JOHN LOCKE IN CONTEXT
THE DOCTRINE AND HISTORICAL EMERGENCE OF THE LIBERAL-SOCIAL CONTRACT
• John Locke (1632-1704) is called “the father of liberalism” – the set of ideas that became the creed of the American founding in the 18th century. Liberalism later emerged from the ideological conflicts of the 20th century as the most globally influential framework of political thought. Locke’s canonical significance in the history of political thought remains central.

• The aim of the lecture is not apologetic; it will not aim to vindicate Lockean liberalism and contractarianism against its challengers. Its more modest goal is to clarify the key ideas of Lockean liberalism and explain their emergence with reference to European intellectual history. We will first briefly establish the significance and centrality of liberalism as the central contemporary Western ideology in order to account for Locke’s continuing relevance.

• I. Our Era: The Age of Liberalism
• II. What is Lockean Liberalism?
• III. Individual Rights (Dominium/ius) and the Social Contract (Pactum Translationis) In Early Modernity (The Doctrine of the School of Salamanca et al.)
• IV. The Filmer-Locke Debate – Filmer’s Patriarchalist Critique of Jesuit Constitutionalism and Locke’s Response (The Two Treatises)
## OUR ERA - THE LIBERAL WORLD ORDER– 1989-?

### World War I (1914-1918)

Fall of the Traditional European order – main throne and altar monarchies of Continental Europe collapse (Hapsburgs of Austria-Hungary, Hohenzollerns of Germany, Romanovs of Russia). The demise of the old regimes is followed by a long era of ideological conflicts between Liberalism, Fascism, and Marxism.

### World War II (1939-1945)

WWII Leads to the Defeat of Fascist (Italy) and Nazi (Germany) Alternatives to Liberalism and Marxism. America and the Soviet Union emerge from the war as two superpowers representing liberalism and Marxism respectively.

### The Cold War (1945-1989)

This in turn followed by the Cold War between Liberal and Marxist blocs. The Fall of the Berlin Wall (1989) followed by the disintegration of the Soviet Union signifies liberalism’s triumph over Communism. Liberalism emerges from an era of bloody conflict as the last ideology still standing.

![Brandenburg Gate, 1989](https://commons.wikimedia.org/w/index.php?curid=3692038)

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### American Unipolarity

America emerges from the wars of ideology as the sole superpower and liberal hegemon whose economic and military power underwrites the liberal global order. America makes promotion of liberal democracy a guiding foreign policy ideal.

### The Globalization Paradigm


### Institutionalization

The European Union (1991) and the World Trade Organization (1995) are established on liberal economic and political principles.
LATE 20TH CENTURY LIBERAL TRIUMPHALISM

• “The triumph of the West, of the Western idea, is evident first of all in the total exhaustion of viable systematic alternatives to Western liberalism...What we may be witnessing is not just the end of the Cold War, or the passing of a particular period of postwar history, but the end of history as such: that is, the end point of mankind's ideological evolution and the universalization of Western liberal democracy as the final form of human government.” –Francis Fukuyama. “The End of History?” (National Interest, 1989)
21st Century American Academic Critiques of Liberalism—From Left to Right

- Academic anti-liberalism. Liberalism is at the core of contemporary debates. A variety of movements increasingly challenge elements of the erstwhile American Liberal Consensus from both the Left (e.g. Critical Race Theory) and the Right (e.g. Catholic Integralism/Post-Liberalism).


- “Progressive liberalism has its own cruel sacraments—especially the shaming and, where possible, legal punishment of the intolerant or illiberal—and its own liturgy, the Festival of Reason, the ever-repeated overcoming of the darkness of reaction... Liberalism of the purportedly tolerant sort is to militant progressivism as the chrysalis is to the hideous insect.”—Adrian Vermeule. “A Christian Strategy”(2017)
GLOBAL LIBERALISM IN QUESTION: GEOPOLITICAL CHALLENGES TO LIBERALISM IN TIME OF TRANSITION

- The Rise of China – the looming end of unipolarity – China forcibly halts movements toward political liberalism in the late 80s and has adopted a combination of political authoritarianism and a neo-mercantilist-market economy. China is a non-Liberal state whose economic and military power are becoming competitive with the USA.

- The resurgence of Russia – Vladimir Putin’s Russia also challenges American hegemony and the liberal world order. Russian traditionalists like Alexander Dugin promote “Eurasianism” as an alternative denouncing the claims of Western liberalism to universal hegemony as a new form of imperialism, and urging a multi-polar order to challenge the American liberal hegemon.

