

CHAPTER ONE

INTRODUCTION

1.1 Background of the study

So much tension has been generated about obtrusive lack of understanding of what determines ones enjoyment of liberty in a society. It has not been worrisome than currently when many political states are sandwiched in social and moral crisis. The striking defect is the isolation of moral principles that gave foundation for the emergence of the civil society by some contemporary liberal philosophers. It is obvious that men desire liberty whether State or individual liberty. Hence, each day lays a new struggle for man's quest to enjoy an expanded liberty in the society. In a civil society, laws are established for the rights of all persons, either the poor or the rich. But often the government and the people are always in collision. Thus, the quest for greater liberty results in oppression, suppression and often anarchism.

Against this backdrop, the motivation to this study arose after reading two polemical works by Richard Ebeling and William Turner. Ebeling in her work :”Johm Locke is needed now than ever”, she argued that of all the Mantra of Government, non cares about individual living freely as he desires as posited by John Locke in his concept of liberty and that according to Locke Government has no authority over the individual but all they now represent against Lokes's principle is collectivism. In the other work by William Turner , he argued that Lesbians, Gays and same sex marriage advocates derive their moral authority from Locke's concept of liberty and consent.

Locke's concept of liberty is grossely being minsinterpreted by many contemporary libertarians against the classical tradition of liberty. Currently, some intellectual debates , events

and reactions on the concept and application of liberty especially as it concerns Locke's notion of liberty necessitates a revisit to the fundamental analysis and conceptual breakdown of his notion of liberty.

Following the currency of the misreading and contrasting investigations of Locke's concept of Liberty and what actually means liberty in the society, it is timely to revisit Locke's concept of liberty since he is the most serious exponents of liberty and the person whose concept of liberty is adjudged to have laid the foundational philosophical principles that created America. This study addresses the varying levels of John Locke's influence and the various ways in which his complex works have been misinterpreted.

Locke posits that "God having made man such creature, that in his own judgment, it was not good for him to be alone, put him under strong obligations of necessity, convenience and inclination to drive him into society, as well as fitted him with understanding and language to continue and enjoy it"¹ John Locke believes that political society makes life better for every individual and not for selected few as evidenced in many societies today. The event in so many societies recently shows that individual consent as postulated by John Locke for the legitimacy of the sovereign is not in practice as powers are usurped through distrustful ways. Elections are not transparent and amenities are not evenly distributed among the people.

In the process of entering into civil society by an individual, such individual sacrifices some of his right hitherto enjoyed in state of nature so as to enjoy larger good in the civil society. This was the position of John Locke and many other political philosophers. John Locke strongly advocates public good as the end of government and as the basic standard of true governance. Hence, those who because of their superior talent have been set to rule the community ought not

to rule as masters over slaves. They are officers elected by the people to carry out certain tasks for the purpose of public good. Their powers are to be used in accordance with “that trust which is put into their hands by their brethren”²

Everyone are desirous of having liberty but its exact meaning remains a very big puzzle to political thinkers. But it is our belief that a thorough investigation of Locke’s concept of liberty and Public Good can reveal to us its general philosophical meaning especially in social and political circles. This work too discusses Locke’s concept of liberty and at the same time review the views of other libertarian philosophers. Liberty in a broad sense is simply the view held by some philosophers that man should be allowed to act according to his own volition. They also claimed that there are certain rights which are natural to man. Notable among these rights are right to life, right to liberty and right to property. Human rights: the term is at once both so lofty-sounding and so common place that it often trips off the tongue without impact.

In a situation where so many states in the world are in a state of war, a revisit and interpretation of John Locke’s concepts of Liberty becomes pertinent. Prior to joining civil society or entering into social contract by individuals in state of Nature, man had lived in perpetual fear. When the thirst of man becomes to slaughter another man with reckless abandon, obviously, man, by doing so, has descended to the state of nature. Abiding by the tenets of the social contract is the only way out of lawlessness. Hence Locke writes:

If man in the state of nature be so free as has been said; if he be absolute Lord of his own person and possessions, equal to the greatest, and subject to no body, why will he part with his freedom? To which ‘tis obvious to answer, that though in the state of nature, he hath such a right, yet the enjoyment of it is very uncertain and constantly exposed to the invasions of others... the enjoyment of the property he has in this state is very unsafe, very insecure. This makes him willing to quit this condition, which however, is full of fears and continual dangers.³

When individuals voluntarily sacrifice their individual rights for the sake of public good only for the sovereign to rule according to his personal will, such rule is at variance with the tenets of social contract. Many governments are fraught with abuse of the sacrifice that gave rise to civil society. The results of such abuse and negligence of the public good are civil unrest, large scale poverty, lawlessness, unhappiness, insecurity of life and property and state of license. We have inalienable rights, however much we may claim such rights and however much our governments may profess to recognize such rights what happens when we seek to exercise them. The notion behind the struggle for liberty or freedom in a society is centered on the view that individual citizens have rights on which the state must not intrude; men are endowed by the almighty with certain rights which happen to be inalienable.

Liberty which is assumed to be the heritage of all men has caused much political, social and economic instability in various societies of the world. There are two major forms of liberty. One is metaphysical liberty so to speak. It assumes this name because it concerns the state of being free to choose between two alternatives or it has something to do with passion, bodily appetite and inclinations. The second is the socio-political liberty which includes political liberty, which is the right to take active part in the political affairs of the state or community and economic liberty. Economic liberty could be equated with social liberty. This is because social liberty is a function of economic liberty. But this work concentrates more on the Socio-political liberty. Political liberty is generally regarded as the most fundamental aspect of liberty because it influences and regulates other liberties. Social or fundamental human rights form the fabric of socio-political liberty. Liberty in a social sense means permission to do what is socially recognized. Some of the reasons why people fight for freedom are to change tyrannical and laws prevailing customs or conventions of their society. But it is pertinent at this point in time to stress

that their intention is by no means a generalized permission or right to do as they pleased, anything and everything. For as a natural right it's an essential part of what makes one human.

The struggle for liberty has sparked off major and minor revolutions- wars and civil strife. These social maladies have been experienced by both the developed and so called developing nations as well as more advanced communities. In a situation of negligence and abuse of social contract by persons elected to rule the society, quick application of the tenet of the concepts of liberty by John Locke becomes obvious. Philosophical theories are not just for mere gratifying discussions but theories to be applied in the society for entrenchment of a happy society, hence the quest for this work.

1.2 Statement of problem

The problem this study tackles is the question of how successful Locke was, in his quest to expand individual liberty in the society through public good. This results in proper interpretation of Lockean liberty. Though convincing, the argument espoused by Locke in support of his concept of liberty as depicted in his political theory, it is not free from ambiguities to many readers of his political theory. Reading Lockean liberty usually raises these questions: do individuals actually enjoy liberty in society? Is Lockean liberty not an infringement to individual right? Could Lockean liberty lead to enslavement by the government? Is there any guarantee for enjoyment of public good by every person in the society? Why should the people be willing to trade their natural freedom? These questions have not been attended to with fundamental interpretations and investigations that would bid-off misreading of Lockean liberty. This dissertation is an effort to resolve these questions.

1.3 Purpose of the study

We meant to demonstrate here that despite the misinterpretations and contrasting investigation on Locke's scholarship on Liberty, his classical notion of liberty could contribute to an understanding of liberty which has become problematic to contemporary interpreters of liberty especially as it concerns Locke's notion of the subject.. This too underscores the exceedingly prominent role the Locke's idea of liberty has come to play in the world of political philosophy. Specifically, this is very relevant to contemporary society like ours where premium is placed on absolute individualism.

1.4 Scope of the Study

The research work is on "A Study of The Concept of Liberty in John Locke's Political Philosophy." The dissertation is pursued within the context of socio-political philosophy. The research work covers John Locke's political thought on property, civil society, labour, social contract, checks and balances, forms of government, liberty, public good prerogative and rule of law and the concept of statism and equality.

This work interprets and unravels the implications, connotations, challenges and application of Locke's concept of liberty for a happy society built on social justice, tolerance and equality.

1.5 Significance of the Study

The significance of the study is to establish that Locke's concept of liberty is pertinent to good governance, political stability, robust economic development, quality living and mutual co-existence of diverse interests and peoples in a body polity. This research exposes the difficulties that arise in interpreting John Locke's concept of liberty.

It is this frustrating problem in understanding and attaching relevance to Lockean political thoughts that this research aims at critically interpreting his concept of liberty for a correct understanding of Locke's scholarship. This eccentric interpretation of Lockean political thoughts shall provide clear understanding of his hitherto presumed ambiguous political theories. This research is also of significance to note that John Locke's emphasis of individual rights was not to inhibit the smooth operation of government but to enhance and expand individual liberty. It is also of significance to note that liberty as adduced by Locke is not synonymous with license to do whatever one wants to do.

1.6 Methodology

The method for this research is basically the method of Analysis. This is a qualitative research. Data for this research were sourced from relevant literatures like books, journals, articles and other relevant literary sources. The latter include internet works as related to the topic. This helps in aggregating the various positions as efforts are made in the literature review to discuss useful works that have relationship with Locke's concept of liberty. With the analytic method, Locke's notion of liberty was subjected to critical examination in order to bring out the salient implications of his claims.

This work breaks into six chapters. The first chapter introduces the work and gives all the relevant tools with which the study is carried out. Some relevant literatures or works related to the study are reviewed in chapter two and the various ways some thinkers made use of the case study. Chapter three discusses the basics of Lockean theory and what influenced his political thought of Liberty. Chapters four and five expose extensively John Locke's concept of liberty and by extension its attendant relationship with his notion of public good. And finally, chapter

six offers the evaluation of the findings of the study. This then will be followed by concluding reflections.

References

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CHAPTER TWO

LITERATURE REVIEW

This chapter considers the review of Locke's concept of liberty and the review of related literature based on the problem of this study. As explained in the previous chapter, the expansion of liberty as depicted in John Locke's public good is the cardinal end of the society. In his estimation, it is the elementary principle, which underlines all realities or the fundamental substratum of civil society. The term liberty is often used in Locke as rights and the sum total of specific liberties, including economic liberty. Liberty is often interchanged with the word right or freedom and based on the divergent interpretations the concept of liberty by Locke; it is therefore indispensable that review of related literatures is considered here in this study.

