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On the Military’s Normative Commitment to Assist in Revolution

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Locke held that the People reserve a right of revolution in the case that a government egregiously violates the social contract to such an extent that it renders itself illegitimate. At the time of his writing, revolution was a potentially feasible endeavor insofar as the technological war making capabilities of a citizenry were on, or at least on something close to, equal footing with those of the government. As technology advanced over the following centuries, however, a disparity between the war making capability of advanced states and their citizenry arose, wherein the governments of modern, advanced states gained access to weaponry, tracking capability, and a violence apparatus that far outrivaled the capabilities of the citizenry, in essence rendering Locke’s right of revolution impracticable

though the sort of means Locke might have envisioned. Assuming that the People do continue to hold a right of revolution, how can it be reconciled with its own impracticability in the modern era?

In this article I will offer an alternative to Locke’s citizenry focused right of revolution by shifting the focus to the military, arguing that in the case a government becomes illegitimate, the military is normatively committed to assisting revolution by seizing power on the People’s behalf in order to advance the recreation of legitimate government, as Locke intended.

The discussion will proceed in four parts. Part I provides an overview of Locke’s account of governmental legitimacy and the right of revolution as set out in his Second Treatise of Government. In Part II I analyze the status of impracticable rights and answer objections stating that impracticability is permissible. In Part III I advanced two lines of reasoning to

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1 I proceed as though this is the case, and I suspect that it is. However, demonstrating this is not the purpose of this article. Rather, the arguments made herein are theoretically in nature, and apply in the given circumstances, whether or not in fact revolution is in actu impossible at the time of writing.
2 Strictly speaking, upon the dissolution of government, individuals were free either to recreate legitimate government or to enter to a state of nature.
3 Locke (1980). Footnotes containing only a section symbol refer to the Second Treatise
establish that the military is normatively committed to assist in revolution. In the first I argue that
that the right to revolution should be understood in a Hohfeldian sense as a right and a liberty,
and that in the former capacity it establishes a correlative duty upon the military during non-
revolutionary periods which is retained upon dissolution of a government (i.e. when a
government becomes illegitimate). In the second I draw from Locke’s duty of preservation to
argue that even if the contractualist argument fails, soldiers have a duty to assist. In Part IV I
discuss institutional implementation of the normative solutions offered in the previous section by
proposing elected extragovernmental bodies to oversee military operations in the case that such
illegitimacy is determined.

I—A Brief Overview of The Second Treatise

In order to understand what it is that makes government legitimate in Locke’s view, it
helps first to understand the reasons that people transition from a pre-civil society into a
commonwealth subject to the power of a government. Locke held that outside of civil society,
men⁴ existed with regard to each other either in a state of nature or a state of war. Whereas the
former is a state of perfect freedom, and equality, the latter is a state of “enmity and
destruction.”⁵ Within the state of nature, man is obligated by the laws of nature “to preserve
himself”⁶ and when his preservation is not counter to that of others, “to preserve the rest of
mankind”. To these ends of preservation, Locke argues that all men have the right to execute the
laws of nature to protect the innocent (including the self) and to hinder offenders.⁷ By contrast,

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⁴ I use the masculine in this article when describing Locke argument simply for the sake of simplicity, and because it is the language that Locke chose to use. Further on in the in the article when discussing contemporary times, I adapt a more neutral linguistic set.
⁵ §16
⁶ §6- §7
⁷ §7
man enters a state of war with respect to another man in the case that one “[declares] by word or action … a sedate settled design upon another man’s life.” When such a state occurs, the innocent man has a right to defend themselves, even if that means having to kill the other man, for while the laws of nature dictate that man be preserved, “when all cannot be preserved, the safety of the innocent is to be preserved.”8 Preservation in this context is not limited, as might be read from the above, as merely one’s bodily integrity. Rather, inherent to Locke’s concept of preservation is the preservation of property, which includes one’s “life, liberty, and estate.”9 As such, to the extent that one is obligated to preserve, it is broadly property which must be preserved.

Locke reckons that in the state of nature this is a problematic endeavor, for while the connotations of “perfect freedom” and “equality” may be melodious to modern liberal intuitions, for Locke the state of nature offers no guarantee that such freedom and equality will be enjoyed, but rather his enjoyment is unsafe and unsecure.10 Principally, this is for three reasons. First, there is no known, settled, and promulgated law to which all individuals would adhere.11 While the laws of nature exist, men may be either too biased toward their own interests, or ignorant of the laws of nature, to properly practice them. Second, there is no known and partial judge to whom individuals can appeal in the case of conflict or disagreements. Rather, aside from being executors of the laws of nature, in the state of nature all individuals are also judges, and as they are biased toward themselves, they are likely to punish too severely when they are wronged, and to be less concerned when others claim to have been wronged by them.12 Finally, it may be

8 §16
9 §86
10 §123
11 §124
12 §125
difficult to execute the laws of nature in the most literal sense. That is, even if one has determined a just punishment for a crime, they may lack the power to carry out the punishment. Further, men are liable to resist punishment, and hence the act of punishment *per se* may lead to excess violence.\(^\text{13}\)

With these reasons considered, and for the express purpose of the “preservation of their property,”\(^\text{14}\) individuals in the state of nature, with consent, trade “the equality, liberty, and executive power they had in the state of nature, into the hands of society,”\(^\text{15}\) wherein a legislature governs by majority decree and passes laws for the common good of the community. Having established this, it is not difficult to understand why Locke held a right of revolution, for if the express purpose of government is the preservation of property to the end of the common good, then should the government abrogate this duty, the compact established is nullified and the People are no longer subject to the authority of the government, which will have entered a state of war with the people.

Locke, however, is cautious in his approach. Revolution is not justified by the whole of the body politic in the case of isolated instances of rights violations, though in such individuated circumstances he does support a right of resistance on behalf of those whose rights are being actively violated, for example by a corrupt magistrate.\(^\text{16}\) But for wholesale revolution to be justified it necessitates extenuating circumstances, and those namely are two: an alteration of the legislature\(^\text{17}\), or when a legislature acts contrary to the trust placed in it.\(^\text{18}\)

\(^{13}\) §126  
\(^{14}\) §124  
\(^{15}\) §130  
\(^{16}\) §202  
\(^{17}\) §212  
\(^{18}\) §221
When discussing the alteration of a legislature, Locke provides us with four\(^{19}\) ways this might occur. First, the legislature is altered in the case that the Executive replaces the established laws with their own arbitrary will. As the legislative is supposed to represent the will of society, if replaced by the will of the Executive then the legislative cannot be said to anymore represent its original intent. Second, when the Executive prohibits the legislative from assembling, it deprives them of their ability to act in the good of society. Third, when the means by which representatives are elected are arbitrary changed by the Executive, without consent of and contrary to the interests of the people. And finally, in the case that the society is made subject to a foreign power.