- Neo-Nationalism in the West – Neo-Nationalists attack the globalization paradigm as an economic and cultural threat via outsourcing and mass migration. The movement of Donald Trump in the USA, Brexit in the UK, and continental Neo-nationalists re-emphasize sovereignty, economic protectionism, and national borders. Victor Orban prime minister of Hungary has gone farthest in critiquing liberalism itself proclaiming “We have replaced a shipwrecked liberal democracy…” (2018, cf. DW). Liberalism is a world view he associates with secularism and cosmopolitanism and the individual above community. Orban argues instead for traditional national communities based on religious and ethnic identity – an idea that has gained influence in Central Europe.

- Liberalism is central to all the political debates of our time. While Liberalism is under serious challenge from ideas and forces both internal and external to the West, it remains the most globally influential Western political ideology of our time. Hence, the importance of understanding its central ideas and historical foundations beginning with its founder John Locke.
II. WHAT IS LOCKEAN LIBERALISM?

• We can understand it as a specific set of answers to fundamental questions of political philosophy.

• I. What is the origin of politics?

• II. What is the basis of political obligation? Why should we obey?

• III. What is the end or purpose of politics?

  • Upper right - jlorenz1, CC BY-SA 3.0 <http://creativecommons.org/licenses/by-sa/3.0/> via Wikimedia Commons
COMPARISON WITH CLASSICAL POLITICAL PHILOSOPHY: ARISTOTLE ON THE BEGINNING AND END OF POLITICS

• Political order as natural
• “From these things therefore it is clear that the city-state is a natural growth, and that man is by nature a political animal [ἀνθρωπος φύσει πολιτικὸν ζῶν]and a man that is by nature and not merely by fortune citiless is either low in the scale of humanity or above it...And why man is a political animal in a greater measure than any bee or any gregarious animal is clear. For nature, as we declare, does nothing without purpose; and man alone of the animals possesses speech.[λόγον δὲ μόνον ἀνθρωπος ἔχει τῶν ζῴων]”  Aristotle Politics Book I. 1253a

• Political Obligation is therefore Based on Natural Hierarchy
• “Authority and subordination are conditions not only inevitable but also expedient; in some cases things are marked out from the moment of birth to rule or to be ruled. And there are many varieties both of rulers and of subjects— Book I. 1254a

• The End of Politics
• “…the object of a state is the good life, these things are means to that end. And a state is the partnership of clans and villages in a full and independent life, [1281a] [1] which in our view constitutes a happy and noble life; the political fellowship must therefore be deemed to exist for the sake of noble actions, not merely for living in common— Book III. 1280a
• “The good life then is the chief aim of society, both collectively for all its members and individually...” 1278b.
• (Rackham trans).
JOHN LOCKE (1632-1704) ON THE BEGINNING AND END OF POLITICS

• I. The State of Nature as Pre-Political Condition of Freedom and Equality (No natural or divine right to rule) – hence politics is NOT the natural state
  • “TO understand political power right, and derive it from its original, we must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man. A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another; there being nothing more evident, than that creatures of the same species and rank…” John Locke. Second Treatise. II.4

• II. Political Obligation Based on Consent and Contract
  • “MEN being, as has been said, 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. The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any, that are not of it.” Second Treatise. VIII.95

• III. The End of Government as the Protection of Individual Life and Property
  • “POLITICAL POWER, then, I take to be a RIGHT of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property.” I.3
  • …The supreme power cannot take from any man any part of his property without his own consent: for the preservation of property being the end of government, and that for which men enter into society. Second Treatise. XI. 138
Locke’s concept of “property” is broad including a person’s own life and liberty. The right to preserve that property is at the core of his political theory.

“Man being born, as has been proved, with a title to perfect freedom, and an uncontrouled enjoyment of all the rights and privileges of the law of nature… to preserve his property, that is, his life, liberty and estate, against the injuries and attempts of other men…” Second Treatise. VII. “Of Political or Civil Society” 87

Locke grounds the right to property on both human reason and the Biblical grant of human dominion over the earth. From Chapter V “Of Property” of the Second Treatise.

“Sect. 25. Whether we consider natural reason, which tells us, that men, being once born, have a right to their preservation, and consequently to meat and drink, and such other things as nature affords for their subsistence: or revelation, which gives us an account of those grants God made of the world to Adam, and to Noah…"

Labor theory of property - Everyone has a natural “property” in their own person as well as the fruit of their own labor:

“Sect. 27. Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his.”

