

Prerogative power: john locke's dangerous yet obligatory concession



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John Locke's theory of the social contract seems, at first glance, to envision the growth of freedom and the concomitant recession of authority.

Considered this way, John Locke's Second Treatise of Government presents a clear contrast, manifesting individual freedom as the dominant political value to which authority submits. A more searching glance, however, discloses a far more complicated theory. Locke's system of governance struggles to prove how the prerogative of the executive branch can abide by the values of justice and equality supposedly mandated by the Law of Nature and the social contract. In Locke's tripartite government, where power is shared among the legislative, executive, and federative branches, there will inevitably arise "such cases, which depending upon unforeseen and uncertain occurrences, certain and unalterable laws could not direct." [1] In these situations, the executive, or 'the prince,' has prerogative to act on behalf of the state, so long as his actions provide for the common good of the people. Locke erects his system of liberal governance based on an understanding of inherent human goodness in the state of nature and in doing so, necessarily affords excessive prerogative to the prince. While Locke is careful to control for significant breaches of prerogative power, he leaves his society unprotected against infrequent or minor transgressions on liberty based on a belief in the unscrupulousness and obtuseness of the commonwealth's majority.

By entering society, Locke posits that man is guaranteed the right "not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man" (IV. 22), but rather to the civil laws which are supreme in the society. In the limited instances "wherein a strict and rigid observation of the laws may do

harm” (XIV. 159), the prince has the authority to exercise his prerogative, so long as it is toward the end of the commonwealth’s preservation. However, Locke expects that the citizens of the society may not monitor the executive’s actions closely enough to prevent his arbitrary and harmful exercise of prerogative. In fact, the prerogative of the executive “ is undoubted prerogative, and never is questioned: for the people are very seldom scrupulous” (XIV. 161). Note that Locke intends ‘ scrupulous’ to mean inattentive, rather than morally unprincipled. The inattentiveness with which Locke describes the society’s people seemingly creates an opportunity for sweeping exploitation of executive prerogative power.

Additionally, Locke argues that even when the people do apprehend a breach of the power entrusted in the executive, they are unlikely “ to amend the acknowledged faults in the frame they have been accustomed to” (XIX. 223). Thus, Locke paints a picture of society’s masses as both inattentive and obtuse. Even when injustices are perceived, individual cases of mistreatment go largely ignored. In reference to the majority, Locke writes that, “ the examples of particular injustice, or oppression of here and there and unfortunate man, moves them not” (XIX. 230). According to the Law of Nature, the majority is primarily interested, in the self-preservation of the majority. Locke expects that the Law of Nature and the masses’ inherent tendencies will prevent them from perceiving executive wrongdoing, noting specific injustices against individuals, and demanding change from their government. Given that Locke’s government derives its legitimacy by the consensual route through which it is conceived, it seems entirely plausible

that the executive could exercise legitimate–albeit arbitrary and unjust–prerogative power, due to the myopic and stubborn nature of his citizens.

However, Locke argues that the unjust exercise of executive prerogative cannot continue indefinitely: while the people may be inattentive to slight and infrequent injustices committed by the executive in issues unaddressed by law, they will take notice and demand executive change “ if a long train of [executive] actions shew the councils tending that way” (XIX. 210), meaning if a long train of harmful executive prerogative actions illuminate the prince’s wickedness. When the obtuse citizens eventually apprehend the wrongful actions of the executive, the people will consider “ the tendency of the exercise of such prerogative to the good or hurt of the people” (XIV. 161) in determining if action should be taken against the prince. Given that the people will consider the long chain of unjust actions to be evidence of the prince’s tendency toward iniquity, the majority will demand usurpation of the prince or punitive action through established political channels. Accordingly, Locke believes that is it impossible for the executive to significantly abuse his prerogative power in a way that does not uphold the liberties of his people.

