

# JOHN LOCKE'S CONCEPTION OF THE RULE OF LAW: PHILOSOPHICAL FOUNDATIONS AND CONTEMPORARY REFLECTIONS

*A CONCEPÇÃO DE JOHN LOCKE SOBRE O ESTADO DE DIREITO: FUNDAMENTOS FILOSÓFICOS E REFLEXÕES CONTEMPORÂNEAS*

**Mai Thi Pham** 

Ho Chi Minh National Academy of  
Politics, Ha Noi, Vietnam  
maiphamsphn@gmail.com

**Minh Hoan Nguyen** 

Academy of Journalism and  
Communication, Hanoi, Vietnam  
hoan\_cbxh@yahoo.com.vn

---

Received: 21 Nov 2025

Accepted: 20 Jan 2026

Published: 17 Mar 2026

Corresponding author:

hoan\_cbxh@yahoo.com.vn



## Abstract

This article examines John Locke's conception of the rule of law as a foundational framework of modern political philosophy and explores its contemporary relevance through a reflective engagement with the Vietnamese experience of socialist rule-of-law construction. Rather than approaching the rule of law as a merely institutional or legal-technical arrangement, the study situates Locke's theory within its broader philosophical foundations, emphasizing popular sovereignty, the social contract, the limitation of political power, and the primacy of law over arbitrary authority. Drawing primarily on Locke's *Second Treatise of Government*, the article reconstructs his understanding of legitimate government as a form

of power derived from popular consent and constrained by natural law and public norms. The analysis then critically assesses both the enduring value and the historical limitations of Locke's rule-of-law theory, particularly its assumptions concerning property, rights, and the scope of political participation. Building on this theoretical discussion, the article offers contemporary reflections from Vietnam, not as a model transfer or institutional comparison, but as a contextual case through which Locke's ideas illuminate ongoing debates on constitutionalism, power control, and the relationship between law, state authority, and popular legitimacy in non-liberal political settings. The article argues that, when approached critically and selectively, Locke's conception of the rule of law continues to provide valuable philosophical insights for understanding the normative foundations and challenges of modern state governance

beyond its original liberal context.

**Keywords:** John Locke; political philosophy; popular sovereignty; power limitation; rule of law; Vietnam.

### **Resumo**

Este artigo examina a concepção de John Locke sobre o Estado de Direito como um quadro fundacional da filosofia política moderna e explora sua relevância contemporânea através de um engajamento reflexivo com a experiência vietnamita de construção do Estado de Direito socialista. Em vez de abordar o Estado de Direito como um arranjo meramente institucional ou técnico-jurídico, o estudo situa a teoria de Locke em suas bases filosóficas mais amplas, enfatizando a soberania popular, o contrato social, a limitação do poder político e a primazia da lei sobre a autoridade arbitrária. Usando principalmente o Segundo Tratado sobre o Governo de Locke, o artigo reconstrói sua compreensão de governo legítimo como uma forma de poder derivado do consentimento popular e restringido pela lei natural e normas públicas. A análise então avalia criticamente tanto o valor duradouro quanto as limitações históricas da teoria lockeana do Estado de Direito, particularmente suas suposições sobre propriedade, direitos e o escopo da participação política. Com base nessa discussão teórica, o artigo oferece reflexões contemporâneas do Vietnã, não como uma transferência de modelo ou comparação institucional, mas como um caso contextual através do qual as ideias de Locke iluminam debates atuais sobre constitucionalismo, controle de poder e a relação entre lei, autoridade estatal e legitimidade popular em contextos políticos não liberais. O artigo argumenta que, quando abordada crítica e seletivamente, a concepção de Locke sobre o Estado de Direito continua a fornecer insights filosóficos valiosos para compreender os fundamentos normativos e os desafios da governança estatal moderna para além de seu contexto liberal original.

**Palavras-chave:** John Locke; filosofia política; soberania popular; limitação do poder; Estado de Direito; Vietnã.

## 1 Introduction

The rule of law has long been regarded as one of the central normative achievements of political philosophy, addressing a fundamental and persistent problem of political order: how political power can be exercised in a manner that is legitimate, limited, and compatible with human freedom. Historically, the idea of the rule of law emerged as a response to arbitrary rule, absolutist sovereignty, and personal domination, seeking to replace governance by will with governance by general, public, and stable norms. From this philosophical perspective, the rule of law is not merely a technical or institutional arrangement, but a normative principle that binds authority to justification, power to restraint, and governance to moral purpose (Krygier, 2019, p. 16; Tamanaha, 2012, p. 234). Where political power escapes legal constraint, freedom becomes contingent and authority loses its ethical foundation.

Contemporary scholarship has increasingly emphasized that the rule of law is neither a fixed concept nor a purely procedural doctrine. Its meaning evolves across historical and political contexts, shaped by changing forms of governance, technological transformation, and new modes of political authority (Kantorowicz & González-Bustamante, 2025, p. 86). At the same time, recent debates on populism and democratic legitimacy have drawn renewed attention to the fragility of the rule of law under conditions where claims of popular sovereignty are mobilized to justify the concentration of power. Studies show that populist governance often undermines legal constraint by invoking the "will of the people" against institutional checks, particularly in settings with weak or contested institutional legacies (Adamidis, 2024, p. 387; Kyriacou & Trivin, 2024, p. 3). These developments underscore a core philosophical tension already present in classical theory: how popular sovereignty can coexist with durable legal limits on power (Balkin & Levinson, 2025, p. 245).