The origin of private right in labor - 28 “…labour put a distinction between them and common: that added something to them more than nature; the common mother of all, had done; and so they became his private right.”

Property rights limited by the necessity of leaving sufficient goods in common:

V. 27: “for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.”
THE LIBERAL REVOLUTIONS OF THE LATE 18\textsuperscript{TH} CENTURY

- American Revolution (1775-1783)
- French Revolution (1789-1799)
LOCKEAN LIBERALISM AS THE AMERICAN CREED – *THE DECLARATION OF INDEPENDENCE* (1776)

- The Founding American Ideology is the Most Explicitly Lockean Liberal
- Primacy of individual rights
- “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”
- Protection of Individual Rights as the Proper End of Government
- “That to secure these rights, Governments are instituted among Men…”
- Consent and Social Contract as the Origin of Political Obligation
- “deriving their just powers from the consent of the governed…”
- The Right of Revolution where the State violates the Social Contract
- “That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.”
- Lockean liberalism was adopted at the outset as the American creed. The influence of Lockean liberalism as a world-historical force is therefore bound up with the historical influence of the United States. Given Kenneth Waltz’s maxim that “soft power follows hard power” the global fortunes of liberalism tended to ascend in the together with American power culminating in the creation of the liberal global order in the late 20th century.
III. INDIVIDUAL RIGHTS (DOMINIUM/IUS) AND THE SOCIAL CONTRACT (PACTUM TRANSLATIONIS) IN EARLY MODERNITY

Locke’s *Two Treatises* must be properly historically *contextualized* within the broader 16th and 17th century debate on the nature, end, and extent of political authority and in particular the resistance of constitutionalists to new notions of political absolutism. This led them to mobilize the social contract theory.
“Having settled upon a method, Whig historians then created a convenient definition of progress that affirmed the class from which they emerged. Progress represented the Protestant European principles of individualism and liberty (often defined as “doing as one likes,” in Matthew Arnold’s formulation) and, by extension the Whiggery and liberalism which emerged to defend it. Enemies of progress were Catholics and Tories who “perpetually formed obstruction” and were, to use a common Whig/liberal phrase “on the wrong side of history.” –

Michael J. Connolly “The Tory Interpretation of History” -
https://theimaginativeconservative.org/2021/10/tory-interpretation-history-michael-j-connolly.html

Lord Macaulay - Left

We will tell a more complex historical story starting in an unlikely place often cast as the “villain” in the Whig historical narrative.
Spain in the 16th century becomes a global power following the European discovery of America by Columbus sailing under the Spanish flag in 1492. The Spanish Empire conquers and replaces the indigenous empires and civilizations of the New World such as the Aztecs and Incas.

Key to the development of constitutionalism (and ultimately liberalism) is the idea of universal natural rights. The issue arises in Spain dramatically in the case of its New World Empire where they debate the question of whether the Native Americans can be justly reduced to servitude and dispossessed. Some scholars (notably Juan Gines de Sepulveda (1494-1573) turn to argue that the natives of America, due to practices like human sacrifice, manifest themselves as natural slaves in the sense discussed by Aristotle. He is opposed by the famous Dominican Bartolome de Las Casas who emerges as a passionate defender of the human dignity of indigenous Americans. This culminates in a great debate on their status in Valladolid (1550-1551).

For our present purposes the most important developments concern the idea of subjective natural rights discussed at the University of Salamanca, beginning with the Dominican Francisco de Vitoria (1483-1546)

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- Below Right – Juan Gines de Sepulveda –

- Below Left – Bartolome de Las Casas

THE SCHOOL OF SALAMANCA - FRANCISCO DE VITORIA´S DOCTRINE OF INDIVIDUAL RIGHTS (DOMINIOUM/IUS)

- From Vitoria´s Commentary on the St. Thomas Aquinas, Summa Theologica (Secunda Secundae, 57-79)
- Definition of right (ius) and dominium as a moral power or faculty over something
- DICIT ERGO QUOD JUS EST FACULTAS VEL POTESTAS CONVENIENS ALICUI SECUNDUM LEGES (62, cited Brett 128)
- ...D ominium es facultas ad utendam re pro arbitrio suo”(ibid.)
- Dominium and ius are the same (in one sense)
- Et sic eodem modo diffinitur jus et dominium (cited Tellcamp, 44)
- Dominium is grounded in the capacity for rational self-mastery of one´s own acts
- “Et ita Sancta Thomas...dicit quod sola creatura rationalis habet dominium sui actus...” (62 - Cited Brett, 129)
- Note – contemporary scholars have traced the emergence of natural rights doctrines further back even into the Middle Ages. Cf. Anabel Brett. Liberty, Right, and Nature: Individual Rights in Later Scholastic Thought (2003) and Brian Tierney. The Idea of Natural Rights.(2001) . See also Jörg Alejandro Tellkamp “Ius est idem quod dominium: Conrado Summenhart, Francisco Vitoria, y la Conquista de America”
VITORIA’S DOCTRINE APPLIED TO THE CASE OF SPAIN’S NEW WORLD SUBJECTS