Here too, we shall expose, analyze and evaluate the several notions and conceptions concerning Locke's liberty according to our chosen political thinkers, so as to see where their views are similar as well as dissimilar to Locke's own notion of the case study, for effective understanding and interpretation. The latter will serve as fulcrum to the study. The review shall help us to identify some knowledge gaps.

The birth of liberty goes back to the Greeks. The Stoics gave birth to the idea of individual and his self-realization (liberty). Prior to Stoics, no one had any philosophical thesis on individual liberty. All attention was focused on the state. As conceived by the Stoics, there are two notions of liberty: "the protection of the group from attack and secondly the ambition of the group to realize itself as fully as possible"¹

A review of John Locke's concept of liberty in this study would begin with taking a shot at Ashcraft who submits that the Locke's concern for liberty informed his conception of human

nature³. This goes to assert that John Locke believed that human beings are rational and social creatures that are able to recognize and live in a moral manner. This humanism in Locke was corroborated by Hampsher in his *A History of Modern Political Thought*. According to Hampsher, Locke had sympathy, love and tenderness towards other humans and was able to be triggered by altruistic motives.⁴ This portends that Locke wanted to live in peace and harmony with others while feeling bound to their social cohesion. According to Jones in his work *Modern Political Thinkers and Ideas*, Locke's perception of rationality was a typical characteristic of human beings⁵. But Gutman in his article "Communitarian Critics of Liberalism" asserts that Locke's view differed with other authors such as Hobbes because he did not consider the 'negative sides of human nature'⁶. As underlined in his political theory, to John Locke, the natural rights of any man are right to life, property and liberty. In this context, liberty implies an protection from all of the rules except the law of nature.. For Locke this understanding also infers that the liberty of man is to relinquish of their properties or persons as they wish within the law⁷. When talking about equality, Locke means equal right that every human being has his natural freedom bereft of subjection to the authority established by any man.

The epicentrum of liberty to Locke's political theory has been broadly acknowledged, but there is disagreement regarding how best to distinguish his argument of the concept. The inclination to repute Locke as the intellectual forebear of liberty has led many commentators to assume that what he meant by liberty is what successive liberals have meant by it, namely; the absence of interference. In his essay, 'Two Concepts of Liberty', Isaiah Berlin congregated Locke with John Stuart Mill and Adam Smith as a theorist of negative freedom concerned with 'reserving a large area for private life over which neither the state nor any other authority must be allowed to trespass'.⁸ Meanwhile, John Marshall in his work *Political Theory of*

Individualism asserts that ‘the primary expression of this liberty in the Two Treatises was the type of liberty now classically known as negative, the freedom to follow the promptings of one’s own will and not to be forced by other men to follow their will’.⁹ These efforts to present Locke as a pure negative theorist of liberty are problematic, as even Berlin recognized. A particular statement has led several thinkers to submit that Locke espoused a positive concept of liberty. This is the area where Locke contends that ‘the Law in its true notion is not so much the Limitation as the direction of a free and intelligent Agent to his proper Interest’. So that, however it may be erroneous, the end of Law is not to abolish or restrain, but to preserve and enlarge liberty. Liberty appears in this passage to be defined not as an absence of something but as a condition that can only be attained through being guided by the laws.

Moreover, because Locke is seeking to justify his view that children, born ‘ignorant and without the use of Reason’, are not ‘presently free’, there appears to be a connection between rationality and liberty, a central feature of many positive theories of freedom. For Berlin, this passage shows that Locke, in spite of being fundamentally a theorist of negative freedom, could also think of freedom in positive terms as ‘self-mastery, the elimination of obstacles to my will, whatever these obstacles may be – the resistance of nature, of my ungoverned passions, of irrational institutions, of the opposing wills or behaviour of others’.¹⁰ Whereas Berlin left unexplained the relationship between these two aspects of Locke’s discussion of liberty, several other philosophers have presented Locke as combining positive and negative freedom into a holistic theory in his concept of Liberty. According to Laslett, Locke’s theory of liberty is not merely absence of restraint, it is positive. It is something which is enlarged by the creation of society and government, which is given substance by the existence of laws, the laws of the law courts. It can be negatively defined, therefore, as being under no other legislative power but that

established by consent in the commonwealth, and positively as the progressive elimination of the arbitrary from political and social regulation.¹¹

Other political thinkers have gone further still, presenting Locke as a theorist of positive freedom through and through rising from his concept of liberty. In similar vein, Tully asserts that “Locke’s positive concept of law enables him to develop a positive concept of liberty’.¹² But for Halladenus, a far simpler understanding is possible if we are disposed to do away with the anachronistic categories of positive and negative freedom, and recognize the substantial quality of Locke’s discussion of liberty.¹³ Locke’s argument in the argument mentioned prior is not that liberty is self-realization according to a normative account of human nature which is promoted by the laws, but rather that the laws create the space for man ‘to dispose, and order, as he lists, his Person, Actions, Possessions, and his whole Property’ , without the arbitrary interference of another. It is true that Locke regards rationality as a necessary condition for freedom – this is nothing more than the basic intellectual ability essential for attaining legitimate responsibility which all adults except ‘lunatics’, ‘idiots’ and ‘madmen’ possess.

As Bellamy pointed out , such an interpretation has been avoided not only by contemporary libertarians wishing to underline Locke as one of their own but also by contemporary republican theorists.¹⁴ Generally defining antimonarchism in opposition to liberalism, they have been reluctant to identify the republican concept of liberty in a figure as canonical of liberalism as Locke, who is consequently confined to a annotation in Skinner’s Liberty before Liberalism”¹⁵ and given barely greater importance in Pettit’s Republicanism: A Theory of Freedom and Government’¹⁶. Yet the reluctance of contemporary political thinkers to appreciate Locke’s republicanism as embedded in his concept of liberty was not shared by his prior readers. Lettering in his own style, Josiah Tucker no doubt thought that he was making an

uncontroversial point when he listed Locke alongside Andrew Fletcher and Jean-Jacques Rousseau as one of ‘the most eminent Republican writers’.¹⁷ Locke’s influence on successive libertarians should not inhibit one from recognizing that. Lockean concept of liberty is *ad rem* to posit that he was certainly a libertarian but with a difference from the current position of many contemporary libertarian. His political thought shared a great deal with, and emerged from the same intellectual traditions as, the foundational layers of republicanism against patriarchy as to be discussed in the next chapter of this opus. However, the closest Locke comes to presenting a strict definition of freedom is at the beginning of Chapter four of the Second Treatise, whose title, ‘Of Slavery’, is itself indicative of his preference for republican society and not avant-garde liberal stand of some contemporary thinkers:

...The Liberty of Man, in Society, is to be under no other Legislative Power, but that established, by consent, in the Common-wealth, nor under the Dominion of any Will, or Restraint of any Law, but what the Legislative shall enact, according to the Trust put in it .¹⁸

Even if Locke appears to be presenting two descriptions of liberty – one for the state of nature, the other for political society – they are in fact two sides of the same coin”¹⁹. In both cases, freedom is understood in terms of not being subject to the ‘will’ of another man. In the state of nature this includes any ‘Legislative Authority of Man’, such a thing being by definition absent prior to the establishment of political society, although Locke does recognize the right of individuals to use force to punish transgressions against the law of nature. It is wrong to see even this kind of freedom as ‘negative’ in the Hobbesian sense, for it consists not in the performance of actions without interference, but in not being subject to arbitrary power. Certainly such a ‘State of perfect Freedom’ gives men the right, as Locke puts it in an earlier chapter, ‘to order their Actions, and dispose of their Possessions, and Persons as they think fit’, but what is crucial for Locke is that they should be able to do this ‘without asking leave, or depending upon the Will

of any other Man'. When we renounce the state of nature in order to set up political society, Locke accepts that with it we must give up this 'perfect freedom'. Yet liberty is still possible, provided that political society is set up according to certain criteria. What he aspires to attack is the Hobbesian argument that, since freedom is simply absence of interference, to submit to political authority is always to lose one's liberty, or at least to lose one's freedom with respect to those actions that are commanded by law. It is true that Locke has to present a slightly different formulation of his concept of liberty so as to make it well-suited with the requirements of political society, but the essential structure of the concept is the same, since in both cases what is viewed as taking away freedom is dependence. Locke does not claim that all forms of dependence take away freedom. Indeed, as we argue below, being the property of God and hence dependent on him is regarded as not merely compatible with but definitional of natural liberty. It is dependence on the will of another man, where this refers to the condition of being subject to a power to which one has not consented, that renders one unfree.

What Locke needs to explain, then, is why certain kinds of political authority undermine liberty; whereas others do not, why the 'restraint' of the law might in some cases result in relationships of dependence. Locke's answer, already indicated by the idea that political freedom consists in being subject only to those laws that are passed 'according to the Trust' placed in the legislative authority. For Locke, 'Freedom of Men under Government is to have a standing Rule to live by, common to every one of that Society, and made by the Legislative Power erected in it; A Liberty to follow my own Will in all things, where the Rule prescribes not; and not to be subject to the inconstant, unknown, Arbitrary Will of another Man'. The crucial point for Locke is that the laws to which one is subject should not be the mere dictates of individuals, but should be passed by a legislative authority 'which the publick has chosen and appointed'. In this sense

according to Dunn, “ the legislative assembly is treated as an expression of the will of society as a whole, Locke can define political freedom, no less than natural, as the condition of not being ‘subject to the arbitrary Will of another, but freely to follow his own’ ²⁰. However, this way of setting up the argument raises the question of what it means in practice to say that the legislative assembly was established with the consent of society. It does not mean, as it had done for the Levellers, that this body ought to be elected by every individual subject to its laws, for Locke is mainly uninterested in the question of the franchise’²¹. Indeed, Locke has little to say at all about the nature or composition of Parliament. To consent to law, according to Locke, does not mean to elect one’s representatives, but abstractly to consent in some sense to the original establishment of political society. As Locke recognizes, this way of setting up the argument is deeply problematic, since none of Locke’s contemporaries was alive at the time of the founding of society and hence evidently not in a position to give or withhold consent. Locke turns to this problem in the Second Treatise, where, after repeating his view that ‘Every Man being, as has been shewed, naturally free, and nothing being able to put him into subjection to any Earthly Power, but only his own Consent’, he raises the question of ‘what shall be understood to be a sufficient Declaration of a Man’s Consent, to make him subject to the Laws of any Government’. Locke’s answer is that there are two ways in which one can give one’s consent, express and tacit:

Nobody doubts but an express Consent, of any Man, entering into any Society enlarges man’s liberty, makes him a perfect Member of that Society, a Subject of that Government. The difficulty is, what ought to be looked upon as a tacit Consent, and how far it binds, i.e. how far any one shall be looked on to have consented, and thereby submitted to any Government, where he has made no Expression of it at all without undermining ones liberty. Lockean concept of liberty is intertwined with his idea and ownership of property It is at this thus he says: ‘Every

Man, that hath any Possession, or Enjoyment, of any part of the Dominions of any Government, doth thereby give his tacit Consent, and is as far forth obliged to Obedience to the Laws of that Government, during the Enjoyment, as anyone under it'. Property occupies a central position in Locke's concept of liberty because, as the means by which men are able to consent to society, it grounds his concept of political liberty. Locke then suggests that property includes, in addition to estates, 'a Lodging only for a Week', 'travelling freely on the Highway', and even 'the very being of any one within the Territories of that Government'.

