

# Locke's Social Contract: Is It Legitimate?

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John Locke's take on the social contract theory, which he lays out in his 1689 work, *Two Treatise of Government*, is both widely known and widely critiqued. The age-old social contract theory, which assures that the government in question has been consented to by the people it has jurisdiction over, gives people the right to check their government if it steps out of line, leaving power with the majority. In simple terms, social contract theory asserts that government exists only by the consent of the people in order to protect basic rights and promote the common good of society. While the social contract theory questions the legitimacy of government, in this article I will be questioning whether Locke's version of the social contract theory, which focuses on the concept of consent, is legitimate, itself?

## **Previous Scholarship**

John Locke's theory on the creation of government, using the consent of the people as its foundation, is easy to celebrate at first glance. But, scholars like John T. Bookman challenge Locke's seemingly

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optimistic, people focused theory. In the article, “Locke’s Contract: Would People Consent to It?,” Bookman points out that in America, Locke’s ideas are still golden, while his reputation everywhere else in the world has “declined” (357). While Bookman does not intend for his readers to completely discredit Locke’s ideas, he does want us to “learn from his [Locke’s] mistakes” and remember that consent is still an important, core value within “political obligation” (357).

Bookman’s main point is that people would *not* actually consent to government under the conditions that Locke set. Bookman argues that Locke’s version of consent requires explicit authorization from each and every individual, and also requires the opportunity for each individual to stay in the state of nature. That is where Bookman finds a major flaw in Locke’s theory. After Locke presents the idea of consenting to a civil society to get out of the state of nature, he proceeds to explain what that civil society ought to look like. But, he does not describe what would happen if the majority, or an individual, decides *against* creating a government, as there is no “provision in Locke’s theory for withholding consent to civil society within itself” (359). Bookman goes on to explain that few, if any, individuals have been asked whether or not they would like to be a part of the civil society they are born in. It seems that Locke attempts to explain this paradox through what Bookman identifies as tacit consent. Tacit consent is the idea that if a person actively chooses to reside, participate and enjoy the spoils of a given area, they have given their tacit consent to abide by the government of said area. With tacit consent, the only way to express a desire to *not* consent to that government is to rebel against it, which Bookman points out as an inherent flaw of Locke’s theory.

Bookman’s argument proved to be very persuasive, in my opinion. Upon first reading the title, I did not expect to be persuaded against Locke’s idea of consent, but, as Bookman dissected and put Locke’s theory into practice, it cracked under pressure. Bookman’s

argument reveals that a government under Locke's social contract would be one that relied heavily, if not fully, on the wishes of the majority. Even though Locke did not personally endorse or approve majority rule, through his theory of government, the dangers of majority rule would easily become reality. Complete majority rule during Locke's time may have been sufficient. But, for modern-day, I argue that following every idea of the majority is dangerous, as majorities tend to desire things that benefit them with adverse consequences for minorities. I appreciated that Bookman made a point to remind the reader that Locke's ideas are still fundamentally important, as they opened doors of political debate and helped guide and shape future governments. While I can agree that people would not willingly consent to Locke's contract after seeing it in practice, Locke's emphasis on the issue of consent is important and acts as a catalyst for thinkers to consider alternatives.

Unfortunately, Locke has become regarded as someone whose main theory, the social contract theory, has been disproven and criticized time after time. Jeremy Waldron argues in "Social Contract versus Political Anthropology," that this discreditation of Locke's ideas stems from the fact that he "naively presented the social contract as a historical fact" (4). In response to Locke's presentation of the social contract as a historical fact, philosopher David Hume, mentioned by Waldron, argued against Locke's theory by stating that "[a]lmost all the governments which exist at present [were]...founded originally, either on usurpation or conquest, or both, without any pretense of a fair consent, or voluntary subjection of the people" (4). Waldron further weakens Locke's social contract theory by asserting that the theory's fundamental problem is that it holds no evidence or historical plausibility, reminding the reader that the theory has faced criticism since its conception. Waldon argues that Locke himself, doubting the

legitimacy of the social contract theory, offered another explanation for the development of political society (8).

Waldron suggests that Locke explicitly “presents two stories about the development of political society” in the *Second Treatise* (1). Locke considers political anthropology, “the gradual and indiscernible growth of modern political institutions, modern political problems and modern political consciousness out of the simple tribal group,” as an explanation for how society moved from a state of nature to political development (5). In contrast to Locke’s “first and most familiar” social contract theory, Waldron states that Locke offers “a much more realistic picture of social and political development than that usually attributed to him” through political anthropology (4). Instead of political development being birthed through consensual contract building by the people, Locke’s political anthropology is a consequence of economics. Similar to the state of nature, this alternative story begins with a patriarchal society that consisted of social groups under the authority of a father-figure (5). The story goes, as Waldron explains, that the introduction of money and its widespread use increased “disputes and the temptation to anti-social behavior” which created a need, instead of a want, for a “conciliatory, adjudicative and punitive authority” through a more institutionalized society (5).