• Vitoria argues there are two kinds of natural right (*dominium*) – over one’s own body or person (*dominium sui*) grounded in the human power over one’s own actions (*dominium sui actus*) there is also *dominium* over nature and over things (*dominium rerum*) grounded in natural law as well as the Biblical grant of human dominion over the earth. This is distinct from positive rights to property under civil law (*dominium civile*). Hence the ground for the distinction between natural rights and civil rights.

• CF. Relectio De Indis Recentis Inventis Prior. (c. 1539) V. I. 4, I. 6
Vitoria argues that the New World natives have an inherent right (*dominium*) over themselves and their property and they cannot be simply reduced to slavery or dispossessed by the Spaniards.

• *Dominium fundatur in imagine Dei; sed homo est imago Dei per naturam, scilicet per potentias rationales; ergo non perditur per peccatum mortale.* – Francisco Vitoria.

• Relectio De Indis Recentis Inventis Prior. V. I. 2 (c. 1539)

• Note that Vitoria’s philosophical anthropology of rights is a synthesis of classical rationalism (*potentias rationales*) and Biblical conception (*imago Dei*).

• Hence the New World natives cannot under divine and natural law be legitimately deprived of their power over themselves and their property


• Sepulveda Bottom left – Las Casas bottom right
THE RISE OF ABSOLUTISM IN EARLY MODERN EUROPE

- Medieval Political Order – tripod structure - 1) Europe as a single *Res Publica Christiana* under the spiritual rule of the Pope, and the temporal rule of the Holy Roman Emperor. 2) Feudalism 3) Relatively weak kings.

- Early Modern Monarchies - Centralize power – subordinate the feudal lords and the Church (e.g. Anglicanism, Gallicanism, etc...). Professional militaries replace feudal system; centralized civil administration.


Bottom right
JEAN BODIN´S DEFENSE OF ABSOLUTISM – THE DOCTRINE OF SOVEREIGNTY

- Jean Bodin (1530-1596)
- “SOVEREIGNTY is that absolute and perpetual power vested in a commonwealth which in Latin is termed majestas…”
- Draws on Roman law principles (Ulpian)
- Quod Principi Placuit Legis Habet Vigorem
- “Law is nothing else than the command of the sovereign in the exercise of his sovereign power.”
- “From all this it is clear that the principal mark of sovereign majesty and absolute power is the right to impose laws generally on all subjects regardless of their consent…”
- Princeps Legibus Solutus est
- “it is the distinguishing mark of the sovereign that he cannot in any way be subject to the commands of another, for it is he who makes law for the subject, abrogates law already made, and amends obsolete law.”
- If the prince is not bound by the laws of his predecessors, still less can he be bound by his own laws. One may be subject to laws made by another, but it is impossible to bind oneself in any matter which is the subject of one’s own free exercise of will. (Bodin. Book I. Chapter VIII. Six Books of the Commonwealth).
- Basil Blackwell translation.
Patriarchalism and Divine Right

- Problem – how do we determine who has the right to exercise sovereign rule?

- “By the Law of Nature the King becomes a naturall Father to all his Lieges at his Coronation:” – King James I, The True Law of Free Monarchies (1598)

- Hadrian Saravia (1532-1612) in De Imperandi Authoritate (1593) sets forth the patriarchalist theory of divine right

- Premise – child is born under the natural authority of the father (homines natura non nascuntur liberi/naturae lege filiusfamiliae in patris est potestate)

- Royal and paternal authority are essentially identical for Adam was the father of the human race, and ruler of his children with authority given to him by God.

- The King’s authority derives by direct inheritance or divinely willed transition, going back to Adam.

