**Notes on John Locke’s Second Treatise on Government**

1. Locke's primary aim in the Second Treatise is to show that absolute monarchy is an illegitimate form of government, lacking the right to coerce people to obey it. The theory of government defended by Sir Robert Filmer, which Locke attacked in the First Treatise, held that:

a) the king's authority/right to rule his subjects derives from the right that a father has to command obedience from his children, a right that is divinely ordained,

b) that right is unlimited; the king has an unlimited right over the lives and property of his subjects, as a father has an unlimited right over the lives and property of his children (as long as they remain children).

c) hence, government does not require the consent of those subjects to restrict their liberty or seize their property, and

d) those subjects do not have a right to revolution, to replace the king with someone who will better serve their interests.

2. What type of government does Locke believe individuals have a duty to support and obey? To answer this question we need to see what rights Locke thinks man enjoys in the "state of nature" and the reasons why men leave the state of nature and establish civil society/government. The "state of nature" is what society would be like if all political and legal institutions (legislature, police, judges and court system, prison system, etc.) were to disappear. Hobbes argued that this state would be one of lawless anarchy, that everyone would be so miserable there, so eager to escape it, and so intent on making sure that they never returned to it, that they would set up an absolute sovereign to maintain law and order. (Locke’s reply to this argument is found at the end of P. 93: “This is to think that Men are so foolish that they take care to avoid what Mischiefs may be done them by Pole-Cats, or Foxes, but are content, nay think it Safety, to be devoured by Lions.” ) Hobbes also held that there could be neither justice nor injustice in the state of nature, because these require the existence of government and laws.

Locke claims that the state of nature is a state of perfect freedom and equality. In saying this, he means to deny that the relation of political “superior”/political “inferior,” where the latter has a duty to obey the former, is “natural.” Where that relationship does exist, it exists because it has been created by a free and voluntary consent of the “inferior.” There is a “natural” relation of “superior”/”inferior,” namely, the one between a father and his minor-aged children. Young children have a duty to obey their father whether or not they ever consented to do so. But the authority of political superiors to inferiors is not like that of father to children. It rests on consent.

Locke holds that in the state of nature there is a "law of nature" which is plain to everyone who will use his reason: "don't harm another in his life, liberty, health, or possessions." (P. 6) Natural law forbids us to violate others’ natural rights. To say that a right is "natural" is to say that it is a self-evident, pre-legal or moral right. This means that it exists prior to and independently of the legal and political institutions of any given society and that it is neither necessary nor possible to derive it from some allegedly more basic moral principle (e.g. the principle of utility). Locke also holds that the rights to life and liberty are "inalienable" (cf. P. 23), meaning that they cannot be waived or transferred. (They can, however, be “forfeited.” The execution of a murderer does not violate his right to life, because he forfeited that right when he committed a murder.) The reason why they are inalienable, Locke thinks, is that we belong to God. To kill ourselves or allow ourselves to be killed, or to submit to slavery, would be to violate God's property rights in us.

As well as rights to life, liberty, and property, there are two other rights that everyone enjoys in the state of nature: the right to punish anyone who transgresses the law of nature (including those who violate the rights of others), and the right to exact redress or compensation from those who have violated one's own natural rights.

3. The main drawback to life in the state of nature is that our lives and property are not safe or secure there, because violations of the law of nature are not fully and consistently punished. Part of the problem is due to there being several vigilante forces working independent of each other instead of a centralized, coordinated police force. Another part of the problem is that those who seek retribution and compensation from others who’ve violated their rights will be acting as judge and jury in their own case, and so, will exaggerate how much compensation they are entitled to and/or how severe a punishment the malefactor deserves. (P. 124-126). To solve these problems we need to leave the state of nature and set up civil society. This requires transferring/alienating to government the right to enforce the law of nature. We enter into a contract with government whereby we agree to obey it and surrender to it our right to punish transgressors of natural law in exchange for it agreeing to respect and protect our natural rights to life, liberty, and property.

4. Among the rights which Locke claims we have in the state of nature is a right to "property." What Locke means is a right to enjoy exclusive control over and enjoyment of certain external goods (one’s “private property”). If someone has such a right, it follows that others have a moral duty not to interfere with her use of the good. What are the goods to which we have or can acquire a private property right for Locke? First, all men have a natural and inalienable right to their bodies and labor power. (Though Locke doesn’t use the term, this is commonly referred to as the right to “self-ownership”). Since slavery violates self-ownership, it violates the law of nature (unless it is punishment imposed on someone who himself has violated that law). Second, we can acquire a right to “personal” property like clothing, books, or a car. Most importantly, we can acquire a right to natural resources like land or minerals and capital goods like factory equipment. One way of acquiring a right to something is by having it transferred to you via gift or exchange by someone who already owns it. But if the good in question is not already owned by anyone else, then you can “appropriate” it by “mixing” your labor with it. Appropriation of what is in “the commons” is something that we can do both in the state of nature and under government.