It is important to note that while Locke’s theory of contractarianism has many faults, Waldron, makes a point to add that the theory still holds strength for being a justification for resistance towards any government that attempts “events like oppression and subjugation,” by removing legitimacy from absolutist governments (26). With little to no historical evidence to support the idea that governments are formed under consensual measures, his second explanation, political anthropology, is regarded by Waldron as the theory with less fault (10). Waldron continues on to attempt to marry

both the social contract theory and political anthropology, but like other scholars, is unable to defend the social contract theory on its own.

Locke's idea of consent became shaky from my previous analysis of Bookman's article. Through reading Waldron's argument, Locke's social contract theory has continued to break down even further. Considering that Locke offered a polar opposite explanation for how society moves from a state of nature to political development exhibits that Locke's theory was purely normative. Through Waldron's review, it became clear that while Locke's social contract theory is in fact normative instead of historical, Locke certainly attempted to present this theory as a plausible, historical argument even though he was aware of the lack of evidence (13). As Locke's primary theory, he unpacks and explains his social contract theory thoroughly, emphasizing his belief of the theory being reality, while his political anthropology theory is barely explained beyond the basics. Waldron's article further makes the point from the previous article by Bookman that Locke's social contract theory simply cannot be put into practice.

As identified by Bookman and Waldron, Locke's writings and ideas seem to consistently have contradicting, cloudy and complicated natures, which is further emphasized in A. John Simmons' essay "Political Consent" in the book, "The Social Contract Theorists: Critical Essays on Hobbes, Locke, and Rousseau." Simmons claims that there are conflicts concerning Locke's thoughts on rights in a society.

According to Simmons, "Locke suggests that each person gives up two different kinds of rights on entering civil society (85). The first forfeited right is the ability to be one's own judge, instead, this power is given to a common judge. The second forfeited right is "the right of self-government" (85). The contradiction comes into play as Locke specifies that individuals do in fact get to retain "certain natural rights" and then later specifies that "all rights are given up to the community" (86). Simmons attempts to explain this contradiction in two ways: defining

the powers of a legitimate government and identifying the appeal of the consent theory. With the relinquishment of rights upon consenting to a government, that government has the right to use its political power “only for the purpose of advancing the good of the people who created them,” if that condition is not met, power shifts back to the people as government’s power is forfeited and “resistance to them becomes legitimate” (89). Simmons argues that the appeal to Locke’s theory that may overshadow the inconsistencies is that no person has any obligation to consent to a state, even if they are born there, which is a “fundamental [tenet] of Lockean consent theory” (90). This point also further supports Bookman’s analysis of Locke’s tacit consent.

Similarly to Waldron, Simmons also makes a point to give credit to Locke for creating a theory that has no legitimacy or moral standing if it acts outside of the approval of those who consent to it, eliminating any justification for social oppression (89).

Simmons, in contrast to Bookman and Waldron, attempts to somewhat argue in favor of Locke’s theory of consent, highlighting its positive qualities, yet was still unable to ignore some of the major faults of the Enlightenment Era idea. Considering the question of the legitimacy of Locke’s social contract theory, I argue that all three scholarly works chip away at its legitimacy, but the theory still stands. I think that if Locke strictly presented this theory as normative, instead of attempting to defend its real world plausibility, the theory would not have acquired so much critique. As a normative argument, Locke’s social contract theory is an excellent, thought out story of “what if.” Although Locke’s attempt to defend the theory’s historical and sociological plausibility is weak, it still holds some legitimacy as a normative argument.

### *Second Treatise on Government*

The term consent appears in Locke's *Second Treatise of Government* over 80 times, proving its importance in Locke's social contract theory. Locke outlines and defends his theory on how a society transforms from a state of nature into a political society in Chapter 8, "The beginning of political societies." The foundation of Locke's social contract theory is the idea of consent. Without explicit consent by each individual, government has no jurisdiction (40). Locke presented his theory as a historical record of how society united "into one political society" (32). Before thoroughly reading the *Second Treatise on Government*, I assumed that Locke wrote his ideas in a normative sense, but through his extensive efforts to defend his theory against anticipated criticism, it is clear that Locke truly believed the social contract theory occurred in history.