- Right – King James I. The True Law of Free Monarchies (1598)
THE CONSTITUTIONALIST RESPONSE – THE SOCIAL CONTRACT (PACTUM TRANSLATIONIS)

• Francisco Suarez (1548-1617)
• St. Robert Bellarmine (1542-1621)

• Salamanca – Left.
  • By Victoria Rachitzky - originally posted to Flickr as Salamanca, CC BY 2.0, https://commons.wikimedia.org/w/index.php?curid=109365352
FRANCISCO SUAREZ – TRACTATUS DE LEGIBUS (1612) CONSTITUTIONALISM AND THE PACTUM TRANSLATIONIS

- Key Critiques of Patriarchalism and Divine Right in Suarez’s Doctrine
- I. Political dominion (regia potestas) and Paternal Dominion (pater potestas) are distinct – Adam has only paternal dominion over his own children.
  
  * Habuisse Adamum potestatem oeconomam, non politicam. Tractatus de Legibus I. III

- II. Society is Natural, the form of political authority is not. Hence human beings are born originally in a condition of freedom and equality.
  
  * Ex natura rei omnes homines nascuntur liberi, et ideo nullus habet iurisdictionem politicam in aliam, sicut nec dominium.

- III. In the Pre-Political Condition (“State of Nature”) the original locus of sovereignty is the whole community.
  
  * potestas ex natura rei est immediate in communitate IV. 2

- IV. Authority to rule must therefore be transferred or delegated to the ruler by the consent of the community. Hence there must be a pactum translationis by which the community freely agrees to be subject to the rule of a sovereign.
  
  * ergo ut iuste incipiatur esse in aliqua persona tamquam in supreme principe, necesse est ut consensus communitatis illi tribuatur. * Suarez, Tractatus, Book I, Caput 4:2,
Sovereignty vested in the community

‘Secular, or civil power,’ saith he ‘is instituted by men. It is in the people unless they bestow it on a prince. The power is immediately in the whole multitude as in the subject of it. For this power is by the divine law, but the divine law hath given it to no particular man.’

No divine or natural right of one to rule others

If the positive law be taken away, there is no reason left why amongst the multitude (who are equal) one rather than another should bear rule over the rest.

Political obligation is therefore based on consent and delegated powers – the pactum subjecitionis)

“Power is given by the multitude to one man, or to more by the same law of nature, for the commonwealth of itself cannot exercise his power, therefore it is bound to bestow it upon some one man, or few. It depends upon the consent of the multitude to ordain for themselves a king, or consul, or other magistrate; and if there be lawful cause, the kingdom into an aristocracy or democracy.” De Laicis III.4
SUMMARY – KEY CONCEPTS OF THE SALAMANCAN PHILOSOPHICAL ANTHROPOLOGY AND POLITICAL DOCTRINE

- The Concept of Dominium – a specifically human capacity of free self-mastery over one’s person and possession which gives one a moral claim to them – i.e. right (ius)
- This concept ultimately has a twin basis first in classical Greco-Roman rationalism – the idea of man as a rational animal (ζῷον λόγον ἔχον); and second in the Biblical idea of man as the “image of God” with a transcendent dignity and dominion over nature.
- The Society-State Distinction. The Salamancans remain within the Aristotelian framework in affirming that human beings are naturally social. However they deny that any particular political system of rulership is natural. Legitimate rulership in accordance with human dignity requires the free and rational assent of the subject.
- The State of Nature – the necessity of consent among free and equal subjects implicates the existence of a pre-political condition subject to natural law but not civil law.
- The Social Contract (Pactum) – the consensual creation of a political society requires a social contract whereby power is delegated by the consent of the community.
IV. THE FILMER-LOCKE DEBATE

- Filmer’s *Patriarcha* (published posthumously in 1680) is written as a response to the Jesuit constitutionalism of Suarez and Bellarmine defending the tenets of patriarchalism and divine right monarchy in the context of England’s conflicts over royal or parliamentary supremacy.

- Locke’s *Two Treatises of Government* (1689) considered an inaugural text of classical liberalism is a response to the theses of Filmer.
THE ENGLISH CIVIL WAR
(1642-1651)

• Civil War breaks out in England between the royalists Cavaliers and the Parliamentarian Roundheads.

• Two main issues are

  1) the question of Parliamentary Supremacy/Royal Supremacy – e.g. can the King impose taxes without consent of parliament?

  2) The question of religion – the Parlimentarians leds by Cromwell lean toward Puritanism, the royalists toward high church Anglicanism.