In all these cases, Locke holds that the government is dissolved, and as such an alteration of the legislature is a sufficient condition for creation of a new legislature, and the resistance against the illegitimate one if necessary. However, the alteration of the legislature is not a necessary condition, for Locke offers a sufficient condition: in the case that the legislature acts contrary to the trust placed in it.

Recall that the express purpose of government is the protection of property and the common good of the community; that governments are formed with the consent of the People in order that they might avoid the insecurities of the state of nature; and that the act of constituting a government is in essence the transference of the right of execution of the laws of nature to the government, which creates laws according to the will of the majority, and acts as a common judge in disputes. The violation of any of these provisions then, should such violations extend throughout the body politic, abrogates the legitimacy of the government, and as such the society

\(^{19}\)§214-§217
it purports to govern is justified in rebelling against the government, and rescinding the powers
granted thereto.

Thus, to briefly summarize, Locke held that the people reserved a right to revolt against their governments in one of two cases. First, when the legislature agreed upon by the people is altered, and second, when the government acts contrary to the trust placed in it. Having explicated Locke’s right of revolution, it’s worth considering the context in which it was written, which is to say one in which a revolution was in fact a feasible means by which a people could resist the force of its government, as demonstrated by e.g. the French Revolution or the American Revolution. What is to become, however, of a right to revolution in a contemporary world if a citizen led revolution is impracticable? Do the People have any recourse?

II—On the Status of Impracticable Rights

The previous section ends by questioning whether, in the case that the right to revolution is in fact impracticable, the People have any recourse. In a later section, this question will be answered affirmatively by arguing that the military is normatively committed to assisting in revolution, and that the People have a valid rights claim on the military to do so. But before this argument can be made, a more general discussion on the status of impracticable rights is necessary. Impracticability, after all, is a potentiality of all rights, in the simple sense that one can be prohibited from expressing them by force or other means, and not unique to Locke’s right to revolution; and if impracticability is permissible, then one avenue of establishing the military’s normative obligation—and the People’s rights claim to their assistance—is closed off to us. In what follows, I will discuss two potential statuses of rights in the case of

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20 In fact, Locke’s work was written in the context of justifying the Glorious Revolution, which was enacted successfully.
impracticability: (1) that the right is forfeited, and (2) that the right is reserved, but inconsequential. The former is straightforward enough, and will be dismissed quickly. The latter, however, offers a plausible take on the status of impracticable rights and hence will serve to restrict the scope in which the military is obligated to assist.

The first potentiality is that the impracticability of a right simply leads to the forfeiting of that right, but upon analysis we will see that this an implausible approach, for consider a dire implication of this line of reasoning. If it is the case that rights can be forfeited merely by making them impracticable, then the wholesale extinction of rights merely requires that a corrupt government attain the wholesale power to extinguish them. Under such a view, victims of totalitarian regimes, such as those of North Korea, have forfeited their rights to life, liberty, privacy, health, and so on merely by virtue of the fact that the North Korean government subjugates its population to extreme rights violations. But we need not consider this proposition on a governmental scale in order to see its error, for it applies on an individual level as well. If, for example, a person is kidnapped and restrained, and then subsequently tortured and murdered, would we accept that the person has forfeited their rights to life and bodily autonomy on account of the actions of their kidnappers? One might argue that they have in fact forfeited their rights, as evidenced by their torture and death, but such a response denies in the first place the validity of rights, misunderstands their nature, or some combination of the two. For rights to be valid, they require some meaning, and if rights can simply be extinguished by the actions of others, then they are meaningless. The logical error inherent in this position is the conflation of rights violations with the forfeiting of rights, and if this conflation stands, then rights may only be assigned with regard to protections which cannot be violated. Under such a view, there are no rights, for rights inherently must be subject to violation, for there would be no reason, and hence
no justification, for a right which could not be violated. This is not, though, to argue that rights cannot be forfeited. Generally, we recognize that there are circumstances in which this can occur. A right to freely pursue one’s interests, for example, can be forfeited upon the commission of a crime severe enough to warrant incarceration. Nozick seems to support this view when he argues in *Anarchy* that “one might take a contract-like view of moral prohibitions and hold that those who themselves violate another’s boundaries forfeit the right to have certain of their own boundaries respected.” In other cases, rights can be forfeited with the consent of the rights holder, as might be the case if one accepts the moral right to end one’s life, and by extension one’s right to life. As shown above, however, there is no plausible justification for the forfeiting of a right merely by virtue of the fact that a right becomes impracticable.

The second potentiality is that the impracticability of the right renders the right inconsequential, but with reservation—a more plausible approach, a somewhat analogous validity of which we may already accept in certain circumstances. Principally, this status can manifest in two forms, only one of which is relevant for our purposes, though the other will be briefly explicated for the sake of completeness. The first, irrelevant form of this status is a right which cannot be practiced, but wherein the practice of the right is inconsequential based on a lack of will to practice the right. Whether there are actually any rights in this category in a question that will not be explored, but a hypothetical formulation is a right to homosexual marriage in a world without homosexual people. For our purposes, the second form is the salient form, and taking this form are *prima facie* rights which cannot be practiced because they are

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21 Imagine, for example, a right to be biologically human. Such a right would serve no purpose, since there is no possibility of a human not being biologically human.
22 Strictly speaking, a liberty.
23 Nozick (1974) pp 137
permissibly defeased. This can occur two or more valid rights conflict, and wherein any resolution would lead to the violation of some right holder’s right. In such cases, a plausible view may be that the rights holder reserves the right but due to extenuating circumstances is rightly (though not fortunately) subject to violation (which is a manner of saying that the right becomes inconsequential). Another similar line of thought concerns the violation of one right in order to prevent the violation of another, weightier right. Yet a third approach concerns the violation of some minor right in order to prevent a substantially greater harm that would be brought about by the exercise of that right. Being that it is the case that we do in some instances accept the violation of rights, in what follows I will discuss potential situations in which it is permissible for a right to military assistance in revolution to be violated.

Consider the following example to illustrate the violating of one right in order to prevent the violation of another, weightier right. The two rights which we will use to illustrate the principle are a right to bodily autonomy and a right to life. Imagine a person A is walking down a street and sees projected from a window a laser sight pointing at person B and notices that it emanates from a rifle, it would be implausible to hold, all things being equal, that person A shouldn’t tackle person B to save their life on the grounds that tackling them would violate their right to bodily autonomy. A more general way of stating this principle is

Agent A is justified in violating right X of agent B if doing so prevents the violation of right Y of agent B, where right Y is a supreme right in comparison to right X.

