

Phil 114, February 27, 2007
Locke: Consent and the Right to Revolution

Legitimizing consent

Consent seems to play two roles for Locke. First, consent seems to figure as part of his criterion of *legitimate* government. A political regime is legitimate if and only if (i) it *could* have been consented to from (ii) a position of natural freedom and equality (iii) in a way which does not violate the law of nature. Let us call this kind of imaginary consent “legitimizing consent.”

Obligating consent

Legitimacy, for Locke, is a necessary, but not sufficient condition of political obligation. I can have political obligations only to a legitimate government. But the fact that a government is legitimate does not necessarily mean that I have political obligations to it. (The government of Sweden is legitimate. But I, as a U.S. citizen, do not have political obligations to pay Swedish taxes.)

How, then, do we, as individuals, acquire obligations to particular governments? We acquire obligations to particular governments in virtue of having obligations to particular communities, which have, by majority vote, decided to institute those governments. But this just pushes the question back: How do we acquire obligations to particular communities?

Given our natural freedom and equality, the answer must lie in our consent. To distinguish this kind of consent from legitimizing consent, let us call it “obligating consent.”

Express consent: Public, explicit announcement. In giving express consent, one joins a community, making oneself subject to the decisions of its majority in perpetuity.

—Did I ever agree to join? I was just born here. If not, do I have any obligation to abide by the majority’s decisions? Why can’t I start my own state, with some of my friends? Perhaps my ancestors, who were immigrants, decided to join this community. But should I be bound by my ancestors’ decisions? Is this compatible with my natural freedom? Locke agrees that I am not bound by my ancestors’ choices. And he maintains that one must expressly promise to be a member of a commonwealth in order to become a member of a commonwealth (122). So it seems to follow that most people do not have political obligations. Is this problematic? If so, how might Locke respond?

Locke has two tricks left: conditions on inheritance and tacit consent.

Inheritance: “[The father] may indeed annex such condition to the Land, he enjoyed as a Subject of any Commonwealth, as may oblige his Son to be of that Community, as may oblige his Son to be of that Community, if he will enjoy those possessions which were his Father’s; because that Estate being his Fathers Property, he may dispose or settle it as he pleases” (116). A father cannot bind his son to the community, but he can bind his property (especially his land) to the community. And if the son wishes to inherit this property, he must agree to be part of the community. His acceptance of his inheritance is tantamount to consenting to be part of the community.

—What about people who don't inherit anything?

Tacit consent: Even if someone is not a member of a commonwealth, she still tacitly consents to the rule of its government for as long as she “enjoys” any part of its “dominions.” In giving tacit consent, one makes oneself subject to the regime for only so long as one resides in its territory.

—How do we distinguish between tacit consenters and foreign residents?

—Locke's aim is to show how political obligations are compatible with natural freedom. To succeed, therefore, it seems that he must maintain that people *freely* consent to the rule of their governments. When a son accepts his inheritance, is he freely consenting to the rule of the government?

—When someone continues to reside in country (e.g., because she wants to stay close to her family, because she has no money to move, because she would not be able to support herself elsewhere), is she freely consenting to the rule of the government? In ordinary cases of tacit consent, in which a person, by doing X, tacitly consents to something, the person giving her consent must (i) know that her doing X has this normative significance and (ii) be free not to do X. Suppose I say, “I am thinking of canceling the final. Any objections?” Your not raising any objections might meet these conditions and constitute tacit consent. Does Locke's example of “tacit consent” meet these conditions?

—Perhaps the intuitive appeal of Locke's “enjoying dominions” point has nothing to do with consent. Perhaps it stems from the principle that one should not “free ride,” that if one benefits from a social institution, then one ought to bear a fair share of the burdens of supporting it.