Consent, Obligation, and the Social Contract: John Locke

John Locke (1632-1704)

- Major English philosopher of the early modern period.
- Exponent of empiricism (later given its perhaps most radical formulation by Hume); *Essay Concerning Human Understanding* (1689)
- Trained in philosophy and medicine; practiced as a physician
- Associate of the Royal Society (w/ Newton, Boyle, etc.)
Locke: Political Connections

- Locke worked in the household of the Lord Ashley, the 1st Earl of Shaftesbury—a founder of the Whig movement, later accused of treason, plotting against the Catholic monarch James II.

  Shaftesbury is thought to have prompted/encouraged Locke to write his *Two Treatises of Government*

- Fled England in 1683 for the Netherlands, where he completed the *Essay* and his *Letter on Toleration*.

  The *Second Treatise* was published anonymously upon Locke’s return to England in 1689, following the accession of the Protestant King William of Orange.

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Locke: Natural Law & Moral Theory

*‘Divine Command’ Theory of Moral Obligation:* To be morally obligated to something is for God to have required that we do that thing.

*Natural Law:* God is good (we know this both through revelation and through reason) and, since He is good, He has laid down certain commands for His creatures, aimed at our overall happiness.

  Locke: We don’t necessarily need revelation to know what is good for us; we can determine this through reason alone, if we take the trouble to look.
The Second Treatise

- Locke’s account of natural law informs his theory of the social contract and his theory of civil disobedience in the *Second Treatise*.

- Like Hobbes (about whom, more later), Locke asks us to imagine human beings living in a *state of nature* (SON)

  In the state of nature, there is no governmental authority, no public law, and (at least initially) no property rights...

The Lockean State of Nature

- Since there is no law, no individual in the SON can tell another person what to do and there is no definitive, reliable justice in any given case of wrongdoing. People are free.

- Yet they are not free to do anything they please:

  “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” (§6, 13-14)

  It is “a state of liberty, yet it is not a state of license” – the basic law of self-preservation still holds…
Specifically, according to Locke, natural laws show us that, in the SON:

- All men are in a state of **equality** (Since there could be no subordination—no kings, no slaves—unless God made it so) (§ 4-5, 13)

- Persons are entitled ‘to execute the law of nature’, i.e., to **punish** others when they are wronged “so much as may serve for reparation and restraint” (§ 8)

- People have title to (i.e., property rights in) their bodies and their **labour**...

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**Sidebar: Property**

- **Locke**: God gave the world to all humankind for our benefit, as a commons.

- Yet natural law shows us that each person’s labour belongs to her (unless she freely contracts it to someone else). This, Locke says, follows from our freedom and equality in the SON.

- So, even in the SON, property rights emerge when someone mixes her labour with (unowned) things found in the commons...
Sidebar: Property

- That human beings in the SON are entitled to appropriate things follows from the basic (i.e., natural) law of self-preservation: An apple hanging on a tree is good for nothing until someone picks it; when she picks it and eats it, it becomes hers.

**Lockean Provisos:** But we are not entitled to make everything our property: We must 1) leave "as much and as good" for others. Similarly, 2) we must not let what we take spoil.

This is why others in the SON must respect our possessions: We haven’t actually taken anything from them.

The Emergence of Political Obligation

- So, for Locke (in contrast to Hobbes and Filmer), there is actually quite a lot of order, and quite a few rules, already in place in the SON.

  We are naturally free, but, for Locke, freedom, rightly understood, seems to be at least in principle fairly orderly.

- Why then, **how** then, do human beings make the transition from the SON to political society?
Why Form a Political Community?

In the SON, Locke says, there are various “inconveniences”:

- People are left to judge and execute the law for themselves when they are wronged, but, because they are partial, they may effect punishments that go beyond reparation and restraint.

- Similarly, a wicked person “who was so unjust as to do his brother injury, will scarce be so just as to condemn himself for it” (§ 13, 16)

- So, the SON while potentially peaceable, is always liable to breakdown…

The State of War

- When there is no common authority to appeal to, no “fair determination of law,” every attempt to assert control over another person is to enter into a state of war. Even stealing a coat can be grounds for summary execution (§ 19, 17)

- But, likewise, any instance of “force without right” creates a state of war, even where there is a common judge.

- For Hobbes, the SON just is a state of war; for Locke, war exists whenever unjustified force is used.

For Hobbes (and Filmer) the SON is essentially hypothetical; for Locke it is actual, it exists wherever there is no legitimate government.
The Lockean Social Contract

- The move into a political (civil) society rectifies the “inconveniences” of the SON: We enter into political society so as to avoid the state of war and other inconveniences in the execution of natural law that can occur in the SON.

- In effect, we make a contract with each other to create a government to rectify the deficiencies of the SON.

  Specifically: We consent to the rule of a government in order to better protect our natural, inalienable rights to life, liberty, and property.

Limits of Authority

- So, the authority of the sovereign flows not from conquest (Cf. Hume) or primogeniture (e.g., from Adam, according to Filmer), but from the consent of the governed

- But, since we enter into civil society precisely in order to better protect rights that we already have, we don’t (we morally can’t) accept just any old authority…
- If the sovereign acts without right to restrict our freedom, or to seize our property without our consent, he in effect declares war:

  “…nobody can transfer to another more power than he has in himself, and nobody has absolute arbitrary power over himself, or over any other, to destroy his life, or to take away the life or power of another” (§ 135, 33)

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The Right of Revolution

- **To repeat:** The authority of government is based on consent; we provide that consent only in order to better protect our life, liberty, and property.

  So, a government that fails to provide the order and protection that we contracted for, or which restricts our liberty in ways contrary to the law of nature, has broken its side of the contract.

- **A government can be replaced.** Indeed, when a state begins to exercise arbitrary power, it both forfeits its authority and morally *compels* the people to revolt.