To apply this principle to the context of our thesis then, consider the following example:

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24 There is some controversy regarding what makes one right supreme with regard to another, and the details of this discussion are beyond the scope of this paper. The rights chosen to illustrate these examples are purposely strongly contrasted in order to appeal to the reader’s intuitive conceptions of rights, which is to say, a reasonable person would likely not deny that the right to bodily autonomy trumps the right to life when a violation of bodily autonomy merely means being tackled, against being killed. It, in essence, pits a defeasible right (bodily autonomy) against a non-defeasible right (a right to life). For further discussion see generally: Shue (1980).
The government of nation Z has become illegitimate under the rule of a despot who has dissolved the legislature and so the people wish to invoke their right to revolution. However, the despot of nation Z directly controls access to a nuclear weapon and will detonate it if the citizenry rebels, destroying all the citizens in the process.

Here we may accept that (a) the government is illegitimate, (b) that revolution is morally permissible, (c) that the military is obligated to assist in revolution, but that doing so would (d) lead to violations of the right to life, which trumps a separate right to legislative representation, and hence (e) the military are more strongly obligated not to intervene, and the People are relegated to the possession of their right but the rightful inability to practice it. As such, the scope of any claims vis-à-vis the military in this paper will be restricted so as not to include circumstances in which military assistance would lead to the violation of rights significantly higher in a reasonable hierarchy.

Next is the claim that it is permissible to violate some right in order to prevent a substantially greater harm that would be brought about by the exercise of that right. At first glance, this principle appears similar to the immediately preceding principle, however our concern in this problem is not the threat of further rights violations, but the threat of great harm. Consider the following:

Due to the mistake of a biochemical engineer, an extremely virulent strain of the smallpox bacteria has escaped into the wild. There is a vaccine that can be deployed all across the world immediately, and at least 99% of the population must get the vaccine in order for herd immunity to have an effect, or else the human species will perish. There is no doubt of the dangers of the bacteria, but there are two problems with the distribution: (1) financing the distribution of the vaccine requires confiscating significant amounts of money from wealthy individuals all over the world (who presumably have a right to their property) leaving them comfortable but no longer wealthy and (b) 5% of the population wish not to be vaccinated due to religious reasons (who presumably have a right to the free exercise of their religion as well as bodily autonomy).
One who holds a strong view of rights may in fact hold that even in such dire circumstances it is impermissible to violate the rights of either the wealthy or the religiously motivated, but I question whether any theory can be considered one of the moral variety in the case that it condemns in totality its actors to non-existence, and I note that by extension interlocutor will unfortunately not be around to make such an argument in the case that the scenario described above arises. But of course, my flippant response may carry with it the inherent danger of implying the validity of a utilitarian position and denying a rights position, which would seem to be problematic in an essay that produces a thesis based on the work of a natural rights theorist such as Locke. But recall that for Locke, a paramount duty of man is to preserve himself and indeed, mankind itself, and as such Locke’s approach to rights is not one of rights which exist in a vacuum. Rather, for Locke, rights appeal to instrumental rights-reinforcing mechanisms that can be seen in his prescription for government: one in which rights are traded in the social contract in order to achieve a measure of security that would be unattainable in a state of nature. On this view then, the strong rights theorist who rejects wealth confiscation and forced vaccination is not doing so from a Lockean perspective. Why is this the case in a more general sense, and not a sense directly derived from Locke’s duty of protection mentioned above? Perhaps the most intuitive answer is that aside from the protection of man and mankind, one is obliged generally to protect the prerequisites which make the exercise of rights possible, existence being paramount in this regard. Indeed, and as mentioned, this is a justification for the creation of government in a state of nature, and I can think of no good, Lockean reason why this duty should not extend to any and all prerequisites of rights. As such, the more intuitive route that preserves life in the smallpox case is consistent with his view of natural rights.
Of the criteria offered, this perhaps offers the strongest case against the presumption of a right to revolution, for surely revolution is often not a bloodless affair, and even when successful often doesn’t bring about change for the better. To generalize the principle, let us state it as such:

Agent A is justified in violating right X of agent B if the practice of right X by agent B would lead to great harm.

Is it plausible to hold that the order sustained by an illegitimate state should override the right to revolution on the grounds that preventing revolution is the prevention of a great harm? Taken out of the context of the oppression of an illegitimate state, this may seem to be the case, but when judging on this criterion we must do so with the harms of revolution held relative to the harm of an illegitimate state, for the “great” in “great harm” can mean nothing except in reference to some other state of affairs. Thus, consider again what an illegitimate state consists of in the Lockean framework. First, it is a state in a state of war with its inhabitants, which might imply that it is already one which suffers from at least similar violence as would take place in a revolution, and as such, revolution would not be relatively a great harm and the military would not be justified in violating the People’s right. Perhaps, however, states of war are graduated, and there are in fact weak states of war in which violence is not yet widespread. There is some question as to the plausibility of this position, for Locke held that revolution is justified only in the case of widespread rights violations and as such it is arguable that until they are widespread, a state of war vis-à-vis society at large hasn’t occurred, but let us try to conjure a situation in which there is a relatively non-violent state of war, but wherein Locke’s other criteria for revolution might be met.

One possible example can take place with the violation of the Lockean proviso in the social contract against the alteration of the legislature by the Executive. There is some implication in Locke’s work that if this were to happen, it would be for nefarious purposes, e.g.
to concentrate power in a king who would abuse the power of the office and act contrary to the interests of the citizenry. But what of a hypothetical benevolent dictatorship? Let us assume that instead of concentrating power for the sake of abuse, an Executive concentrates it because some internal or external threat looms over the safety of the nation, and for whatever hypothetical reason the legislature does not act. Such a case would seem to justify overriding the right of revolution, and yet such a case is accounted for at least in some respect by Locke’s appeal to prerogative: “Many things there are, which the law can by no means provide for, and those must necessarily be left to the discretion of him that has executive power in his hands.”

While Locke does not discuss the notion of prerogative with regard to fundamental alterations of the legislature, it does not seem beyond the realm of plausibility that an Executive might rightly exercise prerogative in doing so, and if this is the case there are two potential implications. The first is that alteration of the legislature is not a sufficient condition for revolution in the case of a just exercise of prerogative, but rather must be coupled with an Executive who then goes on to act contrary to the interests of the people. The second is that the prerogative power does not extend to cases of alteration of the legislature, and if this is the case then revolution is justified under a Lockean framework while at the same time revolution would potentially be a great harm, and as such the right to revolution would be reserved but inconsequential.