For Ellen Wood in his work *Liberty and the Theory of Sovereignty*, he asserts that this shows that Locke's aim is to make consent the source of obligation and proof of liberty without introducing the principle that even those lacking private property ought to be enfranchised, since all that is required of them is to give their tacit consent by inhabiting in a territory.²² Yet if this were his intention, it would seem strange to introduce this idea with the assertion that consent is given by owning property, and indeed Locke only offers this extensive idea of consent on this occasion. Somewhere else he is explicit that simply living in a territory cannot be sufficient: 'Submitting to the Laws of any Country, living quietly, and enjoying Privileges and Protection under them, makes not a Man a Member of that Society: This is only a local Protection and Homage due to, and from all those, who, not being in a state of War, come within the Territories belonging to any Government, to all parts whereof the force of its Law extends'. If everybody living in a region could be taken by the very fact to have consented, the difference between arbitrary and non-arbitrary rule would break down, and with it Locke understands of liberty. Thus, one can therefore only make sense of Locke's notion of tacit consent if one takes him to be referring to property in the narrow sense. The reason why holding property has this essential role in Locke's theory is that 'every Man, when he at first, incorporates himself into any

Commonwealth, he, by his uniting himself thereunto, annexed also, and submits to the Community those Possessions, which he has, or shall acquire, that do not already belong to any other Government'. Property is something that man acquires while still in the state of nature and which political society is set up to safeguard. As a result, property ownership is treated as the means by which subsequent generations share in the original act of establishing political society carried out by their ancestors, according to which naturally free people agreed to establish a political society and submit themselves and their property to its jurisdiction. The consequence is that to deprive individuals of their property is to take away their consent and thus to undermine their liberty in society.

All these did not go down well with Macpherson. The question of how much of Locke to be taken seriously in assessing his concept of liberty arises in the work of Macpherson. In one of the most provocative studies of Locke's political philosophy centered on the political theory of possessive individualism, Macpherson asserts that Locke's political theory becomes intelligible once his hidden assumptions are made open. Macpherson thus alleged in his attack on Lockean concept of liberty which enveloped his political theory as "possessive individualism". Hence, for Macpherson, Lockean liberty is a concept of "self ownership wherein the individual himself is seen as a property and as neither a moral whole nor a part of a larger social whole".²³ Macpherson is seen here to have misconstrued Lockean scholarship on liberty. Locke's notion of liberty is centered on making the individual a moral whole and a part of a larger social order where individual liberty is enlarged and individual happiness ensued unlike the choked liberty outside the society. Locke in his concept of liberty does not underline an individualist entity that shall exist alone without the society nor an individual that can attain optimum happiness without

the society. Thus, against the views of Macpherson, Lockean ideal does not translate to having an individual that is just thinking about himself but one that realizes himself with the society.

Lamprecht corroborated this view that Lockean liberty is geared towards the public good and not necessarily creating a property called individual as denoted by Macpherson in his book *Possessive Individualism*. According to Lamprecht in his work *Moral and Political Philosophy of John Locke*, “human freedom consists not simply in liberty from external control, but in the ability to suspend the operation of the passions until reason has examined the particular desires for specific goods in the light of the general desire for the highest happiness”²⁴ But Alex Tuckness in his work *The Discourse of Resistance in the American Revolution* adduced that “In the two treatises, Locke never explicitly considered the possibility that the protection of individual liberty and the promotion of the public good might be in conflict. Locke was more likely to see the protection of rights liberties as the aspect of the public good than as something in competition with it.”²⁵ Locke’s liberty actually was not too individualistic as opined by Macpherson. Hurtubise like Macpherson in his work, *Philosophy of Natural Right* attacked Locke concept of liberty. He asserts that “Liberties spoken in treatises leads to errors. For example Locke who so valued human liberty was led by his rationalist position to admit the complete justice of slavery... Locke would justify slavery as a punishment for the consequence of war”²⁶ Locke in his own words on slavery says “indeed having by his own fault forfeited his own life by some act that deserves death he to who he has forfeited it may when he has him in his power, delay to take it and make use of him to his own service and he does his no injury”²⁷ Locke does not adduce in his *Two Treatises* that slavery which is denial of liberty be encouraged but that one acting in a manner that would take one back to State of nature is tantamount to one making himself a slave. In defense of his stand on slavery “Locke decried Filmer by comparing

subjection to the arbitrary will of the monarch to slavery in the opening pages of the two treatises; his definition of liberty moreover is not the Hobbesian one. According to Locke, Coercive threats as well as physical restraint can limit freedom. To be free involves not being dependent on the arbitrary will of another.”

Lockean liberty as stated does not eliminate the notion of constraint in pursuit of greater liberty. Thus Creppell in his interpretation of Lockean liberty says that “...while one may interpret his liberty to mean a release from the arbitrary will of another person namely an absolute sovereign, for Locke this remained always a relative freedom because humans were still bound within a web of constraints imposed on them by God, or natural reason or natural law, however they chose to refer to the constraining power” .Moses Mather presented his defense of resistance “to an impartial world...”²⁸. The next two pages of his pamphlet present a succinct Lockean in which God is the source of both reason and liberty. Since each man has a property in himself that is initially subject to God alone...each person has a natural right to “personal security, liberty and private property”²⁹Mather further argued that in Lockean, liberty and freedom are related to reason and opposed to Licentiousness and the passions and people institute government for the protection of their natural liberty”³⁰. Hence a state of freedom, for Locke is one where persons may “...order their actions and dispose of their possession, and persons as they think fit, within the bounds of the law of nature.....without depending on the will of any other man”³¹.

It is then obvious that Lockean liberty was not a right to do whatever one wants but to act within clear moral constraints.³². Locke did not think it is a restriction on one’s liberty if public opinion pressured someone into behaving in accordance with natural law. Thus comparing liberty with not being reliant on the will of another or who thinks liberty should be restricted by

social force to comply with moral principles, is essentially rejecting Lockean concept of liberty. Locke in addresses this, he tries to join the two extremes of law and liberty not only by conserving that there is a happy medium between both but by identifying law as the critical conceivable defender of liberty . Thus the law aims at preserving liberty, Locke conceives of a civil government with executive and legislature power to preserve every man's right to life, liberty, pursuit of happiness and property. The essence of Locke's argument is based on the assumption that true liberty actually exists for every individual such that the process of protecting that liberty by law molds valid.

Simmons on Lockean liberty says "...each person's consent must surrender all the power necessary to the ends for which they unite into society like taxes, contribution to physical force to assist in domestic law enforcement or natural defence"³³ . This does not mean that according to Lockean concept of liberty that the individual do not have right or at liberty to resist tyranny and dictatorship. It is the responsibility of the government to protect the individual liberties. Thus, individuals lose their "right to self defence"³⁴. However, a conception of resistance to government is crucial to proper understanding of Lockean liberty. Though citizens when they consent to a government lay off their liberty and acquire obligations – pay taxes and obey the law, resistance is sometimes justified in Lockean theory. Hence, Simmons in defence of Lockean concept of liberty puts that " legitimate government , then hold their political power only for the purpose of advancing the good of the people who created them... the people are at liberty to resist when the government fails their task."³⁵

Thomas Hobbes notion of liberty as adduced in his political theory is the immediate attraction of Lockean liberty. Hobbes in his great work Leviathan "posits absolute power for the sovereign. His contribution to human liberty is rooted in the "state of nature". The condition of

man mostly the weaker ones in the state of nature consequently led to the conception of civil society. For Hobbes, the nature of man outside the society is that of a wolf on to his fellow man because the instinct of self-preservation overrides the interest of others. He posits that such condition is not in line with civilization since under such condition of wolfness, there is no industry, navigation, cultivation of the soil, buildings, arts or letters and worst of all, life of man was “solitary, poor, brutish and short”. Such concepts as right or wrong, justice or injustice, have but various meanings under the state of nature since the only code of conduct that reigns is that described as “survival of the fittest. The practical implication of this is that man’s survival on earth depends on his ability, his strength or power. The fate of the weak in this natural state is better imagined than described. It was to safeguard the weak and maintain social cohesion and progress that Hobbes thought it wise that civil authority should concentrate on the sovereign who would regulate social behaviours and thereby ensure the preservation of common interest. Hobbes thought as though if each individual surrenders his right to govern or be a master of himself to the sovereign, he (the sovereign) would in turn secure his liberty. To hold the trust of men, Hobbes posited the secure of compliance through the use of the sword. Thus, he writes in the Leviathan: “...converts without the sword are but words and of no strength to secure a man at all. The bond of words is too weak to bridle men’s ambition, avarice, anger and other passions, without the fear of some coercive power”³⁶

Thus, government stands to curb men’s innately unsocial inclinations. He posits that the job of the sovereign is to instill fear into the citizens so that they do not become capricious. Thus, the need of the sword for bringing men to order is predicted on the avariciousness of the un-socialized man. But how often does man exercise his liberty under duress is a question Hobbes preferably avoided. There could be no vivid rendition of the nature of the covenant than that

presented by Hobbes himself. He posits “I authorize and give up my right of governing myself in this condition that thou give up thy right to him, and authorize all his actions in like manner. This is the generation of that great Leviathan or rather (to speak more reverently) of that mortal God,, to which we owe under the immortal God peace and defence”³⁷. The exercise of liberty in that state or the atmosphere of freedom is a matter of sovereign’s grant. This Hobbessian theory is tantamount to identifying government with force. His sovereign is logical equivalent of power, authority, autocracy and strength. It is an unchangeable position and under his jurisdiction, there can neither be any talk of increment of liberty. The question then is, why should men commit themselves into such covenant that would not secure their individual liberty? Is it not better they live as they did under the state of nature than that they should authorize one man to spell his woe on them?