Within this broader debate, John Locke occupies a foundational position in the development of modern rule-of-law theory. Writing against the backdrop of seventeenth-century political conflict, Locke rejected divine-right and absolutist doctrines of sovereignty and grounded political legitimacy in natural law, consent, and the social contract. In the *Second Treatise of Government*, Locke argues that political power is not an inherent right of rulers, but a fiduciary authority entrusted by the people for the protection of life, liberty, and property (Locke, 1988, p. 170). Law, in Locke's account, is not an external constraint imposed upon power after its establishment; it is the very condition under which power becomes legitimate. Authority that governs without law, or beyond law, collapses into arbitrariness and forfeits its moral claim to obedience.

Locke's conception of the rule of law is inseparable from his theory of social contract. The formation of political society, on Locke's view, represents a rational response to the insecurity of the state of nature, in which individuals consent to establish a common authority capable of enforcing known laws and adjudicating disputes impartially. Crucially, this consent does not authorize unlimited rule. Legislative supremacy is normatively constrained by the purposes for which it is entrusted, executive discretion is tolerated only insofar as it serves the public good, and political authority remains revocable when it violates its foundational trust. Contemporary interpretations of Locke's political philosophy continue to emphasize this conditional and normative character of authority (Tuckness, 2020, p. 346; Uzgalis, 2022, p. 213).

At the same time, Locke's legacy has been subjected to sustained critical scrutiny. Scholars have highlighted the historical limits of his framework, particularly his emphasis on property, his assumptions about political inclusion, and the tension between legal constraint and executive prerogative. Modern debates on democracy and the rule of law reveal that Locke's insistence on lawful authority remains influential, yet insufficient on its own to resolve contemporary legitimacy crises, especially where claims of popular sovereignty conflict with institutional restraint (Adamidis, 2024, p. 388; Balkin & Levinson, 2025, p. 76). Locke thus occupies a dual role in political philosophy: as a foundational theorist of limited government and as a historically situated thinker whose ideas demand critical reinterpretation rather than uncritical adoption.

These theoretical concerns acquire particular significance when considered in non-liberal political contexts. In Vietnam, debates on rule-of-law construction have intensified in response to international integration, socio-economic transformation, and growing governance complexity (Lai et al., 2025, p. 69; Nguyen, 2022, p. 75). Vietnamese legal and political discourse increasingly emphasizes legality, accountability, and institutional adaptation, while simultaneously grounding legitimacy in collective welfare, moral leadership, and social stability. Recent socio-legal research shows that judicial authority in Vietnam is shaped through legal reasoning that mediates between state law and extra-legal norms, revealing a dynamic process of legitimacy formation within a socialist regulatory context (Do et al., 2025, p. 6; Tran, 2019, p. 165). Studies of legal pluralism further demonstrate that state law in Vietnam interacts with customary and community-based norms, producing a hybrid legal environment in which legality is continuously negotiated rather than unilaterally imposed (Gillespie & Tran, 2022, p. 163).

Vietnamese political philosophy also offers distinct normative perspectives

that enrich this reflection. Analyses of Ho Chi Minh's philosophy of human emancipation emphasize freedom, dignity, and social justice as foundational goals of political authority, extending the normative horizon beyond individual rights alone (Nguyen & Nguyen, 2024, p. 148). Likewise, Confucian conceptions of the political being highlight moral cultivation, ethical responsibility, and relational legitimacy as central elements of good governance (Nguyen, 2023, p. 12). These traditions do not replicate Locke's framework, but they illuminate alternative moral foundations through which rule-of-law principles may be interpreted and evaluated.

Against this background, the present article examines John Locke's conception of the rule of law as a philosophical foundation of modern political thought and explores its contemporary relevance through reflective engagement with the Vietnamese context. The article does not propose Locke's theory as a universal institutional model, nor does it undertake a comparative analysis of legal systems. Instead, it reconstructs the internal logic of Locke's rule-of-law thinking and evaluates its enduring normative insights and historical limits in light of contemporary debates on legality, legitimacy, and power control. Methodologically, the study adopts a qualitative and interpretive approach grounded in close textual analysis of Locke's *\*Second Treatise of Government\**, complemented by engagement with contemporary political philosophy and socio-legal scholarship. By treating Vietnam as a reflective context rather than a site of doctrinal comparison, the article seeks to demonstrate how classical rule-of-law theory can continue to inform philosophical inquiry into political legitimacy across diverse political orders.

