberty, possessions. The problem is that it is hard to enforce the ‘law of nature’ in Locke’s ‘state of nature,’ leaving people in constant fear for their life, liberty, and property. The individual’s fear of the lack of
enforcement is a similar reason why people in the Internet would want to leave the ‘state of nature.’

Thus, there is a need for Internet users to unite into a society as a first step to leave the ‘state of nature’ into a more secured state. In Locke’s theory, a political society is needed to make this important step. This presents another difficulty for users of the Internet, as it is problematic to define Internet society in a way that shows that such a society does exist. Especially since the Internet contains many uneven parties such as different users and abusers like for personal purposes, and for business.

To exit the ‘state of nature’, Locke proposes the ‘social contract’, which enables a society to unite and agree to relinquish power to the public, and create governance mechanisms to enforce the laws and protect the individuals in the society. In the Internet Society, we are witnessing the first buds of Internet governance with the founding of ICANN and the defining of Internet governance by the WGIG. However, there is not yet a strong and powerful social contract in the Internet, which is the final goal of social contract in Locke’s theory. The reason for this is the complexity of the Internet structure, society, and governance, as well as its short existence.

Finally, I find it very surprising that there is very little to no scholarship at all about the political philosophy of the Internet. The Internet has created an amazing new world of possibilities that presents scholars with a complex new riddle to try and solve. This article shows that it is possible to explore and examine the Internet through existing
political philosophies, as John Locke’s social contract. Even though cyberspace is a non-tangible place, this idea should be further explored in future articles.