Both Hobbes and Locke advocates for self-preservation but the inalienable rights of man as stipulated by the natural law in Lockean concept of liberty is opposed to lawlessness of Thomas Hobbes and Hobbes view of absolute sovereign is not in tandem with Locke’s expansion of individual right which is the underlining principles of his political theory. The quest for actual understanding of liberty did not end in Hobbes but became topical in Lockean political theory. The concept of liberty as espoused by Locke attracted a lot of philosophical fireworks than ever before him. Locke is of the view that inalienable rights of man should not be toyed with, unless individual upon resorting to state of nature wages war against other individuals. For Locke, the interest of the government is to enlarge individual liberty and not to sectionalize the enjoyment of liberty. While some thinkers accuse Locke of being egoistic, Locke is acclaimed to be altruistic in his concept of liberty. Liberty has become topical hence the need to understand Locke’s political theory and why he hinged it on liberty, which is for him the limit of the

power of the state over the individual and not the freedom to do as one wants . He tries to distinguish what he calls a constant ‘struggle between liberty and authority’. This leads to the question of where to place the limits. Locke places the protection of individual rights as the major duty of the government and that the government should do all possible means to see that individual rights are attained by all members of the society. All the right that the individual must enjoy as member of that society and the government should not in any means deprive anybody of such rights in as much as such rights does not cause harm to other individual living in the society. Locke does not opine that state’s become powerless nor the individual becoming worthless in the hand of the state but that the State does not overshoot its bound which gave rise to its foundation. Locke unlike the misinterpreters posits that it is in the state that the individual liberty is expanded and well enjoyed. In his major opus, he distinguished between negative freedom and positive freedom. He argues that even though we are free in doing what we like, it does not mean that we are totally free, for we are slaves to nature but not slaves to our fellow men. He asserts that living in a society will make one more free. Thus, Lockean political theory hinged on his concept of liberty and public good does not admit the inexistence of restraint in the society but such restrains exist for the public good.

Having reviewed John Locke’s concept of liberty or otherwise called Lockean liberty and other thinkers notion on the case study, this study found out that some philosophers eulogized him , some criticized him while some others shared similar or nearly the same view point with him. The seemingly paradox of the Lockean concept of liberty which is optimally realized in public good created some gaps in the knowledge production of some political thinkers as reviewed prior are largely hinged on misreading and misinterpretation of Locke by many contemporary libertarians and political philosophers. The interpretations and critiques of

Lockean liberty by many thinkers who at the same time accuse Locke of being too individualistic, prone to anarchism and proponent of weak government is noticeable in the reviews above. Some of the literatures portray Locke as positivist while others him on negative theorists pedestal. This works endeavours to close those gaps found in works of some thinkers by positing that Lockean Liberty is a unification theory. It united Negative and positive concepts of liberty. Man is free within constrains of the law. Lockean “unification” is similar to what Kant did with a priori and aposteriori knowledge Thus, in Locke liberty is enlarged in the society through the public good. Lockean liberty gives more rights to the individual through the public good. Secondly, Lockean liberty is not a concept to diminish the role of a government but to enlarge the liberty of individuals within a government. The purpose of government according to Locke is to protect and provide individual needs and promote social welfare of the people, not just for a few but for all citizens. The above are the gaps or lacuna we try to fill in the course of this dissertation. This Lockean political theory hinged on liberty which is enlarged through public good is the essence of his political thoughts. The exposition of the background of what led to his concept of liberty is the crux of the next chapter.

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CHAPTER THREE

3.1 Life and Times of John Locke

Wide-ranging political events surround Locke's terrestrial existence which provides a useful, although not exhaustive, draught of the context of his political theory. John Locke is marked as one of the most influential philosophers of modern era. As a founder of empirical theory of knowledge, Locke's thoughts presented a veritable challenge to the already prevailing theoretical dogmatism and innatism of his time as championed by the rationalistic tradition of Descartes, Spinoza and Leibniz".¹ But it is in the area of political philosophy that his influential star shines, becomes glaring and so lasting that he must be treated as the founder of modern tradition of liberty and Public Good. His cerebral peregrination led him to be trained as a classicist and a scientist, ethician, logician, medical doctor and a diplomat. Locke has been called the apostle of the English Revolution of 1688 which has been described by Russell as "the most moderate and most successful revolutions"². As a man who embodied the spirit of that political paradigm shift which dethroned King James II and enthroned William of orange, most of his works appeared within a few years of 1688. His work in theoretical philosophy, *Essay Concerning Human Understanding* was published in 1690. But his major work in political sphere is his double-barreled, *Two Treaties of Government*.

John Locke was born at Wrington, a village in the north of Somersetshire, August 29, 1632. Locke's family had some advantages because his grandfather was a successful business man who built a sizable estate. Locke's father served in the Parliamentary army during the Civil War where he met Colonel Alexander Popham. After the Restoration Popham became a Member of Parliament and helped young Locke gain admission to Westminster School. From there Locke

entered Christ Church, Oxford, in 1652. Then Oxford had enjoyed an influx of scientific inquiry and humanism championed by Roger Bacon and Sir Thomas More amongst others, all had their influence on the colleges. The head of Christ Church then was the Presbyterian John Owen, a Puritan proponent of toleration and independence for Protestant sects. Avoiding a career in divinity and despising the dry Scholasticism, Locke concentrated his studies on medical science at Oxford and later held teaching and diplomatic positions until hooking up with Lord Ashley Cooper in 1666 (later Earl of Shaftesbury). Locke's preferred ambition was to live his whole life at Oxford – but events altered this path and he was illegally ejected on political grounds in 1684 from his studentship at Christ Church. Locke received his Master of Arts degree and remained at Oxford as a don, tutoring and lecturing. John Owen, the Dean of Christ Church, advocated religious toleration and affected Locke's intellectual development. Locke's early life was Puritan and Parliamentary. His education was High Church and royalist with a dose of toleration.³ When the monarchy was restored in 1660, Locke was as happy as any royalist and seemed to have abandoned any ideas of toleration in favor of order and peace. Locke however changed his opinion on toleration after Charles II was crowned.

At this point the mature Locke developed into a radical proponent of religious freedom, individual liberty and conscience. By no means did he become an anarchist or a thorough going libertarian who decried the authority of the state – which he believes is essential to the running of a peaceful commonwealth, but it must be vigorously checked and controlled, as well as used to secure the public good. Locke's language is sandwiched in Old Testament anecdotes and references that when we peruse his writings, we must remember that John Locke was of Seventeenth Century Puritan and Scholastic background, and at Oxford he studied amidst the general University contract of religious uniformity until his departure

John Locke presents an intriguing figure in the history of political philosophy whose brilliance of exposition and breadth of scholarly activity remain profoundly influential after him. Locke proposes a radical conception of political philosophy deduced from the principle of self-ownership and the corollary right to own property, which in turn is based on his famous claim that a man earns ownership over a resource when he mixes his labour with it. Government, he argued, should be limited to securing the life and property of its citizens, and is only necessary because in an ideal, anarchic state of nature, various problems arise that would make life more insecure than under the protection of a minimal state. Locke is also renowned for his writings on toleration in which he espoused the right to freedom of conscience and religion (except when religion was deemed intolerant!), and for his cogent criticism of hereditary monarchy and patriarchalism. After his death, his mature political philosophy lent support to the British Whig party and its principles, to the Age of Enlightenment, and to the development of the separation of the State and Church in the American Constitution as well as to the rise of human rights theories in the Twentieth Century.

3.2 Early Religious Influence on Locke

For many thinkers, his political philosophy, rooted in Christian thought and paradigms, led to freer and much more prosperous civilizations. Locke's writings on religious toleration present the liberal position on the topic that would shape the future of liberal democratic societies. Therefore, before discussing Locke's mature views on religious toleration found in the Letter, it is necessary to understand the path that he took to reach these views, beginning with the events of his early life, which led to his Two Tracts on Government, written in the early 1660s. Locke was involved with the question of religious tolerance from the day of his birth, on which he was christened by Dr. Samuel Crook, whom Maurice Cranston describes as "both a wayward

and a wilful servant of the Church of England”.⁴ The waywardness of Crook was based on his standing as a Calvinist-leaning Puritan priest of the Anglican Church, a religious mixture that was quite unpopular with the hierarchy of the Church, but one that was shared by both sides of Locke’s family ‘.⁵ Crook’s own bishop “was opposed to Puritans like Dr. Crook because they sought to overthrow the traditions of worship, faith and ritual in favour of the Calvinistic nostrum of sermons, personal conversion, ecclesiastical democracy and Old Testament taboo’ .⁶ This opposition from the hierarchy of the Church against Puritans was a central, although not the only, part of the overall conflict brewing in England in the 1630s. And according to Cranston, the county in which Locke was born, Somerset, was very much divided over the religious, economic, and political conflicts of the day. Cranston writes that “as the country was divided, so too was Somerset, a county which Ashcraft writes, Locke was brought up in a family—perhaps even in a tradition, if one includes his grandparents—with Puritan sympathies”⁷ . John Marshall notes that Locke’s Calvinist upbringing influenced his family’s position on religious toleration: “Like almost all of those with Presbyterian sympathies up to the Restoration, his family very probably did not believe in the significant but still very limited degree of religious toleration that was supported by such sects as Independents.... Locke’s family and their friends probably instead believed with most Presbyterians that there should be one uniform church in the nation, with the devolution of some disciplinary powers from bishops to presbyters and significant revisions of the liturgy to reduce the similarities to Roman Catholic forms of worship which had been retained during the English Reformation” .⁸ Consistent with the overall thrust of this opus, we believe it is important to avoid radically separating the religious from the economic or political aspects of the conflict that becomes the English Civil War.