In fact, despite his belief in the peoples’ unscrupulousness, Locke argues that the unjust prerogative actions of the prince need not proceed too far because the executive will restrict his own wretched prerogative actions. Locke argues that, “ this [unjust prerogative action] operates not, til the inconveniency is so great, that the majority feel it, and are weary of it, and find a necessity to have it amended. But this the executive power, or wise princes, never need come in the danger of: and it is the thing, of all others, <https://assignbuster.com/prerogative-power-john-lockes-dangerous-yet-obligatory-concession/>

they have most need to avoid, as of all others the most perilous” (XIV. 168). While it is not immediately clear whether Locke is arguing that the arbitrary exercise of prerogative is perilous for the executive or for the commonwealth, it is reasonable to assume that both are true. Regarding the former, Locke posits that all men are subject to the Law of Nature and necessarily secure their self-preservation above all else. By abusing his prerogative, the prince would indirectly expose himself to the potential danger of loss of power and bodily harm (if his actions threatened the physical safety of the majority) if the people were to rebel in any manner. On the other hand, Locke may be arguing that the prince is inherently good and would avoid actions that led to the peril of his citizens. This view is more consistent with Locke's theory of human nature. Therefore, while Locke concedes that the prince could, theoretically, abuse his prerogative in areas not covered by law and infringe on the liberty of the commonwealth's citizens, it is in the best interests of the prince to exercise his prerogative power solely for the preservation of citizens' liberty.

While it is reasonable to expect that the executive authority will be aware of the personal dangers associated with the hindrance of his citizens' individual liberties, there is still ample opportunity for the prince to encroach upon his citizens' liberty for his own prosperity. Certainly, the “ wise ruler...” (XIV. 164), will also be aware of the inattentiveness of his citizens, their apathy toward individual cases of mistreatment and their tendency not to demand change of the government that is familiar to them. A Machiavellian executive could deliberately infringe upon the rights of his citizens in a minor fashion, in his own interest, without any negative personal consequences. Locke

affirms this when he writes that, “ revolutions happen not upon every little mismanagement in public affairs” (XIX. 225). Locke may have been aware of such opportunities for the prince to abuse his prerogative power, but he believes that the executive is not only wise, but is also “ good...” (XIV. 164) and so will act only for the preservation of the commonwealth. Thus, all rests on the validity of Locke’s conclusions regarding the benevolence of human nature.

Locke’s insistence on human goodness in the state of nature is absolutely necessary for the liberal political system that he constructs. When the commonwealth’s majority determines the prince’s actions to run counter to their best interests, the prince must necessarily “ forfeit the power the people had put into their hands” (XIX. 222). If the state of nature were worse than tyrannical government under the arbitrary rule of the prince, the people would be foolish to oppose their prince, who is the only barrier between them and the state of nature, as Thomas Hobbes argues in *Leviathan*. However, such dissent is appropriate in Locke’s system of government, allowing the people to protect their individual liberty without risking return to a horrid state of nature. Indeed, Locke contends that life under an unjust executive is actually “ worse, because under such governments the inconveniences are as great and as near as in the state of nature” (XIX. 225) and, thus, encourages opposition to the executive when he betrays the trust of the people. Still, due to Locke’s insistence on humankind’s magnanimity, he was obligated to extend this label to the executive, as well. Locke does not deny that self-serving people exist, nor does he posit that the executive will be faultless. However, Locke considers human goodness to be the norm

rather than the exception and so allows the executive needlessly excessive prerogative with the expectation that the benevolent nature of the prince will ensure the liberty of the commonwealth. Yet, while Locke admits that the imperceptive and obtuse nature of the majority could allow for infringement on citizens' liberties, he believes that the beneficence of the prince will prevent such violations from occurring. Such a view of human nature may be overly optimistic and opens the pathway to tyranny.

[1] Locke, John. *Second Treatise of Government*; Edited with an Introduction by C. B. Macpherson. Indianapolis, IN: Hackett, 1980. Print. XIV. 158