Both of these potential implications are plausible, though I am partial to the former, not only because it offers no exception to my thesis, but also because it is a more charitable interpretation of Locke, who continually offers concern for the security of the citizenry, and to prohibit executive prerogative from altering the legislature for the purposes of securing the safety and liberty of the citizenry, if done earnestly, would seem to be inconsistent with Locke’s stated

25 § 159
aims. If the former is the correct interpretation of Locke, then we have not found a case of defeasible rights, but we have found an adjustment to the criteria under which revolution is justified. If the latter is the more plausible interpretation, however, we have discovered that in this specific instance the right of revolution is defeasible, for surely the exercise of the right to revolution against an Executive earnestly acting in the best interests of the people against a significant threat would threaten the People just as problematically, while distracting the Executive from their duty to act in their bests interests. But rather than attempt to solve this dilemma, which could justify an essay in and of itself, I will restrict the scope of the remaining arguments to cases wherein the government is acting contrary to the interests of the People in an unambiguous fashion.

III—ON THE MILITARY’S NORMATIVE OBLIGATIONS

OBLIGATION FROM CONTRACT

Given the scope restrictions introduced in the previous section, I turn now to a discussion of the military’s normative obligations to assist the People in the case that revolution is warranted. Principally, there are two lines of reasoning down which we can travel in order to make this normative claim. The first concerns the correlative duty implied in the first place by the right of revolution. Hohfeld\textsuperscript{26} maintains that entitlements can be categorized along four lines, two of which are relevant for our purposes, and these are rights (or rights claims\textsuperscript{27}) and liberties (or privileges). The essence of this difference is that a right confers a positive duty upon another agent or various agents, whereas a liberty confers a negative duty upon another agent or various agents, which is to say, a duty not to interfere. An initial assessment of the right to revolution,

\textsuperscript{26} Hohfeld (1913) pp. 31-36
\textsuperscript{27} Used interchangeably from here on out
when attempting to derive a correlate duty, may seem to lead us to believe that the right to revolution, rather than a right, is better understood as a liberty, for within the Lockean system the right to revolt is a right to act in a certain way, and *explicates* no positive duties on behalf of others (including the government) except to not interfere. This, of course, would be a welcome response by a government in the case of revolution, but for obvious reasons it is not the expected response. The first step for us then is to establish that the right to revolution is a Hohfeldian right, and not merely a liberty, and that the correlative duty of this right falls upon the military.

Let us be clear that the claim advanced in this article is that the military has a positive duty to assist in revolution, and that this claim is subject to attack from rights theorists such as Nozick who see the Lockean system as one of negative duties. Nozick, for example, argues against the just establishment of anything beyond a minimal state. However, even the staunchest rights theorist wouldn’t deny that positive duties can be created upon the establishment of a contract between two parties. This is easily seen, for example, when two business contract to exchange a service for monetary payment. The contract creates positive obligations on behalf of both actors to furnish the other in accordance with the terms of the contract. The question then is whether the relationship between the military and a citizenry can be viewed as a sort of contract, and whether this contract endures beyond the dissolution of a government. For, one might object to the claim that it does and argue instead that the individual service members merely enter a state of nature (or join a state of war) upon a governmental dissolution. There are, however, reasons to think that this is not the case.

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The first in a set of reasons to reject this view centers on the relationship established between the People, their representatives, and the military they create as a matter of law, which, if valid is merely law extending from a liberty that all people possess by virtue of the law of nature: that of self-defense. Nozick makes a point relevant to our purposes here: that in a state of nature, people possess a right to contract their defense to a private contractor which acts on their behalf, and the contractor which transitions into a government is able to do so without violating any rights. The progression of this body from private defense contractor to government as more commonly recognized confers obligations of protection to its citizenry and is established via contractual obligation. Moreover, and returning to Locke, representatives of this government, like the government itself, are only legitimate and representative in the case that they act in accordance with the principle of “Salus populi suprema lex”\(^\text{29}\) (The health of the people should be the supreme law). In the case that they do not, the control of defense which they have contracted through their representatives, who no longer are representative, should return to the hands of the People directly, echoing the principle of civilian control over the military, albeit exercised directly when there are no longer representatives. Under the Nozickian progression of government, since government exists in a protective capacity, upon a governmental dissolution, it follows only that the illegitimate components of government are dissolved, for whatever contractual obligations the military had to the people in non-revolutionary times are still valuable and legitimate in times of revolution. Consider, for example, if some component of Nozick’s defense firm, say a regional sect or an office within it, began to abuse its power. Would it follow that the contractor and the contract in their totality are dissolved, and that the contractee is left without recourse?

\(^{29}\) §158
Of course, contractual obligations flow along a binary path. Soldiers arguably do not enter the military for purely altruistic reasons (though altruism is certainly a possible and worthy motive). In lieu or addition, they are paid and housed for their services, and agree to serve for specified periods of time. The contractual obligations to which they agree, however, are agreed to voluntarily. A dissolution of the illegitimate components of government should not invalidate these contracts insofar as the contractees are willing to continue to adhere the terms of the contract, which is to say, to continue paying for services rendered. The primary effective difference in revolution is that the direct principals controlling the military have changed: instead of being controlled by those elected to a parliamentary and/or executive body, the people assume control over the military directly (albeit, in the next section I propose an intermediary body). A secondary effective difference is the target of the military’s attack, for in non-revolutionary cases, it is generally a foreign enemy, and in revolutionary cases, it is domestic.

**Obligation from Preservation**

Let us assume for a moment, however, the above is indefensible; that the regression into a state of nature or a state of war is symmetrical rather than following the asymmetrical model proposed above; and that any contractual obligations held by soldiers dissolve along with government. Can we locate a set of rights and corresponding duties obligating former soldiers who have recently entered a state of war or nature as equal and fellow former citizens?

In the most literal sense: no; however, this is due not to a problem with rights and duties, but rather to an incoherent assumption of the question, namely that former soldiers can be equal with respect to fellow former citizens. Upon entering a state of nature or war, soldiers, even if they shed contractual duties, are not able to shed the training which has made them indispensable to an effort against an illegitimate government. Further, there is no reason to think that the
dissolution of a government entails the immediate physical separation of (what will become) former soldiers from their arms and war making capacity, which is to say, even without a contract these former soldiers are still well equipped *qua* soldiers. As such, upon entry, former soldiers are uniquely positioned to assist. The question then is whether this position with respect to the general population obligates them in the same way that a military would be obligated. On this, let us return to Locke’s reading of the law of nature to address the question from his natural law perspective.