## **2 Philosophical Foundations of the Rule of Law in John Locke**

### **2.1 The state of nature, natural law, and the moral basis of political order**

John Locke's political philosophy begins with a systematic exploration of the state of nature, a conceptual pre-political condition in which individuals are understood as free and equal, governed by natural law rather than coercive human institutions. In Locke's *\*Second Treatise of Government\**, the state of nature is described as a situation in which individuals enjoy perfect freedom and equality to order their actions and dispose of their possessions within the bounds of natural law, where no one has jurisdiction over another without mutual consent. This state

of nature is not characterized by a Hobbesian war of all against all, but rather by rational agents bound by moral duties to respect one another's rights to life, liberty, and property, fundamental aspects of natural law that precede and condition civil society and government. Although Locke's account is a theoretical construction, its purpose is normative: to reveal the moral foundations of political order and the conditions under which legitimate authority can arise. By grounding political obligation in the moral and rational requirements of natural law, Locke articulates a vision of political obligation that emphasizes both human autonomy and the need for a common authority capable of securing natural rights and preventing intra-societal conflict. This foundational framework continues to be central to modern discussions of law, legitimacy, and political morality, showing that the rule of law must be understood not simply as an institutional arrangement, but as rooted in moral relations among free and equal persons (Tuckness, 2020, p. 47).

## **2.2 Social contract and the emergence of legitimate government**

From the state of nature, Locke argues that individuals have rational incentives to form civil society through a social contract. The social contract concept holds that individuals, recognizing the uncertainties and limitations of natural law enforcement in the state of nature, agree to create a common authority vested with the power to establish and enforce known laws, adjudicate disputes impartially, and provide collective security. In Locke's view, this contract does not entail the surrender of all natural rights or an absolute transfer of power; rather, individuals consent to confer limited authority on the government for the express purpose of protecting their pre-political rights. Crucially, government's legitimacy derives from the consent of the governed; it is a conditional authority that must remain oriented toward the protection of natural rights and the common good. If a government fails to secure these ends or becomes arbitrary, individuals retain the right to revise or dissolve the political arrangement that binds them, because the social contract is premised on mutual consent and purposive limitation of power. This conception of legitimate authority not only underscores the conditional nature of political obligation but also reinforces the idea that law must serve as a reliable and impartial framework, rather than as an instrument of unchecked authority.

## **2.3 Popular sovereignty and consent as the source of political authority**

Locke's theory situates popular sovereignty at the core of legitimate political authority. By grounding the authority of civil government in the consent of free and equal individuals, Locke displaces the older doctrines of divine right and hereditary sovereignty that had historically justified absolute power. In his framework, political power is a delegated authority, emanating from the people who collectively authorize a government to legislate and administer laws for the common good. This delegation is not absolute; it remains subject to the enduring moral rights of individuals and the terms of the original consent. For Locke, the rule of law emerges from this foundational act of consent: laws acquire legitimacy not simply from institutional enactment, but from their conformity with the purposes for which authority was granted — namely, the preservation of natural rights and the promotion of public welfare. In this way, popular sovereignty functions both as the source of political authority and as a normative constraint on the exercise of power, ensuring that legal and political institutions remain accountable to the people whose consent sustains them (Uzgalis, 2022, p. 57).

## **3 Law, Power Limitation, and Legitimate Authority**

### **3.1 The primacy of law over arbitrary rule**

A central pillar of John Locke's conception of legitimate political authority is the primacy of law over arbitrary power. In Locke's political philosophy, law is not merely an instrument through which authority is exercised; rather, it is the fundamental condition that renders authority legitimate in the first place. In the *\*Second Treatise of Government\**, Locke repeatedly insists that political power must be exercised "by promulgated standing laws, and not by extemporary decrees," emphasizing that governance through known, stable, and general rules is essential for securing freedom and preventing domination. Law, in this sense, functions as a rational and moral constraint on power, ensuring that rulers do not substitute personal will for public norms.

Locke's rejection of arbitrary rule reflects his broader critique of absolutism and personal sovereignty. Power that is unconstrained by law, even when exercised

by a formally constituted authority, collapses into tyranny because it places individuals under the unpredictable will of another. As Locke famously argues, where there is no law, there is no freedom—not because law suppresses liberty, but because only law can protect individuals from being subjected to the unchecked discretion of rulers. This idea has remained foundational in modern political philosophy, shaping later theories of constitutionalism and legal limitation of power. Contemporary scholars continue to affirm that the rule of law must be understood primarily as a safeguard against arbitrary domination rather than as a purely procedural or administrative ideal (Tuckness, 2020, p. 89).

### **3.2 Limited government and the rejection of absolutism**

Locke's theory of law is inseparable from his conception of limited government. Political authority, according to Locke, is not absolute but conditional, deriving its legitimacy from the purposes for which it was established. The government is entrusted with power solely to protect natural rights and promote the public good; any exercise of authority beyond these ends constitutes an abuse of trust. This contractual understanding of political power stands in direct opposition to absolutist doctrines that treat sovereignty as indivisible, unlimited, or divinely sanctioned.

The limitation of government in Locke's thought operates on both moral and institutional levels. Morally, political authority is bound by natural law, which prohibits the arbitrary deprivation of life, liberty, or property. Institutionally, power is limited through the separation of legislative and executive functions and through the subordination of all political action to established laws. Locke's insistence that even the supreme legislative power cannot rule arbitrarily underscores his conviction that no authority may place itself above the law without forfeiting its legitimacy.