In contrast to many modern scholars, I do believe that Locke's social contract theory is legitimate. Even though Locke is often criticized for not having ample evidence to back up his theory, I believe that he successfully explains why and how society turned political. Many modern-day scholars, including Bookman and Waldron, seem to either ignore or downplay Locke's attempt to defend his theory. Locke claims that we do not have tangible evidence of men consenting to a political society simply because "in all parts of the world there was government before there were records" (33). I agree with Locke that it would be ignorant to assume that *every* important decision since the beginning of time can be traced back to a document or historical record, as it would also be ignorant to "conclude that the soldiers of Salmanasser or Xerxes were never children because we hear little of them before the time when they were men and became soldiers" (33). While Locke claims that historical record is not necessary to verify his theory, he still offers the reader historical examples through governments in Rome and Venice, where a

“number of men, free and independent of one another and with no natural superiority or subjection, came together...by consent they were all equal until by that same consent they set rulers over themselves. So their political societies all began from a voluntary union, and the mutual agreement of men freely acting in the choice of their governors and forms of government” (33).

Locke also claims that the various commonwealth governments throughout history further prove that men have long exercised their right to “separate themselves from their families and whatever kind of government their families had set up...to go and make distinct commonwealths and other governments” (39). Locke makes a point in chapter 8 of the *Second Treatise on Government* that if the beginning of government was created through a system like monarchy or paternal sovereignty that there “...couldn’t possibly have been so many little kingdoms, there could only have been one universal monarchy” that ruled over everyone. If there was some way for political theorists to travel back in time to identify exactly how man began government, in order to disprove Locke’s ideas, only then would it be illegitimate in my opinion. Unlike other theories, this one cannot be tested. Considering Locke’s in-depth application of his theory into real life situations, I do believe it is legitimate.

In response to the critique that there are no provisions for people to decide to *not* consent to the contract of the majority, Locke makes it very clear that if a man does not want to be under the government he was born under, or any government at all, he has the right to abstain from that government, because when a man “becomes an adult he is altogether as free as the father” to decide his own fate (37). But, once a man does provide his explicit consent to a government, he is under an



obligation to abide by the decisions of the majority as a trade-off for no longer living within the state of nature (32).

Locke is aware that once society decides upon a governmental system through the consent of the majority that obtaining consent from every single individual from that point on is impossible as it “it would be absurd for them to come into society on such terms, that is, on the basis that the society as a whole does nothing that isn’t assented to by each and every member of it” (32). Instead, Locke concludes that individuals are consenting to “unite into one political society” where the community gives up its power for the sake of the majority (32). This idea, among others in the *Second Treatise on Government*, reminds me of the United States government, being influenced greatly by Locke. Through reading and analyzing the *Second Treatise on Government* on my own, unrestrained by previous scholarship, it is difficult to understand why Locke’s social contract theory has received so much negative critique. In simple terms, Locke’s social contract theory says: government was created through the consent of the people to be ruled by the majority, “(unless they explicitly agree on some number greater than the majority),” and that every man once they are of age has the right to either continue under the government they were born in or to leave that government (32). Being so similar to the practice of representative democracy and freedom found in the United States, there is no wonder why many of Locke’s critics are found outside of the U.S. I argue that the use of Locke’s ideas in the Constitution is further proof of the legitimacy of the social contract theory.

After reading the many critiques of the *Second Treatise on Government*, I doubted the likelihood of the social contract theory being an accurate depiction of the beginning of government. But, now through analyzing the work on my own, I feel as though critics have jumped onto a popular bandwagon of bashing and overly nit-picking Locke’s ideas. Locke makes a valid point that the people of his time had

been conditioned to believe that monarchical government was the natural beginning, considering the patriarchal society, which helps explain why a theory of a majority government created by the people can be a hard truth to accept (35). Locke points out that this patriarchal conditioning explains why people continue to let themselves be ruled by absolutism, “it is no wonder that they gave themselves a form of government that was not only obvious and simple but also best suited to their present state and condition, in which they needed defence against foreign invasions and injuries more than they needed a multiplicity of laws” (35). Locke follows the course of history and explains that this blatant trust in government was only a part of the “golden age, before vain ambition and wicked greed had corrupted men’s minds into misunderstanding the nature of true power and honour” (36).

### **Conclusion**

Locke not only crafted a unique take on the social contract theory, focusing on consent, but he answered every question or doubt imaginable to support it, which further proves its legitimacy. Locke put his own theory up to every theoretical test and it passed. In response to the overwhelming critics of Locke’s social contract theory, I believe that they do a great job of either twisting Locke’s words or completely ignoring Locke’s own explanations to their concerns. Through my analysis I have found that Locke’s theory is not only a solid normative argument but a solid empirical argument as well. While Locke’s social contract theory may no longer translate well around the world, especially places who reject democracy, I think that it is a practical explanation of how government began and how it should remain to serve the people it has jurisdiction over.

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