Nevertheless, it is possible to speak of struggles that were more political or economic than religious, such as the battle over Charles's desire to issue the Ship Money tax. For a discussion of this tax, including the significance of Charles's attempting to do so without summoning Parliament and the import Zance of this tax for the magistrates of Locke's county of Somerset ⁹. According to Craston, this was a time there was a struggle that was more religious than political, a struggle of allowing r Zecreation on Sundays, while the Puritans insisted on keeping the Sabbath set apart from recreation.¹⁰ When Locke was born the civil war in England was still ten years in the future; but the Z forces which were sweeping Englishmen towards it were already in full tide".¹¹ Cranston notes Locke's own perspective on his early years: "I no sooner perceived myself in the world but I found myself in a storm, a significant part of which was focused on the question of religious pluralism and toleration".¹² The storm became war in 1640 when Parliament was finally summoned, only to challenge the authority of King Charles, beginning the Civil War. Locke's father fought on the side of the Parliamentary Army for several years, experiencing more defeat than victory. By the time the Parliamentary Army was ultimately victorious, however, the elder Locke was no longer in active service.

The next move for Locke himself was to Westminster School, where events continued to shape his developing understanding of religious pluralism and the issue of religious tolerance. The atmosphere of the school, according to Cranston, was decidedly Royalist, thanks to the political leanings of its Master. This differed quite strongly from the 'zealously Puritan home' in which Locke was raised. Cranston claims that the political atmosphere of the school was both disturbing and compelling. While it did not convert Locke to a conventional Royalist, it did purge Locke of the unquestioning Puritan faith in which he had grown up. Because of his insistence on giving reasons for one's convictions rather than blindly following what Locke

would later call religious enthusiasm, Cranston gives credit to the Royalist Master of Westminster, Dr. Richard Busby, “for having first set Locke on the road to liberalism”.¹³ It was during his second year at Westminster that King Charles was beheaded near Locke’s School. Busby made the students pray for the King’s soul just hours before the execution.¹⁴ The struggle about recreation on Sunday or Sabbath raged which led Arch Bishop of Canterbury, William Laud argues that such Puritan restrictions were unnecessary. Again, however, this seemingly religious conflict cannot be totally divorced from the political. When the Puritans in Somerset wanted to uphold Sabbatarian restrictions, they went not to the Church but to the judiciary. The latter’s decision in agreement with the Puritans further according to Cranston, angered the Bishop of Bath and Wells who oversaw the churches of Somerset because of “the usurpation by the judiciary of ecclesiastical authority”.¹⁵ This is a clear example of the interlocking nature of religion and politics in seventeenth-century England, an interlacing that not startlingly—although not at all times admitted—is found in the works of Locke. Marshall writes that “In Westminster School Locke may have begun to separate himself intellectually from his Calvinist upbringing.” Like Cranston, Marshall attributes this to Busby, who, Marshall notes, “was a staunch Anglican, proudly declaring in his will that he had always „lived in the communion of the Church of England,” and later boasting of the number of Restoration bishops that he had educated and for whom he had maintained Anglican devotions’.¹⁶ Locke, for his part, was less willing to accept the beliefs and practices of the dissenters. Raised with Puritan leanings, Locke was skeptical of the dependence on tradition seen in the Royalist Anglicans. After the defeat of the Royalists and his arrival at the Puritan atmosphere at Oxford, however, Locke’s studies at Christ Church made him take stronger notice of the dangers of enthusiasm, a trait shared, in his mind, by most Puritans and dissenters.¹⁷ While Locke maintained his skepticism of tradition for tradition’s sake,

in the days of the Commonwealth it was enthusiasm that seemed most threatening to the empirical science that was occupying Locke's mind at Oxford. Enthusiasts did not present rational arguments for their convictions, making them dangerous to stability. Rather than joining Owen in believing that dissenters could hold private beliefs and engage in private practices without disturbing peace and order, Locke became increasingly concerned about religious enthusiasts of all sorts¹⁸. In a 1659 letter, Locke wrote from Oxford, "We are all Quakers here and there is not a man but thinks he alone hath this light within and all besides stumble in the darke".¹⁹ Continuing his description of the religious enthusiasts that dominated the offices of Oxford, Locke came to the conclusion that "since tis not agreed where and what reason is, let us content ourselves with the most beautiful and useful opinions".²⁰

Locke questioned Stubbe's insistence that the practice of toleration was practical. Specifically referring to the toleration of Catholics, Locke wrote:

The only scruple I have is how the liberty you grant the Papists can consist with the security of the Nation (the end of government) since I cannot see how they can at the same time obey two different authorities carrying a contrary interest, especially where that which is destructive to ours...with an opinion of infallibility and holinesse supposed by them to be immediately derived from god founded in the scripture and their own equally sacred tradition²¹.

While the idea of toleration was attractive, the worry over the practical possibilities that might follow its implementation as policy,- possibilities, of course, which were surely shaped by the tempest in which Locke found himself throughout his formative years kept Locke from supporting the views of Owen and Stubbe. For this reason, Locke was pleased with the Restoration of 1660, the installment of Charles II as King of England. Cranston writes, "Locke had put all the doubts of the past behind him; in 1660 he was a whole-hearted

monarchist”.²² Once again, Locke’s rejoicing over the return of monarchy to England cannot be separated from the debates about religious toleration and the role of religious liberty in English civil life. The dangers of the dissenters and the supporters of religious toleration far outweighed any of Locke’s earlier concerns about monarchical rule. Political order was vital to the survival of a nation, and this could only be achieved if the religious liberty demanded by the dissenters and Puritans was abolished by the return of the King. Throughout his early years, Locke was shaped by the religious and political debates that consumed England from the Civil War to the Interregnum to the Restoration. By 1660, many of the beliefs from his Puritan upbringing had been abandoned due to his concerns about religious enthusiasm and the dangers that religious freedom held for political stability. Locke’s convictions were finally strong enough to put his own thoughts on the matter into writing, producing two texts that appear anything but Lockean to the reader familiar only with Locke’s mature views on political and religious thought. It is noteworthy that Locke’s criticism was limited to the practicality of the implementation of religious toleration. His more theoretical arguments against the practice would not surface until his own writings on the subject in the early 1660s. According to Marshall, Locke had “a great ability to keep his own opinions secret throughout a college career spent largely in hostile intellectual environments”.²³

Locke showed the weakness of those who relied entirely on revelation and disregarded reason and also those who, on the contrary, relied purely on reason. He submits “the philosophers on the other side pretended to nothing but reason in all that they said and, from thence owned to fetch all their doctrines. Though how little their lives answered their own rules whilst they studied ostentation and vanity rather than solid virtue Cicero tells us”.²⁴ For Locke, every man has an immortal soul, capable of eternal happiness or misery. Also man’s happiness

depends on his believing and doing those things in this life which are necessary to obtaining God's favor, and are prescribed by God to that end. It follows from thence, first, that the observance of these things is the highest obligation that lies upon mankind, and that our utmost care, application, and diligence ought to be exercised in the search and performance of them; because there is nothing in this world that is of any consideration in comparison with eternity.

Locke's views on property are strongly influenced by views on the purpose of creation. This is another topic on which Locke sounds like an orthodox Christian of today. In his Second Treatise on Civil Government, Locke's writes on the destiny of earthly goods: "It is very clear that God, as King David says (cxv. 16), 'has given the earth to the children of men,' given it to mankind in common.²⁵ Yet man also needs to be productive, and Locke's path to defend private property also invokes the Creator Proper stewardship is also required "Nothing was made by God for man to spoil or destroy."²⁶ In that sense, despite that men had property on their own person according to Locke they do not have 'an arbitrary power on his own life.'" According to Locke, God, by commanding to subdue, gave authority to appropriate. And if to encourage stewardship government is brought up, God is also present "God hath certainly appointed government to restrain the partiality and violence of men."²⁷ Religion was so important on Locke's view, that his call for tolerance did not extend to atheists 'those are not to be at all tolerated who deny the being of a God. Promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist.' Locke's religious life influenced his view that man is much more in line with the concept of the person, than with the concept of the individual. (He seldom used any of these terms, preferring the term man or mankind to describe the human being).

The concept of the person is similar to the concept of individual but it stresses the existence of the soul, the social nature of human beings, and freedom. Locke is well known as a champion of freedom, but he also stressed that every man has an immortal soul and that the salvation of souls is the only priority of the Church. It is no secret that Locke's Letter Concerning Toleration forever changed the landscape of religious tolerance. While Locke himself refrained from following his premises to more far-reaching conclusions, his thoughts concerning those with religious beliefs that dissented from the established doctrines in his own society greatly impacted all subsequent discussions of religious freedom, including those discussions that paved the way for the religious freedom that was central in the formation and understanding of liberty.