Modern rule-of-law scholarship has built upon this Lockean insight by emphasizing that the core function of the rule of law is to constrain power rather than to enhance it. Tamanaha (2012), for example, argues that the historical and normative significance of the rule of law lies in its capacity to bind rulers to publicly justified norms, thereby preventing the personalization of authority and safeguarding political equality. From this perspective, Locke's rejection of absolutism remains philosophically relevant, particularly in contemporary contexts where strong states risk conflating effectiveness with legitimacy.

### **3.3 Law as a condition of freedom rather than its negation**

One of Locke's most enduring philosophical contributions is his redefinition of the relationship between law and freedom. Contrary to the assumption that law restricts liberty, Locke maintains that law is the very condition that makes freedom possible. In the absence of law, individuals are exposed to uncertainty, insecurity, and the threat of coercion by others. Law provides a stable framework within which individuals can pursue their interests without fear of arbitrary interference.

For Locke, freedom consists not in the absence of all restraint, but in being subject only to laws that one has consented to, directly or indirectly, through membership in a political community. This conception transforms law from a coercive force into a protective structure that enables autonomy and moral agency. Individuals remain free precisely because law limits the scope of power and ensures that authority is exercised for publicly justified purposes.

Contemporary political philosophers have echoed this insight by emphasizing that freedom under the rule of law differs fundamentally from mere non-interference. Krygier (2019) argues that the rule of law should be understood as a social and political achievement that protects individuals from domination by constraining how power may be exercised, rather than simply reducing the amount of power in society. This interpretation aligns closely with Locke's view that law does not negate freedom but institutionalizes it, transforming moral equality in the state of nature into legally protected equality within civil society.

Taken together, Locke's reflections on law, power limitation, and legitimacy reveal a coherent philosophical vision in which political authority is justified only insofar as it is constrained by law, oriented toward the public good, and grounded in consent. The rule of law, in this framework, emerges not as a technical doctrine but as a normative principle that reconciles authority with freedom and power with moral responsibility. This Lockean legacy continues to inform contemporary debates on governance, legitimacy, and constitutionalism, making it a vital reference point for both philosophical inquiry and reflective engagement with modern political orders.

## 4 Separation and Control of Political Power

### 4.1 Legislative supremacy and its normative limits

In John Locke's political philosophy, the separation and control of political power are essential conditions for preventing arbitrariness and preserving legitimate authority. Locke assigns supremacy to the legislative power, regarding it as the central institution through which the collective will of society is expressed in the form of general laws. In the *\*Second Treatise of Government\**, Locke explicitly states that "the legislative is the supreme power of the commonwealth" (Locke, 1988, p. 134), because it is entrusted with the authority to establish laws that bind both rulers and subjects alike.

However, Locke's notion of legislative supremacy is normative rather than absolute. The legislative power is supreme only insofar as it acts within the limits of the trust placed in it by the people. It is not authorized to rule arbitrarily, to govern by decrees instead of standing laws, or to violate the fundamental purposes for which political authority was established. Locke emphasizes that legislative power must govern "by promulgated standing laws, and not by extemporary decrees" (Locke, 1988, p. 136), underscoring that the legitimacy of law depends on its generality, publicity, and stability. Moreover, the legislative is bound by natural law and cannot lawfully take away the life, liberty, or property of the people.

This conception of legislative supremacy with built-in limitations reveals Locke's deeper commitment to the rule of law as a constraint on power. Supremacy does not mean omnipotence; rather, it signifies priority within a framework of legal and moral restraints. Contemporary political philosophy continues to regard this Lockean insight as foundational to constitutionalism, insofar as it affirms that even the highest authority must remain subject to law and public justification (Tamanaha, 2012, p. 238).

### 4.2 Executive power, prerogative, and the problem of discretion

While the legislative power is supreme, Locke recognizes that it cannot function continuously and is ill-suited to address every concrete circumstance of political life. As a result, executive power is necessary to ensure the enforcement of laws and the day-to-day administration of government. Locke describes executive power as the authority responsible for executing the laws made by the legislative. However,

the existence of executive power introduces a persistent philosophical problem: how to reconcile the need for discretion with the imperative to prevent arbitrary rule.

Locke addresses this tension through his theory of prerogative, which he defines as "the power of doing public good without a rule" (Locke, 1988, p. 160). Prerogative allows the executive to act in situations where the law is silent or insufficient, particularly in emergencies that demand swift action. Importantly, Locke does not regard prerogative as an exemption from legal and moral accountability. Instead, prerogative is justified only insofar as it serves the public good and remains aligned with the purposes of political trust.

Locke is acutely aware of the dangers inherent in executive discretion. He acknowledges that prerogative can be abused and that rulers may invoke necessity to justify arbitrary action. For this reason, Locke insists that the ultimate judgment over the proper use of prerogative rests with the people. If executive power is systematically exercised against the public interest, it constitutes a breach of trust and undermines political legitimacy. This position reinforces Locke's broader argument that political authority is conditional and revocable, even when exercised within formally recognized institutions.

