

# POLI 342: MODERN WESTERN POLITICAL THOUGHT

## Session 7– . THE LOCKIAN SOCIAL CONTRACT PART 2

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# Session Overview

- Welcome to session 7: The Lockian Social Contract Part 2: Session 6 has provided us with the requisite background of Locke. The information gleaned from that session will be invaluable in this session. Note that the social contract as crafted by Locke was quite different from the one espoused by Hobbes. This session will bring out the differences much more succinctly. In this session, our concentration is on the social contract as crafted by Locke, forms of government, man and the state, trust and Consent and the Foundation of Liberalism.

# Session outline

This session covers the following topics:

- Locke's Version of the Social Contract
- Forms of Government
- Man and the State
- Trust and Consent
- The Foundation of Liberalism

## TOPIC ONE

# Locke's Version of the Social Contract

# Locke's version of the Social Contract

- The social contract was the extension of the pre-existing morality.
- Locke lays emphasis on God's permission rather than His prohibitions (natural rights before natural law).
- Natural rights must be seen as pocket money given to God's children to make their way easier in the world.
- The goods they buy at the moment of the social contract is increased protection by government of their natural rights of life, liberty and property.
- To enjoy their moral capital in security, men give up to the state their right to judgement when their natural rights have been violated.

# Locke's version of the Social Contract (cont'd)

- At the moment of the contract, Locke's men give up the absolute minimum for the maximum gain.
- They entrust the state with their right to judgement on condition that the state uses the right to judge when natural rights have been violated in order to allow men to enjoy their other natural rights to life, liberty and property more abundantly.
- The social contract is a double process in Locke.
  - An implied contract of society operates before the contract to form government is made.
  - Society which will survive government's collapse.

# Locke's version of the Social Contract (cont'd)

- Men have the right to rebel or even a moral duty to rebel when government begins to frustrate God's purpose for the world.
- The moment for rebellion happens when enough men are prepared to repudiate their contract with their rulers and fall back on the original contract of society.
- Locke's sovereign is a party to the contract to set up government (The king is king on terms).
- It is only an explicit consent that can make one a member of a commonwealth.
  - This is watered down with the concept of 'tacit consent'.
  - Just by walking on a king's highway, I tacitly invite the protection of the law, so tacitly consent to obey that law myself.

# Locke's version of the Social Contract (cont'd)

- Non-joiners must be killed. (Capital punishment must be justified)
- What happens if in a civil society I decide to withdraw consent?
- This will not alter my obligation to obey the state, because I become a stranger or visitor in my own country.
- Foreigners and visitors are also expected to obey the laws of the countries they reside in or visit. (the exceptions are an invading army and a group of English soccer hooligans.)
- Guests are expected to follow the habits and customs of their hosts.





## TOPIC TWO

# Forms of Government

# Locke on forms of Government

- The commonwealth is my commonwealth and the law is my law.
- Locke is of the view that the law making body, the legislature must be supreme even though bound by the laws it makes.
- The judiciary and the executive must be subordinate to the legislature.
- There can be moments especially in times of national emergencies in which the king may act without law, or even against the law, in order to preserve the realm. (*salus populi suprema lex*) (public safety comes before everything else).

# Locke on forms of Government (cont'd)

- The residual power is usually inherent in an executive power.
- This residual power helps the executive to deal with emergencies such as floods, earthquakes and foreign invasion etc.
- The residual power of the executive was often invoked by President Abraham Lincoln at the time of the American Civil War, when he argued that to save the Union, the president had to make executive decisions which were probably illegal and almost certainly unconstitutional.

# Locke on forms of Government (cont'd)

- Locke's theory is much more like an old idea of a mixed government in which all the estates of the realm had a share.
- Locke also insisted on the independence of judges (a judiciary dependent on a king was dangerous and even frightening).
- In the view of Locke any government that protects the natural rights, especially property is a legitimate government.