3.3 Locke and Shaftesbury

Historical development of Locke's political ideas from the 1660s to the 1680s is unconnected with Locke's close relationship with Shaftesbury. Thus, Shaftesbury himself advised Locke to

...apply himself to the study of ecclesiastical and political affairs, which might have some relation to the business of a minister of state. And Mr Locke succeeded so well in these studies that his Lordship began to consult him on all occasions of that nature. He not only took him into his library and closet, but brought him into the company of the Duke of Buckingham, my Lord Halifax, and other noblemen of the greatest wit and learning, who were pleased as much with his conversation as my Lord Ashley.²⁸

Moreover, Shaftesbury entrusted Locke with "all the secretest affairs then in agitation and by my Lord's frequent discourse of state affairs, religion, toleration, and trade, ... Locke came to have a wonderful knowledge of these things."²⁹ insightfully, "I have searched in vain," Maurice Cranston admitted, for evidence of Locke's holding liberal views before his introduction to Lord

Shaftesbury in 1666. There is much to show that Locke held such views soon afterwards; and I cannot help wondering if he learned them from Shaftesbury. For it is certainly not the case... that Shaftesbury learned his liberalism from Locke.”³⁰ Whatever one ultimately concludes regarding the flow of influence with respect to the political ideas of Locke and Shaftesbury-certainly both temporal precedence and intensity of commitment belong to the latter-it is also relevant to ask, what is it that Locke was expected to do for Shaftesbury as a member of his family? The Third Earl of Shaftesbury, his grandfather involved Locke in "...his secretest negotiations and made use of his assistant pen in matters that greatly concerned the state.”³¹ Again, there is a good deal of evidence to support this view. Almost immediately after joining Shaftesbury, Locke drafted several versions of a proposal recommending toleration for dissenters, an issue with which Shaftesbury had become politically identified.”³² In 1668, Locke wrote a draft manuscript on the rate of interest "...at the direction of Shaftesbury, then Chancellor of the Exchequer”.³³ It is clearly known amongst the close friends that “he drafted with Shaftesbury the Fundamental Constitutions of Carolina for the colony of which the latter was an original proprietor”.³⁴ In a document dating from the early 1670s describing the duties of the various members of Shaftesbury's household, Locke “...is identified, rather enigmatically and with more than a little sardonic wit, as secret the clergy”.³⁵ Considering Shaftesbury's tremendous ” dislike of all forms of clerical authority, whether in politics or in enforcing any kind of religious conformity, this role was destined to become one of great importance to Shaftesbury as the dimensions of the popish plot began to unfold.”³⁶ There is little doubt that throughout this politically turbulent and dangerous period, Locke was Shaftesbury's most trusted adviser. He made Locke "privy to his most secret affairs, and, in turn, Locke gave his assistance to some pieces which his Lordship published, to stir up the English nation to have a watchful eye over the conduct of the Roman

Catholics, and to oppose the designs of that party."³⁷ This design, so far as it pertains to England, it is noted, "...cannot be carried on without the full concurrence of the English Court."³⁸ It is Shaftesbury's leadership in organizing the opposition to both these forces which establishes the political dimensions for the theoretical arguments contained in the exclusionist pamphlets and tracts of the 1680s.

One of the earliest expressions of Shaftesbury's political perspective, and a prolegomena of the position to be developed in the *Two Treatises of Government*, "can be found in *A Letter from a Person of Quality to his Friend in the Country* (1675)."³⁹ Several of Locke's close friends were convinced that he was the author of this pamphlet, and there are indeed reasonable grounds for supposing that he did write the Letter. "Two days after the House of Lords ordered the work burnt by the public hangman, and set up a committee to discover and punish its author, Locke hastily left England for France."⁴⁰ Later, Locke was also thought to be the author of an exclusion tract, *No Protestant Plot*, which, Cranston believes, "Locke may well have had a hand in writing."⁴¹ While Locke's authorship of particular political tracts—a subject in itself well worth further exploration—remains uncertain, what does appear to be true is the Third Earl's statement that Locke acted as Shaftesbury's 'assistant pen' during the last decade of the latter's political career. It is in this particular context, I am suggesting, namely, as a further expression of Shaftesbury's political ideas and objectives that one ought to read Locke's *Two Treatises of Government*. Reading Laslett one understands that Locke actually wrote the book for Shaftesbury's purposes. Cranston concurs with this judgment, maintaining that the *Two Treatises* was not written philosophy, but as a party book; that is, as a work of propaganda designed to promote the political objectives of Shaftesbury and the Whigs. Nevertheless, neither Locke's political intentions nor the immediate historical circumstances governing the writing of the *Two*

Treatises have played a significant role in the various interpretations of that work contained in the countless books and articles which discuss Locke's political theory. In light of the evidence that gives a decisive importance to precisely these political and historical factors, it seems that the burden of proof must lie with those who begin their analysis of the Two Treatises in a manner that disassociates the work from the partisan political activities organized by Shaftesbury in the 1680s to explain their reasons for attributing to Locke some other set of assumptions with respect to his writing of the Two Treatises. As I indicated earlier, in this regard, we are all indebted to Laslett for having set the Two Treatises of Government on its proper historical foundations. But, having arrived at this point, it obviously follows that any assessment of what Locke thought he was doing in putting down his political thoughts in the Two Treatises will certainly depend in some measure on the clarity of our-and his-understanding of what, in fact, Shaftesbury's 'purposes' were. But, it is here, we believe, that Laslett has not displayed the kind of care and attention to historical detail that one might have hoped for, given the historical soundness of his general argument vis-a-vis the traditional interpretive approaches to Locke's political thought. In part, this criticism pertains to the specific arguments Laslett used to determine the date of composition and the ordering of the Two Treatises, and, in part, it relates to his interpretation of Shaftesbury's political activities and purposes. Precisely what these purposes were must naturally remain a matter about which historians may disagree, but at a minimum, we need an approach to this interpretive task which focuses on the organizational activities of Shaftesbury and of those immediately around him, including Locke. For what Shaftesbury and his followers planned to do, and who would undertake such political action must certainly constitute a relevant aspect of any interpretive account of Locke's argument in the Two Treatises

of Government, insofar as that work was written with the intention of persuading individuals to support and participate in the realization of Shaftesbury's political objectives.

Locke's close association with the Earl of Shaftesbury prompted him to write a work for Shaftesbury which did not reflect but contravened his political purposes, that he intended to make a contribution to a political debate of which he was ignorant, and that he employed a language that he alone, at that time, could be identified within the immediate sense, this is, of course, the political problem of the exclusion crisis. In its more general form, the argument in the First Treatise poses the choice between the view that "power flows from the will of one man, leading towards tyranny, and the view that power arises from the people and is expressed through consent and elections."⁴² As a political tract," the First Treatise was intended to form part of Shaftesbury's electoral and Parliamentary campaign to win support for the passage of the exclusion bill during the elections and Parliamentary sessions of 1680-1681, and to achieve this objective, in part, through attacking and countering the clergy's electoral influence over the country gentry."⁴³ Finally, if the issue of succession is not resolved in a manner that reaffirms the old way of instituting government through the consent of men making use of their reason to unite together into society, Locke warns, the consequences of an insistence on the divine right approach to the problem of succession will certainly be "endless contention and disorder, i.e., civil war."⁴⁴ This "not so-veiled threat was frequently made by the Whigs in the Parliamentary debates and in their pamphlets in 1680, and it was intended to give force to the Whig argument that Parliamentary passage of the exclusion bill was the only alternative to a civil war."⁴⁵ Without a sitting Parliament, obviously, this entire political argument, and the political strategy which informed it, collapsed. Therefore, when the King dissolved the third elected Parliament in two years, and moved in the direction of ruling without one, a new political strategy, and with it,

a new political argument, was required for those who, like Shaftesbury, were determined not to give up in their opposition to the Duke of York's succession to the Crown. It was around this time (1681), according to Lord Grey, that he attended a meeting with the Duke of Monmouth and Lord Russell at Shaftesbury's house where the latter argued "that we had committed a great error in being so long a screen between the King and the House of Commons which otherwise would have engaged in a much more direct attack on the King."⁴⁶

Locke began the Second Treatise by considering the condition of men living in a state of nature where the ties of government have been dissolved, leaving them to confront the possibility of a state of war brought on by the designs of a ruler who is attempting to claim absolute power and to exercise force without authority. This, in its most cogent formulation, is Shaftesbury's political view of the situation in the post-March period of 1681, and the Second Treatise can therefore rightly be said to have been written within the framework of Shaftesbury's purposes. The parallels between Shaftesbury's political beliefs and policies and the specific arguments contained in the Second Treatise could certainly be extended much further, but the question I now wish to consider is, who was prepared to translate these views into political action and by what means? For, it is in this respect that the Two Treatises of Government can claim a special quality as a work political theory written during the exclusion crisis; that is, as a work designed to urge radicals to unite, through revolutionary action, in resistance to the King. Clearly, Locke could have retired to Oxford to live a quiet nonpolitical life at any time during the eight months after Shaftesbury fled to Holland. He chose not to do so; instead, he remained in London and assisted in the planning for the projected revolution. For any thinkers, Shaftesbury had so much influence on Lockean political theories.

3.4 John Locke and Wars in The British Isles and The Glorious Revolution

Prior in life Locke, a student and tutor at Oxford, was ethically and civically conservative, Hobbesian one could say were such thoughts not so generally reflective of the post war times in England in which strong and stable government was manifestly preferable to the apparent anarchy of the recent Civil Wars in the British Isles .The Seventeenth Century was a period of immense upheavals – across Europe the Thirty Years Wars had raged , and in Locke’s Britain, Civil War broke out in 1642: He lived through the overthrow and execution of the monarch, the interregnum of the Cromwell’s Republic, the Restoration, and the overthrow of another monarch in the Glorious Revolution. Without some knowledge of this political context and thus the world in which he wrote and acted, it is difficult to understand the thrust of Locke’s political philosophy.

John Locke born in a cottage in the village of Wrington, near the great port of Bristol, Somerset was raised at Pensford a few miles to the west. The second Stuart King of England, Wales, Scotland, and Ireland had been on the throne for seven years – the ill-fated Charles I, whose reign was to lead to a brutal Civil War dividing the British along religious and political lines and which ended in his execution in 1649. Somerset was one of the most populous and rich counties of the country, yet despite its affluence gained from hard work and a division of labour, social strata permeated social relations – each individual had a moral superior to look up to in a moral hierarchy that ended with the monarch, whose superior was God. This political and social context is vital to be aware of, for the tensions and violence of the era permeate the atmosphere in which Locke matured and wrote his political writings. The essential divisions that operated in the Civil Wars may be thought of as splitting Puritan or Independent religious proponents with

supporters of the rights of Parliament from adherents to the Anglican Church, closet Catholics, and supporters of the Royal Establishment (referred to as ‘Royalists’).