Modern theorists of the rule of law have interpreted Locke's account of prerogative as an early attempt to grapple with the enduring problem of emergency powers and executive discretion. Rather than eliminating discretion altogether, Locke seeks to contain it within a framework of accountability and popular judgment, a concern that remains highly relevant in contemporary governance debates (Krygier, 2019, p. 14).

### **4.3 Federative power and external relations**

In addition to legislative and executive powers, Locke identifies a third form of authority: federative power, which concerns foreign affairs, including war, peace, alliances, and relations with other political communities. Although federative power is conceptually distinct from executive power, Locke observes that in practice the two are often united in the same hands, because both involve the application of force and discretion in the pursuit of collective security.

The inclusion of federative power highlights Locke's awareness that political authority extends beyond domestic law enforcement and must also address external threats and international relations. Yet even in this domain, Locke does not abandon his commitment to limiting power. Federative authority, like executive authority, is exercised on the basis of trust and for the sake of public safety. It is not exempt

from moral evaluation or popular judgment, especially when decisions concerning war and peace impose significant burdens on the population.

By distinguishing federative power while acknowledging its practical fusion with executive authority, Locke provides an early philosophical framework for understanding the concentration of external and coercive powers within the state. His analysis anticipates later concerns about militarization, foreign policy secrecy, and the expansion of executive authority in the name of national security. Once again, Locke's solution is not institutional rigidity, but normative restraint grounded in accountability and popular sovereignty.

#### **4.4 Popular control, resistance, and the dissolution of government**

The ultimate mechanism for controlling political power in Locke's theory lies not in institutional design alone, but in the continuing authority of the people as the original source of political legitimacy. Locke argues that when the legislative or executive power violates its trust by governing arbitrarily or subverting the purposes of law, the government effectively dissolves itself. In such circumstances, the people are released from their obligation of obedience and retain the right to establish a new political order.

Locke's account of resistance is often misunderstood as an endorsement of instability or rebellion. In fact, Locke presents resistance as a last resort, justified only in cases of persistent and systematic abuse of power. He emphasizes that people are generally inclined toward stability and continuity, and that resistance emerges only when legal and institutional remedies have been exhausted. Resistance, therefore, is not a threat to the rule of law but a safeguard against its destruction.

This conception of popular control completes Locke's theory of separation and limitation of power. Institutions may divide authority, laws may restrain discretion, but ultimately the legitimacy of political power depends on its alignment with the purposes for which it was entrusted. When that alignment is broken, popular sovereignty reasserts itself as the final normative standard. Contemporary political philosophy continues to regard this Lockean insight as central to debates on constitutional breakdown, legitimacy crises, and the moral foundations of political obligation (Balkin & Levinson, 2025, p. 36).

## 5 Enduring Value and Historical Limits of Locke's Rule-of-Law Theory

### 5.1 Enduring normative contributions to modern rule-of-law thinking

Locke's rule-of-law theory remains enduringly influential because it anchors legal authority in a moral account of legitimacy. In *Two Treatises of Government*\* (1988), Locke frames political power as fiduciary—an entrusted authority exercised for the public good—and insists that government must rule through general, standing, and publicly knowable laws (Locke, 1988, p. 28). This linkage between legality and legitimacy continues to shape modern rule-of-law discourse. In particular, Locke's insistence that government is limited by law resonates with the influential "rule of law, not men" formulation and with contemporary analytic accounts that emphasize law's role in constraining arbitrary domination (Krygier, 2019, p. 94; Tamanaha, 2012, p. 235).

Locke's continuing relevance also lies in his conceptual separation of *authority*\* from *arbitrary will*\*. Political obligation is not owed to rulers as persons but to a public order that secures rights and provides predictable legal governance. This is why Locke treats law not as the negation of freedom but as its enabling condition: freedom consists in being subject only to a common, known rule, rather than to discretionary power (Locke, 1988, p. 30). This philosophical stance retains explanatory power today, particularly in contexts where the formal presence of legal institutions can coexist with expanding executive discretion or politicized legality. The contemporary literature reinforces this point by showing that rule-of-law debates are not simply technical disputes but contests over the normative meaning of legality itself (Kantorowicz & González-Bustamante, 2025, p. 78).

### 5.2 Popular sovereignty, legitimacy crises, and the resilience of the rule of law

Lockean constraints\*\*

A second enduring contribution concerns Locke's theory of popular sovereignty. Locke grounds legitimate political authority in consent and holds that political power ultimately derives from the people (Locke, 1988, p. 56). This Lockean structure remains central to modern debates because it provides a normative standard for

evaluating not only how law is made, but also whether law remains accountable to its authorizing public. Recent scholarship emphasizes that contemporary disputes over democracy, populism, and the rule of law frequently depend on competing understandings of popular sovereignty and the role of legal constraints in democratic governance (Adamidis, 2024, p390; Balkin & Levinson, 2025, p. 33).

