

John Locke and the Social Contract Theory

Just as natural rights and natural law theory had a florescence in the 17th and 18th century, so did the social contract theory. Why is Locke a social contract theorist? Is it merely that this was one prevailing way of thinking about government at the time which Locke blindly adopted? I think the answer is that there is something about Locke's project which pushes him strongly in the direction of the social contract. One might hold that governments were originally instituted by force, and that no agreement was involved. Were Locke to adopt this view, he would be forced to go back on many of the things which are at the heart of his project in the *Second Treatise*. Remember that *The Second Treatise* provides Locke's positive theory of government, and that he explicitly says that he must provide an alternative to the view "that all government in the world is merely the product of force and violence, and that men live together by no other rules than that of the beasts, where the strongest carries it..." So, while Locke might admit that some governments come about through force or violence, he would be destroying the most central and vital distinction, that between legitimate and illegitimate civil government, if he admitted that legitimate government can come about in this way. So, for Locke, legitimate government is instituted by the explicit consent of those governed. Those who make this agreement transfer to the government their right of executing the law of nature and judging their own case. These are the powers which they give to the central government, and this is what makes the justice system of governments a legitimate function of such governments.

Ruth Grant has persuasively argued that the establishment of government is in effect a two step process. Universal consent is necessary to form a political community. Consent to join a community once given is binding and cannot be withdrawn. This makes political communities stable. Grant writes: "Having established that the membership in a community entails the obligation to abide by the will of the community, the question remains: Who rules?" (Grant, 1987 p. 115) The answer to this question is determined by majority rule. The point is that universal consent is necessary to establish a political community, majority consent to answer the question who is to rule such a community. Universal consent and majority consent are thus different in kind, not just in degree. Grant writes:

Locke's argument for the right of the majority is the theoretical ground for the distinction between duty to society and duty to government, the distinction that permits an argument for resistance without anarchy. When the designated government dissolves, men remain obligated to society acting through majority rule.

It is entirely possible for the majority to confer the rule of the community on a king and his heirs, or a group of oligarchs or on a democratic assembly. Thus, the social contract is not inextricably linked to democracy. Still, a government of any kind must perform the legitimate function of a civil government