Early on in the *Second Treatise*, Locke tells us that the law of nature obligates that man “when his own preservation comes not in competition ... as much as he can ... preserve the rest of mankind.”

Based on the language used, “not in competition,” Locke seems to be indicating that the preservation of mankind is a *prima facie* duty, which is to say that it is binding unless trumped by other duties. On its face then, it would seem that the simple fact that former soldiers are able to assist obligates them to do so, unless there are other conflicting concerns, a point to which I will return later. First it must be demonstrated that a failure to act in such circumstances would be a violation of their duty of preservation.

Recall that the hypothetical we are analyzing pits a technologically advanced, illegitimate government against a less technologically advanced citizenry, such that armed revolution is a futile endeavor. One the one hand, the conflict between the government and the citizenry may be directly violent, leading to the murder of citizens, which was the case e.g. in Nazi Germany, and in Yugoslavia. On the other hand, a government may become illegitimate and engage in widespread rights violations—rendering itself illegitimate—while retaining some measure of
order that does not become directly violent through the sort of means practiced by the
aforementioned states.\textsuperscript{31} That is, a government may consistently violate the rights of citizens, but
perhaps it eschews murder and genocide for imprisonment and obedience through fear. In the
former case, it seems clear that a failure to assist in revolution by former soldiers violates
Locke’s duty of preservation simply in that a failure to act results in mankind not being
preserved. In the latter case, however, it is more difficult to state unequivocally that the duty of
preservation is violated, and the truth of the matter will hinge both on our interpretation of
preservation and mankind.

How then should “preservation” and” mankind” be interpreted, and what does it mean to
preserve mankind? It is unlikely that Locke meant this in the sense that a biologist might when
she speaks of preserving a species by not allowing the number of individuals to fall below a
certain threshold, such that the species would otherwise go extinct. A literal interpretation that
refers to preservation as “keeping alive” and which assigns as the referent of “mankind” the
species of man is an implausible account then. More plausibly, Locke assigns as the referent of
“mankind” all other extant members of the species at any present time, which means that duties
of preservation apply to all other humans individually, excepting those who for various reasons
have forfeited their right to be preserved (see passage below). To discern how we should
interpret preservation, consider a fuller treatment of the passage referencing a duty of
preservation,

The state of nature has a law of nature to govern it, which obliges every
one: and reason, which is that law, teaches all mankind, who will but
consult it, that being all equal and independent, no one ought to harm
another in his life, health, liberty, or possessions … Every one, as he is
bound to preserve himself, and not to quit his station wilfully, so by the

\textsuperscript{31} That all governmental power is underlain by the threat of violence notwithstanding
like reason, when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind, and may not, unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another.

Locke emphasizes equality and independence here to derive (along with a religious premise that I am omitting) both the duty to refrain from harming others, and the duty to preserve others in like fashion as one would preserve oneself. Further, he emphasizes in the last clause not merely the preservation of mankind, but also of those things that are irreducibly valuable for mankind, and in the next section mentions peace conjunctively with preservation. Locke then is clearly not referring to preservation as mere “keeping alive,” but rather intends that certain qualities along with literal life be preserved. Moreover, had Locke in mind a weaker version of preservation that brought with it not the aforementioned qualities, he took unnecessarily great pains to construct a liberal form of government when he could have advanced an enlightened autocracy that deprived citizens of rights on the condition that it “preserved mankind” narrowly construed. Finally, a weak interpretation of preservation seems to be incompatible with Locke’s strong emphasis on the right of revolution in the first place, for Locke set a fairly low bar for revolution (illegitimacy and widespread rights violations, but with no mention of violence) and if he meant preservation in a narrow sense, even an illegitimate government could accomplish this goal.

On this broader construction of preservation, it seems plausible that former soldiers are obligated to assist in revolution even when the illegitimate government in question is not directly violent, but resorts instead to imprisonment, fear, and when it operates in a general rights

32 §7
33 I have in mind here qualities that tend to the flourishing of human life, such as health, independence, liberal government, security, and the like.
abrogating fashion, for under such a system, neither mankind nor the qualities discussed above are being preserved. Mankind may be “kept alive,” but not *qua* an independent and equal being, and rather as a victim and subject of someone else’s illegitimate subjection.

Moreover, this broader interpretation of preservation and mankind is more intuitive than narrower alternatives. Consider a scenario\(^\text{34}\) (1) in which one is armed with a weapon and comes across a person brutally attacking another person. A duty to preserve mankind narrowly construed in this instance may confer no obligation to even phone the police, must less physically intervene. For, if “keeping alive” is the proper interpretation, then one need not lift a finger unless one reasonably believes that the victim’s life is at stake, and if mankind does not refer to individual men, but rather a more holistic conception of the species, then the person being attacked can have no specific claim on one’s intervening, all else being equal. And yet, it does not seem intuitive that one is morally free to simply ignore the victim’s plight. At the very least, one is obligated to seek help, and if they are able to help directly through intervention, it seems equally intuitive, on balance, that they are duty bound to intervene.

The above scenario exemplifies the brutal case, but what of the non-brutal case—one more analogous to our rights depriving but not directly violent government? Consider a scenario (2) wherein instead of coming across a violent altercation, one comes across a person chained in a cage in a basement. Their condition seems fine, in that they do not seem to have suffered from physical abuse. Moreover, they have access to food and water. Still, they are unable to leave

\(^{34}\) Simmons utilizes similar reasoning in *The Lockean Theory of Rights* to argue that the government has positive duties of charity. He points to the case of Kitty Genovese, a woman who was brutally murdered while neighbors ignored her screams. Simmons makes this point to argue that Genovese had a rights claim to assistance, which demonstrates the existence of positive perfect duties in Lockean moral theory. This lends support to the conclusion that a Lockean government is obligated to provide welfare provisions for its citizens. See: Simmons (1992) pp 346
their cage. As they aren’t at risk of losing life, a narrow interpretation of preservation would necessitate neither seeking help nor intervention, but does this seem intuitive? Once again, at the very least the person who discovers the jailed victim seems duty bound to seek help, and on balance, to intervene.

One might object to my analysis by arguing that I am conflating duties of preservation, which should be narrowly construed, with other duties that apply in these cases, but even if this is the case, it is not vicious. Consider my analysis of Locke’s more full passage above where he emphasizes equality, independence, life, health, etc. My interpretation of this emphasis is that Locke’s duty of preservation encompasses more than mere “keeping alive,” and it very well may be the case that Locke encompasses too many duties within his conception of preservation. If this is the case, then the objection is simply noting that these duties should be delineated more specifically, but it does not deny the validity of the duties implied cases 1 and 2. The particular identities of these duties are important per se, but not necessary to make the arguments contained herein. That is, the argument functions equally well whether I encompass the duties under one super-duty of preservation, or delineate them more specifically, insofar as the specific duties referred to above are reasonably encompassed by Lockean preservation and our intuitions.