This line of inquiry is not merely theoretical. Empirical and comparative political research increasingly documents that populist leadership may pose heightened risks to legal impartiality and equality—especially where rule-of-law institutions are historically weak—thereby reactivating the Lockean concern with law’s function as a constraint on power rather than a rhetorical symbol of popular rule (Kyriacou & Trivin, 2024, p. 12). Read through a Lockean lens, such developments illustrate a persistent philosophical tension: political actors may claim to represent "the people," yet simultaneously erode the very legal constraints that protect persons from arbitrary government. Locke’s framework remains valuable here because it insists that democratic legitimacy is not exhausted by majoritarian assertion; rather, legitimacy depends on whether power is exercised through lawful, rights-protecting, and publicly justified norms.

In addition, Locke’s account of social contract formation clarifies why rule-of-law legitimacy cannot rest on coercion or expedience alone. The social contract, as an idea, provides the moral grammar for political obligation: individuals authorize a common authority to secure rights and resolve disputes impartially, thereby transforming natural freedom into civil freedom. This insight is particularly relevant for contexts undergoing institutional modernization, where governance reforms are often justified in strategic or developmental terms. While such reforms may be necessary, a Lockean perspective underscores that durability depends on legitimacy, not merely effectiveness—a point that aligns with contemporary analyses of governance adaptation under technological, geopolitical, and environmental pressures (Lai et al., 2025, p. 70).

### **5.3 Historical limits and critical reassessment of Locke’s rule-of-law theory**

Despite these enduring contributions, Locke’s rule-of-law theory bears historically specific assumptions that invite critical reassessment. First, Locke’s treatment of property is foundational to his account of political society and legitimacy (Locke, 1988, p. 45). While this provides a powerful argument for limiting government interference, it also raises longstanding concerns about whether Lockean rights

discourse tacitly privileges certain social relations—especially property ownership—when defining political membership and legitimate authority. Second, Locke’s model presupposes forms of political inclusion and moral agency that were historically uneven, which complicates attempts to universalize his theory without qualification (Tuckness, 2020, 39; Uzgalis, 2022, p. 87).

Moreover, Locke’s well-known defense of prerogative intensifies the challenge of reconciling legal constraint with necessary discretion. Although Locke frames prerogative as action for the public good "without a rule," he also concedes the risk of abuse (Locke, 1988, p. 32). Contemporary rule-of-law scholarship repeatedly returns to this problem, particularly in times of crisis, because discretionary governance can easily become normalized as a technique of power. This reinforces Kantorowicz and González-Bustamante’s (2025) point that "rule of law" is not a static label but a contested concept whose meaning evolves with political practices and justificatory vocabularies. Krygier’s analysis (2019) is also instructive here: he cautions against reducing the rule of law to institutional formality, arguing instead that its animating purpose is to temper power and resist domination—an emphasis that makes the abuse of discretion a central diagnostic issue rather than a peripheral anomaly.

Finally, Locke’s framework requires careful contextual translation when used for contemporary reflections beyond liberal constitutional settings. In the Vietnamese case, philosophical and political discourses emphasize emancipation, social legitimacy, and national development within a socialist-oriented framework. Recent Vietnamese scholarship on human emancipation in Ho Chi Minh’s thought highlights freedom and dignity as normative ends of political authority, offering a distinct standpoint for evaluating rule-of-law ideals without collapsing them into liberal institutional templates (Nguyen & Nguyen, 2024, p. 14). Likewise, comparative engagement with Confucian political philosophy—particularly its attention to moral-political cultivation and the normative qualities of political beings—can broaden the philosophical terrain within which Lockean legality and legitimacy are interpreted (Nguyen, 2023, p. 77). At the same time, debates about integration, modernization, and governance capacity in Vietnam underscore that contemporary legitimacy increasingly depends on the state’s ability to manage complex transformations in ways perceived as fair, lawful, and publicly justified (Lai et al., 2025, p. 69; Nguyen, 2022, p. 75).

Taken together, these considerations suggest a balanced conclusion: Locke’s theory continues to provide a powerful philosophical vocabulary for the rule of law as a constraint on power and a foundation of legitimacy, yet its historical assumptions—especially regarding property, inclusion, and executive discretion—require explicit

critical handling. For contemporary applications, particularly in non-liberal contexts, the most defensible approach is not model transfer but selective appropriation: engaging Locke as a normative interlocutor while openly situating his arguments within their historical and conceptual limits.

## 6 Contemporary Reflections from Vietnam

The foregoing analysis has argued that Locke's rule-of-law theory retains enduring normative significance insofar as it conceptualizes political authority as conditional, legally constrained, and accountable to the people. The Vietnamese context provides a critical testing ground for this claim, not because it reproduces Lockean liberal constitutionalism, but because it confronts similar philosophical problems concerning legitimacy, discretion, and power control under distinct ideological and institutional conditions. Engaging Vietnam in this way allows for an assessment of whether Locke's framework can function as a normative standard beyond its original historical and political setting.