# Locke on forms of Government (cont'd)

- He contends that if political power was created for a purpose then power itself must be limited to that purpose .
- This gave rise to the theory of limited government.
- This should not be mistaken for a weak government .
- It is rather a constitutional government.



## TOPIC THREE

# Man and The State

# Man and the State

- Men are naturally bargainers.
- Men naturally do not try to dominate the world outside of themselves but to protect themselves from it.
- Natural rights create a kind of moral space which may not be intruded upon except by explicit consent.
- Men's natural liberty is their chief moral resource.
- To Locke, the perpetual suspicion of the state is healthy for liberty.

# Man and the State (cont'd)

- Men entered into a contract to form a state in order to save themselves from the power of others.
- The perpetual discontent of men in civil society, grumbling that they have paid too much of their liberty for security, are healthy for liberty.
- The price of security depends on the supply and demand.
- Men may be in the position to bargain away more and more liberty in the hope of getting security.





## TOPIC FOUR

# Trust and Consent

# Trust, Consent and the Title to Govern

- He saw government as a trust: trustees are entrusted with my right of judgement of when my natural rights have been violated.
- If they betray that trust I may resume the exercise of the right of judgement myself.
- In the legal trust such as that set up to administer the estate of someone, three parties- trustor, trustee and beneficiary are involved.
- Locke's political trust however, involves two parties-trustee (government) and trustor (the people) who are also beneficiaries.
- It is the people who determine the terms of the trust and therefore the authority or discretionary power of the trustee.

# Trust, Consent and the Title to Govern (cont'd)

- In the contract of Locke, the people agree to create a legislative power which is supreme.
- They also create an executive power which is answerable to the legislative power.
- The legislature cannot act by extemporary and arbitrary decrees.
- The people have the power to remove legislators.
- The interest of Locke is the safeguarding of the liberties and rights of people against abuse of power by government.

# Consent

- Only consent can make me a member of the commonwealth.
- Consent confers the title to govern, government is legitimized by consent.
- I obey because I actually or tacitly promised to do so, provided certain conditions are met.
- In Locke, the consent of the governed identifies the persons of those entitled to make laws.
- It is not enough that law should be good.
  - Law should also be made by the right people
  - Law should be made in the right form.Otherwise a usurper who left the laws of his conquered land unchanged ( a tactic recommended by Machiavelli) would be a legitimate ruler.

# Consent (cont'd)

- Consent entitles specific people to rule under specific conditions.
- Even feel free to begin again and reform political society by a new contract.
- Consent implies some form of consensus. It is the society which decides what form the state is to take.
- The state is the sum of opinion already formed.
- It is not the duty of the state to change men's opinions.
- Locke tolerated the existence of several opinions but with limits.



## TOPIC FIVE

# The Foundation of Liberalism

# Locke and the Foundation of Liberalism

- The first liberal-looking assertion of Locke is the naturalness of property and the inviolability of property right except by free and voluntary consent (taxation).
- What makes something mine is either I have inherited it or worked for it.
- In his *Letters Concerning Toleration*, he appealed for privacy of the individual's mind (this is in consonance with Hobbes' dictum that the mind cannot be coerced).
- Locke also puts a high premium on human rationality.
- Everybody including children have to recognize that rights implies corresponding duty.
- Lockian model of society is a competitive, capitalist model-men are free to acquire and are encouraged by God to do so.

# Locke and the Foundation of Liberalism (cont'd)

- Locke emphasizes government of trust and constitutionalism. (power corrupts and absolute power corrupts absolutely -Lord Acton).
- The characteristic trait of men acting politically is not to dominate but to protect themselves from others.
- The worst rule would be the grabbers for power, a view Locke shares with Plato.
- There is tendency for harmony in human social life ( As a Christian, Locke believes that God's intentions for His creation benevolent).
- The only knowledge that can be trusted is the one gained through the senses (Locke was a leading light of the enlightenment).