**STATUS AS A PRIMA FACIE DUTY**

Thus far I have argued that Lockean preservation, as well as our independent intuitions on preservation, obligate former soldiers to intervene on behalf of others. What I have not yet considered are the implications of this duty being a prima facie duty. For, one might argue that there are plenty of overriding duties, or might note that the very duty of preservation itself, in Locke’s view, places emphasis on preserving others when one’s own preservation “is not in competition.” Hence, one might argue that upon dissolution of a government, the former
soldiers are exempt from the preservation of others on the grounds that aiding revolution would place their lives at risk. To analyze this objection, let us consider the options available to soldiers upon dissolution of a government (again, continuing under the assumption that the contractualist argument proposed at the beginning of this section is indefensible).

Recall that dissolution is an abstract state. A government is dissolved automatically upon becoming illegitimate, but this fact alone does not have any extant consequences. To the extent that it has power over a territory, an illegitimate government still possess governing capacity— it merely exercises it illegitimately in a state of war with the citizenry. The first option for a soldier upon entering a state of nature or war is to remain a member of his or her military unit and function as they did previously, which is to say, to act on behalf of the illegitimate government. This is an impermissible choice, however, for, by remaining a member of the military, to the extent that the military enforces for that government, they serve to prop up an illegitimate government, and hence partake in its evils. An illegitimate government which continues to operate without sanction of its people is akin to a criminal organization, albeit an eminently powerful one, and to enforce for such a government is at least a moral equivalent of enforcing for a more traditional criminal organization, if not substantially worse. Hence, it is clear that the military has an obligation not to enforce, and this obligation extends a fortiori to all soldiers.

The second option available to a soldier is to simply resign their post, enter a state of war, but refrain from acting except in one’s own defense—this is what an objector contends is a permissible course for a former soldier, and in response I offer the following. First, reconsider

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35 i.e. coercive power
my argument in the previous section regarding what it means to preserve. Preservation is not merely “keeping alive,” but the objects of preservation are also certain qualities that, in a sense, make life worth living (independence, equality, health, etc.). In the hypothetical scenario offered in this article, wherein a government has become illegitimate and where there is a large technological disparity between the government and the citizenry, it seems implausible to believe that these qualities can coexist. By extension, simply entering a state of war by resigning one’s post while refusing to assist in revolution would seem to be equivalent to an act of submission to corrupt authority. When we consider the relation between a former soldier, his or her illegitimate government, and his or her fellow citizens in this light, it becomes clear that even self-preservation under such circumstances requires acts of resistance—whether they be direct, violent, and organized or indirect, “underground,” and disparate. For, if one were to refuse to act, one would simply be allowing themselves to be subject to conditions incompatible with preservation broadly defined. Hence, it appears to be the case that engaging in self-preservation leads one to act as though one were fulfilling an obligation to others. A Kantian might require that they also do so with the motive to duty, but for our purposes, that they act rightly will suffice. Soldiers, however, have one further option: to flee.

Should a soldier flee the jurisdiction of the corrupt government and simply leave their fellow citizens to fend for themselves? Here we come to the objector’s contention in its harshest light: that this act of cowardice is ultimately the best means to self-preservation, and as long as it is a possibility, the soldier is excused from putting themselves in harm’s way.
There is a fairly simple response to this claim, one consequentialist\(^{36}\) (though not utilitarian) in nature and which considers the fact that the soldier is limited in the information they will possess at the time that they are considering the choice of whether to flee. The dilemma they are faced with is as such: if I and all my fellow soldiers decide to flee, my fellow citizens will be condemned to life under an oppressive government, while if we are lucky we will find safety in another nation. If, on the other hand, I and all my fellow soldiers decide to overthrow the government, the battle, if any, will be short lived, because ultimately the government depends on us for enforcement. In essence, under the latter circumstances, the soldier is faced with no dilemma at all, because the soldier is not placed in precarious enough circumstances to warrant fleeing.

It should not be controversial to state that this is the most desired outcome, as it is the one which leads to a disestablishment of illegitimate government while minimizing the amount of harm caused by violent conflict, or to put it in Lockean terms, it is the outcome which best tends toward preservation of mankind, and the institutions which contribute to preservation. As such, some moral mathematics will allow us to derive a duty to stay.

Simply put, the decision of each individual soldier to stay contributes fractionally to a whole which represents the most desired outcome, wherein if all soldiers make the choice to stay

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\(^{36}\) In this paper, quite a few times have I appealed to consequences, and once I mentioned that this might seem out of place a in a paper that derives its conclusions from Locke’s work. However, it is not as problematic as it may seem. Locke, though commonly taken to adhere to some combination of duty and contract, was not strictly dismissive of consequentialist arguments. Simmons argues, in fact, that the super structure of Locke’s moral theory, and especially of the law of preservation, is one rather similar to rule-consequentialism. For Locke, it does not appear as though the particular structure of government, or the particular ways that one should act, for example, are completely good in themselves, but rather, that they tend toward the best consequences. As such, in what follows I in essence derive a rule that members of the military should follow in order to best fulfill Locke’s description of the duty of preservation. For a more thorough discussion of this topic, see Simmons (1992) section 1.4.
then the chance of preservation is maximized. Each individual soldier (and indeed, the citizenry as a whole) then is made better off if the action of all soldiers is to stay and fight.

Problematically, however, the actions of all other soldiers is not a set of information that will be available to any particular soldier at the time he or she must make a decision. But when we consider (a) that the soldier must make a choice, (b) that the choice to stay is prerequisite for the best possible outcome, and (c) that the choice to flee arguably makes even a good or acceptable outcome impossible, it becomes clear that the soldier has little justification beyond simple egoism based on fear to flee. The soldier caught in such a scenario, though, requires some principle to guide their action, and it seems intuitive from (a), (b), and (c), the soldier should work under the assumption that they and all other soldiers will perform their duty of preservation, and that if executed broadly, the best possible scenario is readily achievable.