Locke simply asserts that men have natural rights to life, liberty, and health. He thinks it is self-evident to anyone who confers reason that such rights exist. Hence, it is unnecessary to try to derive these rights from any more fundamental rights, because they are fundamental rights. He treats the right to private property differently inasmuch as he tries to justify or argue for it.

1) Men have a right to life and a right to their bodies. (P. 27) But such rights would be worthless if one didn't also have a right to what is absolutely necessary to stay alive, namely, food. If we needed the unanimous consent of others before we could legitimately appropriate any food or land from “the commons” to feed ourselves, then we would all die of starvation, because it is impossible ever to get unanimous consent. Hence, the appropriation of food and land for one's exclusive, private use must be legitimate. (P. 26 & P. 28) This argument infers private property rights in external goods from the right to self-ownership.

2) The right to one’s labor power is a right to the value one creates by means of one’s labor. If one considers anything that has been transformed by having been labored on, 99% of its value was created by the person who labored on it, while only 1% of its value is natural. (P. 40) Hence, the right to one’s labor power implies that one owns 99% of whatever one labors on (provided it was previously unowned, of course). It might as well be a right to the whole thing.

3) Since labor is intrinsically unpleasant and is undertaken only in expectation of enjoying the value one creates by it, it would be unjust to thwart the expectation. One should enjoy private property in the good as a reward or compensation for the pain of laboring on it. To let others have the “benefits of another’s pains” (P. 34) would be unjust. This is an argument for private property that appeals to the principle of just desserts.

5. The purpose of government—the reason why we enter into the “social contract” that creates it—is to protect our natural rights, especially our property rights. A contract becomes void if either side reneges on its terms. A government that violates our rights reneges on the contract and thus releases us from our duty to support and obey it. That is, we have a right to rebel against it. (Cf. P. 168 and 208). The “Absolute, Arbitrary Power” (P. 137) claimed by absolute monarchs violates subjects’ rights to liberty. Further, by taxing their subjects without their consent, they violate their property rights (P. 140). Hence, there is a right to revolution against absolute monarchs.

6. Locke’s social contract theory implies that protecting our natural rights and not violating them is a necessary condition of a government’s having legitimacy, or of our having a duty to support and obey it. But it is not a sufficient condition. Another necessary condition is that the people have "consented" to the government. The alien who visits a country is not obligated to obey its positive laws, because he has not consented to them. If he is punished for committing a criminal act, it must be because he has violated natural law, and the government, being in the state of nature with respect to him, has the right to punish such violations. (P. 9)

7. In consenting to leave the state of nature and establish government, we put ourselves under an obligation to submit to the will of the majority, even when we are in the minority. P. 98: “If the consent of the majority shall not in reason, be received, as the act of the whole, and conclude every individual; nothing but the consent of every individual can make any thing to be the act of the whole; But such a consent is next impossible ever to be had, if we consider the Infirmities of Heath…which in a number… will necessarily keep many away from the publick Assembly.”

Locke also says that by consenting, one binds only oneself, not others, not posterity. P. 116: “whatever Engagements or Promises any one has made for himself, he is under the Obligation of them, but cannot by any Compact whatsoever, bind his Children or Posterity. For this son, when a Man, being altogether as free as the Father, any act of the Father can no more give away the liberty of the Son, than it can of any body else.”

CONSENT AND THE LEGITIMACY OF THE STATE

To say that a form of government is legitimate is to say that it has a right to enact laws and enforce them via coercion. If a form of government is legitimate, then citizens have a duty to obey it—its police, judges, laws, etc. For Locke there are two separate conditions that a government has to satisfy in order for a citizen to have a duty to obey it:

1. It must respect and protect its citizens’ natural rights to life, liberty, and property.

2. It must enjoy the consent of that citizen.

Each condition is necessary; neither is by itself sufficient. Hence, if you consent to a form of government that violates either your own or other people’s natural rights, you have no duty to obey it (no more than you have a duty to commit a murder that you have promised to commit). Nor do you have a duty to obey a government that does a wonderful job of protecting everyone’s natural rights but whose authority you have never consented to. Is Locke correct in claiming that consent occupies this central role in rendering the state’s power legitimate?