A first argumentative claim concerns the necessity of legal constraint for political legitimacy. Locke's insistence that authority must operate through law rather than personal will reflects a foundational concern with preventing arbitrariness. Contemporary governance in Vietnam increasingly faces pressures arising from technological change, geopolitical uncertainty, and environmental risk, which place strain on existing legal and administrative structures. Existing research emphasizes that Vietnam's strategic governance capacity depends not only on administrative effectiveness but also on institutional predictability and public trust (Lai et al., 2025, p. 76). From a Lockean perspective, this supports the argument that legality is not merely an instrument for efficient governance, but a constitutive element of legitimate authority. Where power is exercised without stable legal grounding, its moral justification weakens regardless of developmental outcomes.

However, the Vietnamese case also complicates any assumption that legitimacy flows automatically from formal legality. Locke's own theory implicitly recognizes that law must be accepted as rightful, not merely enacted. Recent empirical research on Vietnamese adjudication demonstrates that legitimacy is actively produced through judicial reasoning that mediates between state law and extra-legal social norms, indicating that authority is sustained through ongoing societal evaluation rather than through formalized mechanisms of consent alone (Tran, 2019, p. 161).

This finding strengthens rather than undermines Locke's argument: political

authority endures only where it continues to be perceived as aligned with the purposes for which it was entrusted. The Vietnamese experience thus illustrates that legitimacy is a dynamic moral relationship, consistent with Locke's conception of trust and popular judgment.

A second argumentative axis concerns the problem of discretion and the control of power beyond written law. Locke acknowledges the necessity of discretionary authority through his theory of prerogative, yet he insists that such discretion remains morally constrained and subject to popular judgment (\*Second Treatise\*, ch. XIV). Vietnam presents a contemporary parallel to this dilemma, as legal institutions operate alongside informal practices and normative expectations. Recent socio-legal scholarship shows that judicial authority in Vietnam is increasingly constructed through legal reasoning that seeks to discipline discretion while engaging with extra-legal norms, rather than through rigid formalism or unchecked executive command (Do et al., 2025, p. 3). This development can be read as an attempt to resolve the Lockean tension between necessity and constraint: discretion is tolerated only insofar as it remains intelligible, reason-giving, and publicly justifiable.

A third claim addresses legal hybridity and plural normative orders. Locke's theory presupposes a relatively unified legal authority grounded in popular trust, yet he also recognizes that political order is historically contingent. Recent studies of Vietnamese legal pluralism reveal that state law coexists and interacts with customary and community-based norms, producing a hybrid legal environment in which legality is negotiated rather than imposed unilaterally (Gillespie & Tran, 2022, p. 5). Rather than discrediting the rule of law, this hybridity highlights a core Lockean insight: law derives legitimacy not simply from sovereign command, but from its capacity to resonate with shared normative expectations. In this sense, Vietnam illustrates how rule-of-law principles may persist even where legal authority is institutionally complex and normatively plural.

Finally, Vietnam's broader trajectory of international integration further sharpens the philosophical stakes of this discussion. Legal modernization and governance reform have intensified debates over accountability, moral leadership, and social legitimacy, particularly as domestic priorities intersect with global legal norms (Nguyen, 2022, p. 77). From a Lockean standpoint, this context reinforces the importance of distinguishing law as a moral constraint on power from law as a technical instrument of administration. Where law is perceived merely as an administrative tool, its legitimating force erodes; where it functions as a normative framework that disciplines authority and sustains public trust, it fulfills the philosophical purpose Locke assigned to it.

In argumentative terms, the Vietnamese case neither validates nor falsifies Locke's rule-of-law theory. Instead, it demonstrates the theory's selective resilience. Vietnam shows that Locke's core concerns—lawful constraint, conditional authority, and public judgment—retain normative force beyond liberal constitutionalism, while simultaneously revealing the need to reinterpret these concerns within broader moral, social, and historical frameworks. Locke's theory thus remains valuable not as a prescriptive institutional blueprint, but as a normative interlocutor for contemporary debates on legitimacy and power in diverse political orders.

## 7 Conclusion

This article has revisited John Locke's conception of the rule of law as a foundational element of modern political philosophy and assessed its contemporary relevance through a critical engagement with the Vietnamese context. Rather than treating the rule of law as a technical or institutional doctrine, the analysis has emphasized its normative core: the idea that political authority is legitimate only insofar as it is legally constrained, publicly justified, and exercised in accordance with purposes entrusted by the people. Read in this way, Locke's theory offers not a prescriptive blueprint for governance, but a philosophical framework for evaluating the moral conditions under which power may rightfully be exercised.

The reconstruction of Locke's arguments has shown that the rule of law, in his thought, is inseparable from natural law, popular sovereignty, and the fiduciary character of political authority. Law is not an external limitation imposed upon power after the fact, but the very medium through which power becomes legitimate. Legislative supremacy, executive discretion, and even prerogative are all rendered conditional by the overarching requirement that authority remain oriented toward the public good and subject to popular judgment. This conception continues to illuminate contemporary debates on constitutionalism, legitimacy crises, and the dangers of arbitrary governance, especially in political environments marked by expanding administrative discretion and claims of exceptional necessity.