• The Civil War culminates in the execution of King Charles I in 1649, parliamentary rule and eventually a kind of Puritan theocratic dictatorship (“Protectorate”) under Oliver Cromwell.
Sir. Robert Filmer, a zealous royalist, writes *Patriarcha* in the lead up to the English out of concern that the contractarian Jesuit theories of Bellarmine and Suarez have the effect of undermining absolute royal authority and encouraging sedition. It is one of a number of treatises defending royal absolutism – Hobbes *Leviathan* has a similar end, though it argues on a completely different basis.
Critique of the doctrine of Natural liberty, the sovereignty of the community, and the pactum subjectionis

“Mankind is naturally endowed and born with Freedom from all Subjection, and at liberty to chose what Form of Government it please: And that the Power which any one Man hath over others, was at first bestowed according to the discretion of the Multitude.

(1)This Tenent was first hatched in the Schools, and hath been fostered by all succeeding Papists for good Divinity."

“...the desire of Liberty was the first Cause of the Fall of Adam.”

“upon the ground of this Doctrine both Jesuites, and some other zealous favourers of the Geneva Discipline, have built a perilous Conclusion, which is, That the People or Multitude have Power to punish, or deprive the Prince”
CRITIQUES OF SUAREZ AND BELLARMINE

Critique of Suarez's distinction between Royal and Paternal authority

- Suarez the Jesuite riseth up against the Royal Authority of Adam, in defence of the Freedom and Liberty of the people; and thus argues. By Right of Creation (saith he) Adam had only Economical power, but not Political.

- Suarez proceeds, and tells us, That in Process of Time, Adam had compleat Economical Power. I know not what this compleat Economical Power is, nor how, or what it doth really and essentially differ from Political; if Adam did, or might exercise the same Jurisdiction, which a King doth now in a Commonwealth, then the Kinds of Power are not distinct; and though they may receive an Accidental Difference by the Amplitude, or Extent of the Bounds of the One beyond the Other; yet since the like Difference is also found in Political Estates, it follows that Economical and Political Power, differ no otherwise, than a Little Commonwealth differs from a Great One.

Critique of Jesuit assertions of consensual social contract

- But let us Condescend a while to the Opinion of Bellarmine and Suarez, and all those, who place Supreme power in the Whole People; and ask them if their meaning be, That there is but one and the same power in all the people of the World; so that no power can be granted, except all the Men upon the Earth meet and agree, to choose a Governor.

- An Answer is here given by Suarez That it is scarce possible, nor yet expedient, (§42) that All Men in the World should be gathered together into One Community.

- There is no Tyranny to be compared to the Tyranny of a Multitude.
MAIN TENETS OF *PATRIARCHA*

- Identification of Royal and Paternal Dominion
- "I see not then how the Children of Adam, or of any man else can be free from subjection to their Parents: And this subjection of Children being the Fountain of all Regal Authority, by the Ordination of God himself; It follows, that Civil Power, not only in general is by Divine Institution, but even the Assignment of it" Adam's Paternal and Royal Dominion was absolute – and this authority is hereditary hence at no time were people not subjects of rulers by divine and natural right.
- "This Lordship which Adam by Command had over the whole World, and by Right descending from him the Patriarchs did enjoy, was as large and ample as the Absolutest Dominion of any Monarch which hath been since the Creation"
- Fathers and Kings bound only by their own will
- "The Father of a Family governs by no other Law than by his own Will; not by the Laws and Wills of his Sons or Servants.... Proof unanswerable, for the superiority of Princes above Laws, is this, That there were Kings long before there were any Laws"
ENGLISH RESTORATION MONARCHY (1661-1688)

• The English Monarchy is restored in 1661 under King Charles II.

• However, neither the question of royal vs. parliamentary supremacy nor of religion have been definitively resolved.

• Anti-Catholicism becomes a major factor with the prospect of Charles’s Catholic brother James ascending the throne. This leads to the Exclusion Controversy (1679-1681) where Parliament tries unsuccessfully to exclude Catholics from the throne. The Earl of Shaftesbury, John Locke’s patron, leads the effort to pass Exclusion bills.

• From the Exclusion Crisis England divides between Whigs who favor parliamentary supremacy and Tories who favor royal supremacy (and after the 1688 revolution often favor the Jacobite cause).
In 1685 King James II ascends the throne leading to extreme tension with Protestant Parliament.

The birth of his Catholic son, James in 1688 creates the prospect of the permanent return to Catholic monarchy in England and sets the stage for revolution.
THE WHIG REVOLUTION OF 1688

• With Parliamentary support Mary the Protestant daughter of James and her husband King William of Holland overthrow King James II, the last Catholic king of England. The Revolution settles the two outstanding issues of English politics by definitively establishing parliamentary supremacy and settling the question of religion in favor of Protestantism.