Locke’s politically formative years as a young man were dominated by the rise of Puritan dissenters and Parliamentarians, the outbreak of Civil War when he was ten, the fall of Bristol when he was 13, the execution of Charles I when he was 17 and the formation and government of a Republic until he was 28. His religious thinking had shifted from a traditional acceptance of his Puritan heritage to Latitudinarianism, which emphasises the employment of reason in understanding religious and Scriptural matters. A constant political problem he drew his attention to was the rights of the civil magistrates relative to the rights of the clergy; up until the mid-1660s, Locke espoused the primacy of civil institutions in defining the nation’s religious culture and forms – he was, in effect, an advocate of the earlier Acts of Supremacy establishing the Monarch as the head of the Church and State, and the Elizabethan Act of Uniformity that sought to unify religious worship in the Kingdom; the Republic contrarily had promoted diversity. The Lords and the Monarchy were abolished by the reforming Republic, and Cromwell defeated Royalist, Catholic forces in Ireland and Wexford and Charles II’s army in Scotland. It is unsurprising that the country swiftly descended into a military dictatorship under Oliver Cromwell’s rule. The Republic became a pariah state, and European monarchs sought to assist Charles II to regain his throne. The immanent political difficulties led to the Republic’s rapid demise following Cromwell’s death, and the ‘Long Parliament’ soon sought out the exiled King Charles II to bring peace and calm to the vulnerable state. Yet relief following Charles’s return in 1660 soon turned to grave concern in many parts of the country, and the problems that had beset or been unleashed in the previous two decades of war and interregnum resurfaced.

The Glorious Revolution was made "...very largely by men at the top of the existing social and political structure, who naturally wished to avoid radical change." ⁴⁷. As a political party, the Whigs were faced with the problem of defeating the political theory of Toryism while, at the same time, divorcing themselves from "...their damaging association with political radicalism under Charles II."⁴⁸ The combination of conservative and radical elements in the Two Treatises is a matter of great historical-theoretical importance. Locke could be viewed as the spokesman for his contemporaries support for the establishment of William and Mary on the throne, and this event, in turn, was the foundation stone for the edifice of eighteenth- and nineteenth-century English libertarianism. Shaftesbury's effort to promote a revolution, with which Locke and the Two Treatises were associated, brought together a relatively small group of radicals who, in their social composition, and, to some extent, in their political objectives, can be distinguished from those Whig magnates who managed the Glorious Revolution. These differences, in class affiliation and in political ideas, point to radicalism, and they suggest a basis in the historical evidence for the view that Locke's political theory is much more clearly linked with the political ideas of the Civil War radicals than we have been taught to believe.

Thus, the radical features of Locke's political theory developed in the context of the Earl of Shaftesbury's attempt to organize a revolution in 1681. This project was carried forward by others following Shaftesbury's death. The Glorious Revolution involved three basic issues: who should be king of England? What should be the nature of the kingship or in what ways should the government be reformed? And what should be the relationship between the Anglican Church and other Protestant groups? Underlying these issues were theoretical questions concerning succession theory, allegiance, consent, conscience, and the concepts of trust and original contract. A central problem was: did the people have the right to resist the king, and if so, on

what grounds and through what agency? Locke responded to these questions in ways that reflected both his theoretical principles and his practical, partisan, political experiences. During the years when he was Shaftesbury's confidant and political agent, "Locke learned about practical politics and the political uses of the press through personal involvement."⁴⁹ Locke later drifted with Shaftesbury and others into the murky shadows of conspiratorial politics and found the dangers there so great that he fled to Holland, where he lived in self-imposed exile until 1689. In both England and Holland Locke formed connections with radical Whigs and with men who, although in some cases infected earlier with radicalism, became court Whigs in the course of the Revolution.

As such, "Intellectuals in Holland whose liberal views on religious toleration coincided with Locke's were Philippus van Limborch and Jean Le Clerc and Benjamin Furly, a radical Quaker, with whom Locke lived for a while".⁵⁰ It seems clear, as Ashcraft has forcefully argued and shown in detail, that Locke should be placed in a circle that in the 1670s and 1680s included political and religious dissidents in both England and Holland. However, it "is not to suggest that all features of Locke's political theories were radical."⁵¹ Locke was also drawn to the periphery of the Dutch court of Prince William of Orange. In addition Viscount Mordaunt, who had been one of Shaftesbury's supporters in the House of Lords "...was said to be the first man of quality to try to persuade the Prince to come to England, provided a link to William."⁵² Locke may have met the Prince in 1687 on visits he made to The Hague".⁵³ Locke's response to the Revolution "...reflected the political and religious principles that he had worked out before 1688-89 in *Two Treatises of Government*, drafted first in 1679-80, and the *Epistola de Tolerantia*, written first in 1685-86 but indebted to his earlier work on toleration."⁵⁴ In theory, Locke held that government is dissolved when either the legislative or the executive violates its

trust, a concept central to his response to the Revolution. He explained in the Second Treatise “that men in a state of nature create a community by entering into a contract, but that the community entrusts power to a government in a fiduciary relationship rather than a contractual one.”⁵⁵ This meant that if an elected leader violates his trust, the government is dissolved and the people have the right to resist. When dissolution occurred power reverts to the people. The key problem, of course, is the meaning of people. Although In the event of a dissolution according to Locke, these people are at liberty to provide for themselves by erecting a new Legislative, differing from the other by the change of persons or Form or both. Clearly, Locke's People in theory included many more individuals than those enfranchised in late-seventeenth-century England and thus, a large proportion of his people could not have been either elected to or represented in the Convention. But in a practical way Locke accepted the Convention as elected by and constituted as a stand-in for his people.

Great issue at the time of the Revolution was the headship of the state. Locke's position was that James II had broken the trust between himself and his people and therefore was no longer king; he had actually put "himself into a State of War with his People."⁵⁶ This attitude reflected political principles and examples spelled out in the Second Treatise. There Locke argued that a dissolution of government followed when the Executive, for example, set up his own capricious Will, as the law of the Society, corrupts the election process or turns over the government to a foreign power. The latter Locke point Zs correlate with steps James II had taken, as in his use of the suspending and dispensing powers. In effect Locke pinned the evil acts on James himself not his ministers and thereby rejected the old legal dictum, ‘The King Can Do No Wrong’. The latter were essential to Locke's theory in several ways. First, they justified the removal of James. In Locke's theory people enter into a contract to create society, but into a

fiduciary relationship or trust to create a government. The commingling of the concepts of the ancient constitution and of natural rights was not new; as Ashcraft has insisted, "it can be found in the thought of the 'first Whigs,' including Shaftesbury, so Locke surely was aware of it."

Locke's political theory corresponded to Whiggish practical work as evidenced in the Revolution. It was a theory that treated of a state of nature that was not altogether bad, and of its transformation into a civil state that was not altogether good by a contract which was not very precise in its terms or very definite in its sanction. Lockean system of political philosophy was excellently adapted to the constitutional system which England needed at that time and which the Whigs actually put and kept in operation. It was a good, respectable, common-sense view of the features of political life that impressed a philosophical observer; it was strong in the individual parts, if not in their correlation; and it was far better adapted to make an impression on thinking Englishmen than were the more logical systems of Hobbes and Spinoza. It was Locke's theory that was brought over, supported by the practical illustration of the accomplished revolution, to the Continent, where many of its elements were taken up and developed to their logical limits by the thinkers of France.

3.5 Age of Enlightenment and The Wind of Change

For more than a century before Locke wrote, one of the chief problems of political philosophy had been to discover an ultimate and unquestionable embodiment of governmental authority from whose will no appeal could righteously be made. A determinate human sovereign had been the logical goal of all the anti-revolutionary writers—a man or body of men, forming part of the machinery of government, whose expressed will, being law, was in both the legal and the moral sense binding upon every member of an organized society. Bodin, Hobbes and Filmer had

all worked with this aim, and they had defended their preference for monarchy on the ground that doubt and uncertainty as to what was really the sovereign's will were less likely when the sovereign was an individual than when it was a group of individuals and strikes out on new lines of thought, the conditions of English practical politics are in most cases clearly responsible.

The restoration of the Stuarts to the throne of England in 1660 signified the failure of the Puritan Parliamentary party as a party of construction; but it did not signify the disappearance of the ideas, either theoretical or practical, upon which the movements of the preceding two decades had been based. After the first surge of violent reaction had exhausted its force, the ancient friction between crown and Parliament, between law and prerogative, assumed once more the first place in the general political situation, and with it was renewed the strife between the established church and the nonconforming sects. Charles II, by becoming a dependant of Louis XIV, succeeded in evading the direct issue with Parliament over taxation upon which his father lost the throne; but James II, less ignoble if also less shrewd than his brother, precipitated the revolution upon the religious and ecclesiastical issue. The cardinal fact in the adjustment which settled the restored king firmly upon his throne was the strict alliance of the established church with the crown. Both institutions had suffered the lots of indignity at the hands of the Puritans. Hence, at every manifestation of a tendency in Parliament toward limitation of the royal authority, the king could count on the blind and unwavering support of the bishops in the House of Lords and of the lower clergy in the constituencies of the Commons, with the doctrine of divine right and passive obedience as the foundation of all relations between monarch and subject. The reign of Charles II was indeed the culminating point of this doctrine in England. Not in the rationalistic form in which Hobbes had displayed it, but in the full obscurantist spirit that had characterized the days of Laud, and that also characterized contemporary thought at the court

of Louis XIV, the duty of unresisting submission to the Lord's Anointed was kept before the English people in copious floods of sacerdotal literature. In this era, every effort of that party in Parliament which was coming to be known as the Whigs, to liberalize the existing institutions of either state or church, was met by the obstinate resistance of the ecclesiastics. The University of Oxford, the historic home of extreme royalism, formulated in convocation in 1683 a condemnation of certain pernicious books and damnable doctrines destructive to the sacred persons of princes, their state and government, and of all human society,. Among the doctrines thus condemned were that of the origin of civil government in popular contract of any sort; every aspect of the right of resistance to a king, whether he violated the laws of God, the laws of the land, or any other prescription; and Hobbes' whole doctrine of the state of nature and the origin of government in the self-interest of the individual. It was in connection with the sharp conflict of parties in the latter days of Charles II that Sir Robert Filmer's Patriarcha was published and the popularity which it obtained is convincing evidence that the doctrines which it embodied were those dominant among the English people of the era. Until the death of Charles II, the alliance of church and crown stood firm, despite the strain often put upon it by the religious tendency of the king. But the revolutions of 1688 became possible when James II deliberately disrupted this alliance and alienated the church from his cause.