At the same time, the article has argued that Locke's rule-of-law theory bears historical limits that must be acknowledged explicitly. His emphasis on property, his assumptions about political inclusion, and his accommodation of discretionary authority reflect the conditions of early modern liberal thought and cannot be universalized without critical qualification. Contemporary rule-of-law debates—particularly those shaped by populism, legal hybridity, and emergency governance—underscore the importance of reading Locke not as a timeless authority, but as a

historically situated thinker whose insights require reinterpretation in light of changing social and political realities.

The Vietnamese case has served as a reflective context for testing both the enduring value and the limits of Locke's framework. Vietnam illustrates that the core Lockean concerns with legality, legitimacy, and power control remain philosophically salient beyond liberal constitutionalism, while also revealing alternative normative emphases grounded in collective welfare, moral leadership, and social legitimacy. Rather than confirming or refuting Locke's theory, this engagement demonstrates its selective resilience: Locke's ideas retain critical force when treated as normative standards for evaluating authority, but not when applied as institutional templates detached from local moral and historical contexts.

In conclusion, Locke's conception of the rule of law remains a vital resource for political philosophy precisely because it articulates a demanding vision of legitimate authority—one that binds power to law, subordinates governance to public justification, and preserves the people's ultimate right of judgment. When approached critically and contextually, this vision continues to inform contemporary reflections on governance, legality, and political obligation in diverse political orders. The enduring philosophical task, as this article has sought to show, is not to replicate Locke's solutions, but to sustain his central question: under what conditions can political power be exercised without ceasing to be legitimate?

## 8 References

Adamidis, V. (2024). Democracy, populism, and the rule of law: A reconsideration of their interconnectedness. *Politics*, 44(3), 386-399. <https://doi.org/10.1177/026339572111041444>

Balkin, J. M., & Levinson, S. V. (2025, Sep 14, 2025). *The Problem of "Popular" "Sovereignty"*. Yale Law School, Public Law Research Paper, 5 Liberties 135. Retrieved Dec 23 from <https://ssrn.com/abstract=5489146>

Do, H. H., Gillespie, J., & Tran, H. T. Q. (2025). Legal Reasoning and the Rise of Judicial Authority in Vietnam. *Law & Social Inquiry*, 1-31. <https://doi.org/10.1017/lsi.2025.10121> Gillespie, J., & Tran, H. T. Q. (2022). Legal pluralism and the struggle for customary law in the Vietnamese Highlands. *American Journal of Comparative Law*, 70, 1-42. <https://ssrn.com/abstract=4360836>

Kantorowicz, J., & González-Bustamante, B. (2025). Changing meaning of the rule of law. *Artificial Intelligence and Law*, 75-86. <https://doi.org/10.1007/s10506-025-09468-4>

Krygier, M. (2019). What's the Point of the Rule of Law? *Buffalo Law Review*, 67(3), 16. <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol67/iss3/16>

Kyriacou, A., & Trivin, P. (2024). Populism and the rule of law: The importance of institutional legacies. *American Journal of Political Science*, 1-16. <https://doi.org/10.1111/ajps.12935>

Lai, N. V., Le, C. Q., & Nguyen, Q. T. (2025). Vietnam's strategic management and organisational adaptation to technological, geopolitical and environmental challenges. *Journal of International Studies*, 21(2), 68-86. <https://doi.org/10.32890/jis2025.21.2.4>

Locke, J. (1988). *Two Treatises of Government* (P. Laslett, Ed.). Cambridge University Press. <https://assets.cambridge.org/97805210/69038/sample/9780521069038ws.pdf>

Nguyen, P. T., & Nguyen, Q. T. (2024). The philosophy of human emancipation in Ho Chi Minh's ideas and its contemporary relevance in Vietnam. *Kalagatos*, 21(1), eK24009. <https://revistas.uece.br/index.php/kalagatos/article/view/12513>

Nguyen, T. Q. (2022). International Integration and Its Impacts on Human Resource Development in Vietnam Currently. *Synesis*, 14(2), 74-89. <https://seer.ucp.br/seer/index.php/synesis/article/view/2235>

Nguyen, T. Q. (2023). Confucius' conception of the political being and its

significance for building the political being in present-day Vietnam. *IKENGA International Journal of Institute of African Studies*, 24(2), 1-23. <https://doi.org/10.53836/ijia/2023/24/2/003>

Tamanaha, B. Z. (2012). The history and elements of the rule of law. *Singapore Journal of Legal Studies*, 232-247. <http://www.jstor.org/stable/24872211>

Tuckness, A. (2020, Oct 6). *Locke's Political Philosophy*. The Stanford Encyclopedia of Philosophy. Retrieved Dec 23, 2025 from <https://plato.stanford.edu/archives/sum2024/entries/locke-political/>

Tran, T. Q. H. (2019). The Choice of Norms in Courtroom Adjudication in Vietnam: In Search of Legitimacy in a Socialist Regulatory Context. *Asian Journal of Law and Society*, 6(1), 159-179. <https://doi.org/10.1017/als.2018.44>

Uzgalis, W. (2022, Jul 7). *John Locke*. Stanford Encyclopedia of Philosophy. Retrieved Dec 23, 2025 from <https://plato.stanford.edu/entries/locke/>