• Nonetheless, Jacobite and Tory forces remain strong and the debates continue. The publication of Filmer’s *Patriarcha* in 1680 provided arguments in favor of royal supremacy which are answered by various Whig tracts including those Algernon Sidney, James Tyrell, and most famously Locke’s *Two Treatises of Governments*. 
LOCKE’S TWO TREATISES - THE RESPONSE TO FILMER

- Locke’s *Two Treatises* undertakes the refutation of Sir. Robert Filmer’s patriarchalist positon.
- The First Treatise is focused on Biblical counter-arguments to patriarchalism endeavoring to show that paternal and regal authority are distinct.
- The Second Treatise puts forth an alternative positive contractarian theory of government and is considered a canonical text of the classical liberal theory.
Filmer had been critiquing the contractarian position of two Jesuits Francisco Suarez and Robert Bellarmine. Since however Locke wants to defend the Whig–Protestant position against the Catholic king James the two Jesuits are not suitable to his purpose.

Instead, Locke turns to the authority of the pre-eminent Anglican theologian of the Elizabethan era, Richard Hooker, whose contractarian positions on governance are substantially the same as those of Suarez and Bellarmine.
LOCKE – FILMER’S REJECTION OF NATURAL LIBERTY IS THE BASIS OF HIS ABSOLUTISM

• “Sir Robert Filmer’s great position is, that “men are not naturally free.” This is the foundation on which his absolute monarchy stands...But if this foundation fails, all his fabric falls with it, and governments must be left again to the old way of being made by contrivance and the consent of men ...” First Treatise. II.

• Not that Locke presents the consensualist view as “the old way” and Filmer as the innovator.

• https://www.yorku.ca/comninel/courses/3025pdf/Locke.pdf
• “But these two powers, political and paternal, are so perfectly distinct and separate, and built upon so different foundations, and given to so different ends, that every subject that is a father has as much a paternal power over his children as the prince has over his.” Second Treatise. VI. “Of Paternal Power” 71

• Citation of Hooker:

VI. 60 “Children, who are not as yet come unto those years whereat they may have; and innocents which are excluded by a natural defect from ever having; thirdly, madmen, which for the present cannot possibly have the use of right reason to guide them|selves, have for their guide, the reason that guideth other men which are tutors over them, to seek and procure their good for them, says Hooker, Eccl. Pol. lib i, sect. 7. All which seems no more than that duty, which God and nature has laid on man, as well as other creatures, to preserve their off-spring, till they can be able to shift for themselves, and will scarce amount to an instance or proof of parents regal authority.
LOCKE’S CITATION OF HOOKER ON THE ORIGINAL SOVEREIGNTY OF THE WHOLE COMMUNITY

• “This legislative is not only the supreme power of the commonwealth, but sacred and unalterable in the hands where the community have once placed it; ...for without this the law could not have that, which is absolutely necessary to its being a law,* the consent of the society, over whom no body can have a power to make laws, but by their own consent, and by authority received from them; and therefore all the obedience...Second Treatise XI. 134 “On the Extent of Legislative Power”

• The lawful power of making laws to command whole politic societies of men, belonging so properly unto the same intire societies...Hooker’s Eccl. Pol. I. I. sect. 10.
To those that say there were never any men in the state of Nature, I will not oppose the authority of the judicious Hooker (Eccl. Pol. i. 10), where he says, "the laws which have been hitherto mentioned"—i.e., the laws of Nature—"do bind men absolutely, even as they are men, although they have never any settled fellowship, never any solemn agreement amongst themselves what to do or not to do; but for as much as we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our Nature doth desire, a life fit for the dignity of man, therefore to supply those defects and imperfections which are in us, as living single and solely by ourselves, we are naturally induced to seek communion and fellowship with others; this was the cause of men uniting themselves as first in politic societies." Second Treatise II. 15 "Of the State of Nature"

Locke’s Quotation of Hooker in “Of Paternal Power” 74

"The inconveniences of one kind have caused sundry others to be devised: so that in a word, all public regiment, of what kind soever, seemeth evidently to have risen from the deliberate advice, consultation and composition between men, judging it convenient and behoveful; there being no impossibility in nature considered by itself, but that man might have lived without any public regiment, Hooker’s Eccl. Pol. lib. i. sect. 10,"

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Locke’s Use of Hooker on the Inconveniences of the State of Nature

“the negligent, and unforeseeing innocence of the first ages began, had brought in successors of another stamp, the people finding their properties not secure under the government, as then it was, (whereas government has no other end but the preservation of property) could never be safe nor at rest, nor think themselves in civil society, till the legislature was placed in collective bodies of men, call them senate, parliament, or what you please” Locke.