Such reasoning should not be alien to members of the military. That is, suppose one claims that because the soldier in this situation cannot know the actions of all other soldiers, they should exercise precaution and work under the opposite assumption—that in fact their own preservation requires them to assume that all other soldiers will also flee, and hence they should as well. But is not true of any and every military conflict that soldiers must operate under the assumption that I’ve laid out: that their fellow soldiers will not abandon them on the battlefield, that each soldier will follow the commands of their superior officer, and so on? In fact, without assuming that other soldiers will act as such, no military can properly function. And so what I propose here is merely an extension of the reasoning that virtually every soldier must already

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37 While such egoistic thinking may be seductive when considered in and of itself, it is out of place when deriving a moral calculus from Locke, for whatever emphasis he placed on the individual, he clearly was not an egoist in the sense that e.g. Ayn Rand was, which is evidenced by e.g. his focus on positive duties with regard to charity (see: Locke (1824) §42), and indeed, the fact that he argued *imprimis* for a duty to preserve mankind when, had he in mind only an egoistic conception of right, he could have justified duties to others on the basis that they also tend to self-preservation. That he chose not to take this route is, I think, telling.
accept, albeit applied to a new battlefield. And though I say “new,” in fact this extension is not quite new, merely hitherto unpracticed, for it is in essence already affirmed in the Oath of Enlistment required of United States military members. It reads, “I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same.”

Note here that the Oath does not relegate the role of the soldier to that of a foreign combatant. The oath is clear in its affirmation that the role required of the soldier is to defend the Constitution against enemies abroad, but also domestic enemies. It is true that the Oath also affirms that the soldier must “obey the orders of the President,” but let me reiterate two points from above on this subject. The first is that an Executive who ceases to function legitimately is not a legitimate Executive. The second is that following the orders of an illegitimate Executive sitting at the head of an illegitimate government is tantamount to enforcing for a criminal organization, and we have already concluded that this is not permissible. This of course raises the question of who they are obligated to listen to, and I will discuss this in the closing section.

For now, however, I have left one scenario unaccounted for: one wherein some significant portion of the military has decided either to flee or to work on behalf of a corrupt government, and one wherein this is known to any and every particular soldier.

This scenario, in essence, returns us to square one. We began this analysis by pondering the status of a right to revolution in the case that it becomes impracticable due to a technological disparity between the government and the citizenry. Our analysis led us to conclude that the military is obligated in such circumstances to assist the People in revolution. Now we ponder

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38 10 U.S. Code § 502
what becomes of revolution in the case that the military abdicates their duty and instead turns into a tool of oppression. For the sake of this thesis, the point is moot: if the military becomes the oppressor, then there is likely no other body that can properly tend to the preservation of the People in question—the right to revolution would be violated, but with no recourse.39

This does not entail that there are no more moral or immoral actions under such circumstances, but it clear that a right to revolution would be impracticable. What is no longer clear is what it means for one to execute a law of preservation under such circumstances. Perhaps the most that one can reasonably be expected to contribute is merely to assist as one can, whether that means engaging in covert or overt acts, or whether it simply means rendering aid to the wounded or helping others to escape. Such was the course of action of the Underground Railroad, wherein persecuted blacks helped slaves escape from Southern slave states to the Northern free states, at great risk to themselves.

At any rate, if this were to occur, it merely means that soldiers acted immorally, and at that point we will have left the realm encompassed by this article.

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Before continuing, let us briefly recapitulate the argument in this section and amend to it slightly before closing. I began this section by noting that the duty of preservation should likely be read as a prima facie duty, which makes it defeasible under circumstances in which there is an overriding duty. I considered only one such duty in this section, and that duty was of the same kind, but with oneself as the subject rather than one’s fellow citizens. To show that the duty

39 Contingently, it may be the case that this duty would fall upon other nations, but recall that the nation we have in mind is so technologically advanced that the involvement of other nations would likely be inefficacious. If it was possible, however, I surmise that the arguments above apply just at neatly to the militaries of other nations.
should generally not be overridden, I considered three choices that a soldier could make when confronted with an illegitimate government, these were (1) to continue to work on behalf of the illegitimate government, (2) to resign their position but remain within the territory, and (3) to flee the territory. Having dismissed each possibility, with the extenuating exception in the last case, this leaves only the obligation to stay and fight on behalf of the People as the only permissible course of action.

This section would be incomplete, however, if it wasn’t pondered whether there are other potential overriding duties that would apply in the circumstances offered, though I submit that there are likely not any that would apply generally. At least within the Lockean framework, the duty to preserve seems to be a paramount duty (as I discuss above, preservation seems to encompass myriad important duties), and any override would require exceptional justification. Being that in the circumstances discussed, what is at stake is life itself, lesser duties concerned with lesser subjects do not seem particularly salient, even if there are some that might be categorically similar (though I can think of none).

Part IV—Implementation

One might be tempted to respond that even if the arguments presented above are compelling, implementation suffers from innumerable problems. Indeed, an inherent problem with arguments which attempt to compel without arms actors with arms is the simple fact that arms are much more compelling, at least immediately, than arguments, or as Hobbes remarked in *Leviathan*, “covenants, without the sword, are but words.”40 Above I have already alluded to one manner in which the principles can be implemented, which is to say, it should be ingrained into

40 Hobbes (1998) ch 17
military members through training that if circumstances dictate, they must cease to follow the orders of illegitimate superiors. But the question raised at that junction was whom they should obey, if not the President. What follows is only a brief sketch of a potential system and is meant to be flexible, and certainly not a final solution, though I attempt to create a system that follows from the moral principles I have elucidated above.

Recall that in Part III I argue that the devolution of a legitimate government is a potentially asymmetrical process: that it is not the entirety of the government that becomes illegitimate, but only its illegitimate parts. In the case that the representative arm becomes illegitimate, the representatives cease to be representative, but the legitimate functions of government they have created continue to be bound by the same contractual obligations as before, with the exception of the controlling body. What occurs then is that the intermediary body which controls the military (i.e. the Executive) ceases to exist legitimately, and so the right to control the military devolves to the people directly.

But how could such a military possibly function? A democratic answer to this question, which is to say, one wherein the whole of the population is consulted on military activities, would seem to suffer many of the deficits levied against pure democracy throughout history, and which justified the creation of a representative republic in the United States in the first place.

Another option is that the standard military hierarchy continues to function, with generals supplanting the civilian government for command over the rest of the forces. This poses a problem too, however, for the notion that the military should be under civilian control, as it is

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41 In fact, it is already the case they members of the military cannot follow illegal orders (Uniform Code of Military Justice, Articles 90-92), and what follows merely extends the principle in that it provides a body whose orders they should follow.
42 See e.g. Plato’s Republic, Book VIII; James Madison’s Federalist #10.
when controlled by elected leaders. Kemp & Hudlin note that in the United States, “there are three responsibilities from which the military has been consistently and carefully excluded—doing routine police work, running courts, and making policy.”\textsuperscript{43} It is the latter two of these responsibilities that seem pertinent here, for if the military, upon dissolution of government, assumes the roles that the previously elected, legitimate government played, but without having been elected, then the military itself suffers from a crisis of legitimacy. Moreover, the military lacks the political expertise necessary to properly administer a nation, as doing so is far outside their purview. And even beyond that, the prospect of military rule is rarely spoken about positively, for obvious reason.

