

Classical Political Thought Lectures

HT06

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7: Contract, consent and trust

1. Robert Filmer: *Patriarcha: the natural power of kings defended against the unnatural liberty of the people*

- opposes the opinion that 'Mankind is naturally endowed and born with freedom from all subjection, and at liberty to choose what form of government it please, and that the power which any one man hath over others was at the first by human right bestowed according to the discretion of the multitude'. [ch1.1]
- men should not meddle in mysteries of state: 'The causes and ends of the greatest politic actions and motions of state dazzle the eyes and exceed the capacities of all men, save only those that are hourly versed in managing public affairs'.
- [1.10]: 'In all kingdoms or commonwealths in the world, whether the prince be the supreme father of the people or but the true heir of such a father, or whether he comes to the crown by usurpation, or by election of the nobles or of the people, or by any other way whatsoever, or whether some few or a multitude govern the commonwealth, yet still the authority that is in any one, or in many, or in all of these, is the only right and natural authority of a supreme father. There is, and always shall be continued to the end of the world, a natural right of a supreme father over every multitude, although by the secret will of God, many at first do most unjustly obtain the exercise of it.'
- [3.1] 'The father of a family governs by no other law than by his own will, not by the laws or wills of his sons or servants'

2. Social contract theory:

- presupposes 'society'
- a *social* contract to construct *political* authority

3. John Locke *Two Treatises of Government*

Treatise 1

- Fathers do not have the power of life and death - hence the family is not the model for political sovereignty

Treatise 2

- we are all the property of God, so there can't be natural subordination among us; each obliged to preserve himself, not quit his station wilfully; and ought to preserve the rest of mankind [ch 1.6]
- 'Men being ... by Nature, all free, equal and independent, no one can be put out of this Estate, and subjected to the political power of another, without his own *Consent*. ... Men are naturally free ... *Governments* of the World ... were made by the *Consent of the People* [ch VIII: 95, 104]
- Ch III, 21 - to avoid the state of war we put ourselves into Society - by which he means political society

- It could well be that families by degrees turned into commonwealths; or that just several families decided to organise together ... That doesn't matter too much – the point is that 'which ever of these it was, that at first put the rule into the hands of a single person, certain it is that no body was ever intrusted with it but for the publick Good and Safety ... ' [ch VIII: 110]
- The majoritarian principle: [ch VIII 95-99]
- Tacit consent [VIII 119]: ... every Man, that hath any Possession, or Enjoyment, or any part of the Dominions of any Government, doth thereby give his *tacit Consent*, as is as far forth obliged to Obedience to the Laws of that Government, during such Enjoyment, as any one under it; whether this his Possession be of Land, to him and his Heirs for ever, or a Lodging only for a week; or whether it be barely travelling freely on the Highway; and in Effect, it reaches as the very being of any one within the Territories of that Government. [119]
- 'The labour that was mine (including that of beasts and servants) removing them out of that common state they were in, hath fixed by Property in them.' [Ch V, 28]
- Ch VII – conjugal society is voluntary; 'but where rule should be... it naturally falls to the Man's share, as the abler and the stronger...' [82]
- Where we have set up institutions of law, punishment by death – 'there, and there only is Political Society, where every one of the Members hath quitted this natural power, resigned it up into the hands of the Community in all cases that exclude him not from appealing for protection to the law established by it'. [87] 'wherever there are any number of Men, however associated, that have no such decisive power to appeal to, there they are still in the state of nature' [89]
- Ch XIX: Governments are dissolved when Legislative is altered: Legislative is 'altered' when king sets up arbitrary will in place of laws; hinders assembly; meddles with elections; delivers the nation into subjection to a foreign power;
- Government exists to protect lives, liberties, properties – founded in natl law; but positive law needed – Men unite and have standing rules ...

References

Lessnoff, M. (Ed.). (1990). *Social Contract Theory*. Oxford: Basil Blackwell.