

SUBJECT: POLITICAL SCIENCE I

COURSE: BA LLB SEMESTER I

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MODULE: MODULE IV, THEORIES OF THE ORIGIN OF STATE

SOCIAL CONTRACT THEORY

II. JOHN LOCKE (1632 - 1704): CONCEPTION OF SOCIAL CONTRACT THEORY (CONTINUATION)

(e) CONTRACT

Locke tried to explain the origin and nature of political authority within the framework of social contractualism. He justified the Glorious Revolution and wanted to establish a constitutional government. He proclaimed that the government should exist for the people to protect their liberty, property and life, but not vice versa. If the government fails to work for the welfare of the society, people have every right to rebel against the government and they can change the government. Locke developed his theory of social contract from the notion of state of nature. For Locke, the state of nature is only a pre-political state. It means that there is existence of an organized society, but there is no established government.

Man gives up his freedom and power, because the enjoyment of it is very uncertain and constantly exposed to the invasion of others. Since, all men are equal in the state nature; there is no strict observer of equity and justice. Consequently, the enjoyment of property that they possess in the state of nature is unsafe and insecure. This makes the individuals to look for a way out of this condition that is full of fears and continual dangers. If the vicious and degenerate men are forbidden to enter into the contract, then there is need of any society, but the state of nature. The most important end of men's uniting into a commonwealth is for the mutual preservation of their lives, liberties, and estates. Hence the power of society can never be supposed to extend farther than the common good.

It is by means of contract the individuals agree to submit their powers (natural rights) to a majority rule in order to organize themselves as a community. Although people surrendered their natural rights, it should not be understood that they surrendered all aspects of those rights. In fact, they partially surrendered those natural rights to make the contract functional. Once the contract becomes functional, the civil society is established. This facilitates the individuals to form a government in the nature of a fiduciary power, which is supreme for it represents the power of the people. The government thus established enjoys prerogatives. However, it is subordinate and accountable to the legislature. Also, it must be mentioned

here that the legislative power is separate from the executive power. The third is the , whose function is to make treaties and conduct external relation of the state.

Analysis of the theory of Social Contract by John Locke

- John Locke theory of Social Contract is different from that of Hobbes. According to him, man lived in the State of Nature, but his **concept of the State of Nature** is different as contemplated by Hobbesian theory. Locke's view about the state of nature is not as miserable as that of Hobbes. It was reasonably good and enjoyable, but the property was not secure. He considered State of Nature as a Golden Age. It was a state of peace, goodwill, mutual assistance, and preservation. In that state of nature, men had all the rights which nature could give them. Locke justifies this by saying that in the State of Nature, the natural condition of mankind was a state of perfect and complete liberty to conduct ones life as one best sees fit. It was free from the interference of others. In that state of nature, all were equal and independent. This does not mean, however, that it was a state of license. It was one not free to do anything at all one pleases, or even anything that one judges to be in ones interest. The State of Nature, although a state wherein there was no civil authority or government to punish people for transgressions against laws, was not a state without morality. The State of Nature was pre-political, but it was not pre-moral. Persons are assumed to be equal to one another in such a state, and therefore equally capable of discovering and being bound by the Law of Nature. So, the State of Nature was a state of liberty, where persons are free to pursue their own interests and plans, free from interference and, because of the Law of Nature and the restrictions that it imposes upon persons, it is relatively peaceful.
- **Property** plays an essential role in Lockes argument for civil government and the contract that establishes it. According to Locke, private property is created when a person mixes his labour with the raw materials of nature. Given the implications of the Law of Nature, there are limits as to how much property one can own: one is not allowed to take so more from nature than oneself can use, thereby leaving others without enough for themselves, because nature is given to all of mankind for its common subsistence. One cannot take more than his own fair share. Property is the linchpin of Lockes argument for the social contract and civil government because it is the protection of their property, including their property in their own bodies, that men seek when they decide to abandon the State of Nature.
- John Locke considered property in the State of Nature as insecure because of three conditions; they are:-

1. Absence of established law;
2. Absence of impartial Judge; and
3. Absence of natural power to execute natural laws.

- Thus, man in the State of Nature felt need to protect their property and for the purpose of protection of their property, men entered into the Social Contract. Under the contract, **man did not surrender all their rights to one single individual, but they surrendered only the right to preserve / maintain order and enforce the law of nature.** The individual retained with them the other rights, i.e., right to life, liberty and estate because these rights were considered natural and inalienable rights of men.
- Having created a political society and government through their consent, men then gained three things which they lacked in the State of Nature: laws, judges to adjudicate laws, and the executive power necessary to enforce these laws. Each man therefore gives over the power to protect himself and punish transgressors of the Law of Nature to the government that he has created through the compact.
- According to Locke, **the purpose of the Government and law is to uphold and protect the natural rights of men.** So long as the Government fulfils this purpose, the laws given by it are valid and binding but, when it ceases to fulfil it, then the laws would have no validity and the Government can be thrown out of power. In Locke's view, unlimited sovereignty is contrary to natural law.
- Hence, John Locke advocated the principle of -a state of liberty; not of license. Locke advocated a state for the general good of people. He pleaded for a constitutionally limited government.
- Locke, in fact made **life, liberty and property**, his three cardinal rights, which greatly dominated and influenced the Declaration of American Independence, 1776.

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