The goal I have here then is to mimic the notion of representation in order to combat the problems inherent in pure democracy, and to ensure that in such circumstances, the nation in question does not devolve into a military dictatorship. Thus, what I propose is the creation of two extragovernmental bodies, one of which exists for the singular purpose of ascertaining the legitimacy of the government, and the second of which would assume command over the armed forces in the case that the processes used by the first body determine that the government is no longer legitimate.

This first body, we can call the Revolutionary Council\textsuperscript{44} (RC), would serve the singular function of ascertaining legitimacy. It would do so through a democratic process by posing something akin to a referendum, wherein the citizenry is asked whether they still believe the government is legitimate, or whether it has crossed egregious lines that have abrogated its legitimacy. In order to prevent temporary tides from toppling actually legitimate, but unpopular,

\textsuperscript{43} Kemp & Hudlin (1992), pp 7-26.
\textsuperscript{44} Somewhat in jest
government, the bar for a passing vote should be set high, perhaps as high as eighty or ninety percent of the population. Moreover, voting should be compulsory so that small but active factions are unable to distort the true mosaic of the citizenry. With regard to the high bar for passing, one might note that this bar may be effectively unreachable in all but the direst circumstances. Indeed, this is by design. For, the notion that the government should be dissolved with the assistance of the military is a solution that should be a practice of the absolute last resort. There can be no reasonable denial that the prospect of military rule is a dangerous one, and one that should be avoided until and unless political solutions are exhausted. This helps to ensure that only upon true illegitimacy—e.g. the rise of a tyrant, an alteration of the legislature, etc.—will the military be obligated to perform this duty.

Regarding the composition of this body, it should draw from a lottery rather than be directly elected. The purpose of this is to staff it with non-politicians, so that in the case that a government is manipulating elections, it will be insulated. Being that this body has no particular power other than the ability to call a referendum and to verify its results, that it is staffed by regular citizens should not pose any threat to liberty.

The second body, we can call the Temporary Military Command (TMC), would assume direct control over the military in the case that a referendum demonstrated the people’s belief the government had become illegitimate. Unlike the RC, the TMC should be a hybrid body, with one third of the members being drawn from lottery biannually, another third being elected from a pool of formerly elected leaders from national government who had vacated their positions at least ten years previous, and one third being high ranking, retired military officers directly elected by the citizenry. The latter two groups would serve lengthy terms, perhaps upwards of a decade.
The purpose of this design is as follows. The first group drawn by lottery annually helps ensure that citizens have direct representation on the body. The second group helps ensure that in the event of crisis, this novel body will be staffed with members who have political expertise, and the point of this is twofold. For one, being that neither the citizens drawn by lottery nor the military officers will generally have governmental expertise, they will depend on the political leaders to help shape their opinions. In order for any process to move forward, it will require a majority vote, which will require the building of coalitions across three broad factions. Second, being that this body will have some degree of power in the event of governmental collapse, having elected political expertise separate from the formerly illegitimate government will help in the transition to a new government. The reason that they must have left office at least ten years previous is to ensure that they are not firmly attached to the illegitimate government, as I am working under the assumption that the transition to illegitimacy would occur fairly quickly. Finally, the military members on the body are meant to help ensure that the civilian and political arms have military expertise available to them, as will likely be helpful during communications between this body and the military they are meant to oversee. Furthermore, it may contribute to the military viewing the body as legitimate, knowing that respected members comprise a large portion of it.

Our next question is what the role of the military will be during a period of transition. Ideally, the totality of the transition is merely a process in which new elections are held, and if necessary, something akin to a constitutional convention is called so as to treat any problems that may have contributed to the manifestation of illegitimate government. Assuming that there isn’t violent conflict of which to speak, the military’s role is merely to keep the peace and ensure that the illegitimate government cannot enforce its dictates. In the less ideal case, one in which the
illegalitimate government has loyalists, it may be necessary for the military to engage in violent conflict, and it must do so under civilian control of the TMC. Beyond this, at any given time the military of such a technologically advanced nation may be involved in foreign conflicts, and it is important that the TMC exercise control in these conflicts as well, so as not to derail what were assumingly reasonable civilian goals.

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Certainly, there adjustments available to us in order to create a more ideal set of institutions. Perhaps, for example, the TMC would better serve its purpose with a different balance between its factions; or perhaps there are better ways of appointing members than by lottery; or it may be the case that there are more intricate means of insulating these bodies from the nation’s government. As mentioned, what I have provided is only a rough sketch meant to implement the moral conclusions discussed throughout the article.

Conclusion

I see the subjects discussed in this article as disturbing. There can be no denial of the adage that power corrupts, and that absolute power corrupts absolutely. And when we consider the power of the military, it’s consistently astonishing that their power is not abused as one might expect from this adage. They possess, after all, at any given time, the power to overthrow their ruling government and instantiate a military dictatorship, and in some cases, this has of course occurred. But that it is rare should offer us some consoling, and should prod us to recognize that in the event that a government is verging on tyranny, the military may very well be the only body that stands in front of it. But I discuss above, the converse possibility is that the military simply
becomes the primary tool of oppression, and indeed, if this is the case, then a nation like the United States would surpass the nightmares conjured in any fictional dystopia.

It is important then that to whatever extent the military is empowered to overthrow domestic government, it is guided by strict rules, both moral and institutional. A full discussion of these rules is beyond the remit of this article, but I would be remiss not to urge caution at any attempt to devise a system of government that includes empowering the military for these purposes, and further research in this area would do well to elucidate a fuller

To conclude then, allow me to simply summarize the article. This article began by offering a background on Lock’s Second Treatise, and especially his focus on revolution and government legitimacy. I then offered a set of scope restrictions on the claims that would be made later in the article. Namely, the following arguments would not apply in cases where military intervention would result in severe rights violations, great harm, or when the legislature was altered for the express purpose of protecting the citizenry. Next I provided two lines of argument to demonstrate the military’s normative commitment to assist the citizenry in revolution. The first of these was contractualist in nature, and posited an asymmetrical devolution of government wherein previously established contracts between the citizenry and the military remained valid post governmental illegitimacy. The second argued that even if the contractualist argument failed, soldiers— with minor exception in an extenuating circumstance—would still be obligated to assist. Having established the normative commitment, I proposed the creation of two extragovernmental bodies to first determine the legitimacy of the government, and then assume command over the military in the case that the government was deemed illegitimate.
References


Madison, James. *Federalist Papers #10*