“...They saw, that to live by one man’s will, became the cause of all men’s misery. This constrained them to come unto laws, wherein all men might see their duty beforehand, and know the penalties of transgressing them. Hooker’s Eccl. Pol. l. i. sect. 10.)”

Second Treatise VII Of Political or Civil Societies 94
“This equality of men by Nature, the judicious Hooker looks upon as so evident in itself, and beyond all question, that he makes it the foundation of that obligation to mutual love amongst men on which he builds the duties they owe one another, and from whence he derives the great maxims of justice and charity. His words are..., "... to be loved of my equals in Nature, as much as possible may be, imposeth upon me a natural duty of bearing to themward fully the like affection. From which relation of equality between ourselves and them that are as ourselves, what several rules and canons natural reason hath drawn for direction of life no man is ignorant." (Eccl. Pol. i.)-Locke. Second Treatise “Of the State of Nature” II.5
LOCKE’S USE OF HOOKER ON CONSENT AS THE ORIGIN OF POLITICAL OBLIGATION

• “...for without this the law could not have that, which is absolutely necessary to its being a law, * the consent of the society, over whom no body can have a power to make laws, but by their own consent, and by authority received from them; and therefore all the obedience, which by the most solemn ties any one can be obliged to pay, ultimately terminates in this supreme power, and is directed by those laws which it enacts” Locke Second Treatise. XI. 134 “Of the Extent of Legislative Power”

• Locke’s Citations of Hooker

• “The lawful power of making laws to command whole politic societies of men, belonging so properly unto the same intire societies, that for any prince or potentate of what kind soever upon earth, to exercise the same of himself, and not by express commission immediately and personally received from God, or else by authority derived at the first from their consent, upon whose persons they impose laws, it is no better than mere tyranny. Laws they are not therefore which public approbation hath not made so.” Hooker’s Eccl. Pol. I. I. sect. 10

• (“Laws therefore human, of what kind so ever, are available by consent.” Ibid.)
Sect. 95. MEN being, as has been said, 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. The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any, that are not of it.

Sect. 97. And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation, to every one of that society, to submit to the determination of the majority, and to be concluded by it; or else this original compact, whereby he with others incorporates into one society, would signify nothing, and be no compact, if he be left free, and under no other ties than he was in before in the state of nature.

Second Treatise. Chapter VIII. “Of the Beginning of Political Societies” 95,97
CONTINUITIES OF LOCKE’S THEORY WITH HOOKER/THE SALAMANCANS

• Locke draws on Hooker for the central tenets of his argument against Patriarchalism on points where Hooker’s doctrine is nearly identical to the Jesuit theories of Suarez and Bellarmine attacked by Filmer. This includes
  ❖ The distinction of paternal and royal power.
  ❖ The existence of a pre-political but not pre-moral or pre-social state of nature.
  ❖ The whole community as the original locus of sovereignty
  ❖ The *pactum translationis* to explain the community’s delegation of power to the state.
  ❖ An emphasis on consent and the social contract to explain political obligation
DISTINCTIONS BETWEEN LOCKE’S THEORY AND HOOKER/THE SALAMANCANS

- Locke nonetheless innovates upon Hooker and the School of Salamanca in a number of ways which make him the father of what we may call ‘liberalism proper’. These include:
  - An emphasis on religious toleration as a solution to post-Reformation religious conflicts as can be seen in his 1689 Letter on Toleration (To Phillip van Limborch – below)
  - The toleration of those that differ from others in matters of religion is so agreeable to the Gospel of Jesus Christ, and to the genuine reason of mankind, that it seems monstrous for men to be so blind as not to perceive the necessity and advantage of it in so clear a light.
  - The restriction of the state’s role to secular purposes:
    - The commonwealth seems to me to be a society of men constituted only for the procuring, preserving, and advancing their own civil interests.
  - Civil interests I call life, liberty, health, and indolency of body; and the possession of outward things, such as money, lands, houses, furniture, and the like.
  - Locke also places greater emphasis on the individual and his property rights
  - Though Locke strongly emphasizes natural law the teleological element as well as the Thomistic-intellectualism of the Salamancans and Hooker is at least attenuated.
  - Locke’s intentions are more clearly revolutionary, even if the 1688 Whig Revolution in England had far more moderate goals than the French and even American Revolution.