Locke's First Treatise argued against Robert Filmer's 1680 Patriarcha, or the Natural Power of Kings, in which Filmer sought to show that the right of a king to rule was derived from the Bible. ("Divine Right of King's" given to Adam and handed down). Locke claims to have refuted Filmer's position, by showing that that right has been falsely derived. In fact, Locke was contemplating an attack on Robert Filmer's Patriarcha, or The Natural Power of Kings Asserted (1680), which claimed that God sanctioned the absolute power of kings. Such an attack was risky

since it could easily be prosecuted as an attack on King Charles II. Algernon Sidney was hanged, in part, because the king's agents discovered his manuscript for Discourses Concerning Government. Locke rising from the changes and exigency of his time wrote treatise which attacked Filmer's doctrine. Locke denied Filmer's claim that the Bible sanctioned tyrants and that parent had absolute authority over children. Locke wrote a second treatise, which presented an epic case for liberty and the right of people to rebel against tyrants. While he drew his principles substantially from Tyrrell, he pushed them to their radical conclusions: namely, an explicit attack on slavery and defense of revolution which was an outcrop of the age of enlightenment in Europe. The era was period of political-religious dispute about the right of succession. Filmer sought to defend the catholic King James' right to the throne, while Locke sought to make way for the protestant King William. (William became King, through what is called the Glorious Revolution.) To make this argument, Locke had to establish a basis for the right to overthrow a monarch, which is to say that a King does not have absolute power.

The Divine Right of Kings is a doctrine supposing that God chose people to rule the Earth for him - monarchs. Everything they do is in God's name and is God's wish. To argue with a King's decision is to argue with God himself. John Locke was born in 1632, during the reign of King Charles I. His reign was a time of debate over the Divine Right. John Locke believed the absolute opposite to the Divine Right. While the King believed his authority came from God, so could not be questioned by the people, Locke believed that Government, and the King, derived their authority from the people, the so called 'natural rights' of people. Locke truly believed in democracy, that the people of a country should be able to choose their leaders, as opposed to a hereditary system. This was also a period of crises of authority, which was in view of the dwindling authority of the Church. These crisis are about Catholic doctrine and the "protestant"

split from the Church. Doubts, induced by philosophical reason, that God's Word determines morality, that God has a role in human affairs, that the Bible is a source of reliable knowledge. Crisis induced by scientific experimentation, which increasingly showed that the world can be understood apart from theological explanations (Galileo, for example, proved with a telescope that the Earth revolves around the sun, which was against extant doctrine then and the discovery of other lands and peoples). Also, the rise of a merchant class, from out of a prior feudal economic system threw wedge to earlier beliefs. This encouraged ideas of individuality, individual freedom, individual rights, free markets, non-interference of government and canonization of liberty. Locke's political ideas are seen as strongly supporting the latter and by all ramifications influenced his political thoughts. For Locke, accepting such a position and combining it with Filmer's view that the king, as the direct descendant of Adam, is the father of the entire human race would lead to the conclusion that there existed a Divine unalterable Right of Sovereignty, whereby a Father or a Prince hath an Absolute, Arbitrary, Unlimited, and Unlimitable Power, over the Lives, Liberties, and Estates of his Children and Subjects; so that he may take or alienate their Estates, sell, castrate, or use their Persons as he pleases, they being all his Slaves, and he Lord or Proprietor of every Thing, and his unbounded Will their Law.

In insisting that men are born the property of God, Locke is challenging the view that any human being could by right of fatherhood, whether biological or in Filmer's extended sense, acquire a property right over another. In other words, the right of fatherhood could not serve as the basis for the institution of slavery or arbitrary power. The second claim that Locke wishes to resist is that God's donation of the earth to Adam, as described in the Book of Genesis, constitutes a grant of sovereignty. It is to this issue that Locke turns in Chapter four of the First Treatise, where he offers two further critiques of Filmer's position. The first is that, 'whatever

God gave by the words of this Grant' (I Gen. 28), it was not to Adam in particular, exclusive of all other Men: whatever control he had, it was not a Private authority, but an authority in common with the rest of Man. Drawing on ideas of natural community in Grotius and Pufendorf, Locke claims here that God's original grant of control cannot be taken to bestow any particular rights to an individual or group that are not also possessed by the community as a whole. It therefore cannot serve as the foundation for natural monarchy. Secondly, Locke argues, even if it were true that the original grant was made to Adam alone that would not give him political power over men. Locke is clear that property and sovereignty must be kept apart. The property that God grants mankind is a property over the material resources of the world, a property that is originally held in common; it is not a property of one man over his fellow men and as such has nothing to do with sovereignty. The state of natural freedom is not quite the condition of complete liberty that characterizes Hobbes's state of nature. Being the property of God makes us perfectly free in relation to other men, but imposes certain restrictions on us in relation to our Maker. Yet there is a second aspect of natural freedom that emphasizes not man's dependence on God but his self-ownership. We find this idea in the Second Treatise, where Locke begins his account of the origin of private property with the assertion that 'every Man has a Property in his own Person. For Locke, Men are understood to be free from other men not because of a prior claim on the part of God but because they are themselves their own masters: there is a sphere over which they have ownership and over which nobody else can interfere. These historical squabbles shaped the political thoughts of young Locke. This is evidenced in his political writings and even is epistemological excursus.

3.6 Historical Influence of Property and Liberty

There are, then, two dimensions to Locke's understanding of natural freedom. It is, first, the condition of being the property of God and therefore not of anyone else; and, second, of being the proprietor of one's person. The question we must next turn to is what compels men to renounce the condition of natural liberty, and 'joyn and unite into a Community'. Locke's argument does not rely, as does Hobbes's, on a bleak account of the state of nature as a state of war. The latter is an entirely distinct condition in Locke's theory and is dealt with in a separate chapter: occurring in civil society as well as in the state of nature, it arises when force is exercised by one man upon another unjustly, that is, not for the purpose of enforcing natural law. In theory at least, the state of nature could be peaceful and lawful, a far cry from Hobbes's *bellum omnium contra omnes*. In order to understand why men renounce the state of nature in order to establish political society, and why living in such a society is nevertheless compatible with freedom, we must consider Locke's account of the origin of private property. The great and chief end', Locke says, "...of Mens uniting into Commonwealths, and putting themselves under Government, is the Preservation of their Property".⁵⁸ Political power is for Locke "a Right of making Laws with Penalties of Death, and consequently of all less Penalties, for the Regulating and Preserving of Property".⁵⁹ Men thus "agree to relinquish their quasi-political right to be themselves the arbiters of natural law".⁶⁰ with respect not only to their own actions but also to those of others. They do this through covenanting among themselves to form a community:

Men by nature are 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" .⁶¹ This differs markedly from Hobbes's original contract, in which individuals consent to grant their rights to an individual or assembly, authorizing him or it to act on their behalf. The Hobbesian contract includes no explicit agreement to form a political society, this being instead generated as a result of the sovereign's power to unify the disparate wills of individuals. By contrast, Locke's contract is an agreement to form a social bond and, moreover, to do so for a specific purpose, namely to preserve peace and protect property Men.

Locke begins his Second Treatise with a refutation of the idea of a divine right of rulers, derived from their special status as descendants of Adam. Thus, "...a restatement of the ideas expressed in the First Treatise, this argument is intended as a response to Filmer's work on that subject, Patriarcha".⁶² Locke was one of those who found the concept of natural law useful in deriving a political theory. In basing his doctrine of property on natural law theory, he was following in the tradition of two important political theorists who preceded him: the Dutch jurist Hugo Grotius (1583-1645) and his student, the German philosopher Samuel Pufendorf (1632-1694). All three of these theorists were concerned with reviving the concept of natural law which had existed since Roman times but had been largely superseded by theistic doctrines, to provide a new one. It is important to realize, however, that Locke, like Grotius and Pufendorf, developed his ideas within the social and economic context of his day. More importantly, he framed his theory of government with a view to his own nation's political and economic interests. Like the theories of Grotius and Pufendorf, Locke's doctrine of property was "...tempered by the exigencies of his own country's colonial interests , a fact which has apparently either been overlooked or accorded little significance by modern analysts of political theory".⁶³

3.7 Earlier Philosophers Influence on Locke

Locke exercised a profound influence on political philosophy, in particular on modern liberalism. Michael Zuckert has argued that Locke launched liberalism by tempering Hobbesian absolutism and clearly separating the realms of Church and State. He had a strong influence on Voltaire who called him 'le sage Locke'. Both Grotius and Locke set out from the initial viewpoint that God gave the Earth to all men in common and this provided the foundation for their theories. They both also agreed in using the state of nature (a world that exists before civil government) as an analytical device and that common property can be used by all to fulfill people's needs. Natural rights are rights, freedoms and privileges which are a basic part of human nature and cannot be taken away. Grotius' idea of natural rights of individuals came about in the early 17th century from the thought that reason and rationality are what separates man from beast. Man therefore seeks society with others and is inclined to behave justly, with justice being a virtue. According to Grotius, people have rights because everyone accepts that each person is entitled to try to preserve themselves and therefore shouldn't try and harm others or interfere with them.

The most distinctive contribution of Locke to political theory is his doctrine of natural rights and liberty. In this he takes the ideas of the Independents and gives them a fundamental position in his general system. Life, liberty and property he represents as inalienable rights of every individual. The peculiarity of his treatment of this familiar concept is in the definiteness with which these rights are made to appear as the concrete privileges of actual living men. In the law of nature as treated by Pufendorf, in the liberty that is eulogized by Milton and Spinoza, there is, despite the purpose of the writers to set up real barriers to despotism, a general effect of abstraction and unreality, or at best an impression that the immunity that is aimed at must be the

privilege of very wise and exceptional men, not the right of every ordinary mortal. Locke's equal rights, on the other hand, are so wrought in his explanation of political institutions as to appear indispensable to the very existence of an actual political community. The happiness and security of the individual figure not as essential to the existence of government, but as the end for which alone government is ever called into existence. Locke's Place in the History of Political Theory

Regarded in his relation to the seventeenth century as a whole, Locke stands high in that group of thinkers who promoted the rationalistic idea of life—who preached that the earth and all the institutions there of were made for man, not man for them; and that, whatever the importance of unquestioning faith in preparation for the life to come, the peace and comfort which were sought by man in the present life were to be secured only by the relentless application of reason to all the problems that might present themselves. As between the two schools which divided the adepts of ethical and political philosophy, Locke belongs with Grotius rather than with Hobbes. As between Pufendorf and Spinoza, he was nearer to the former, although his definition of individual liberty is often singularly suggestive of the latter. As the works of Pufendorf and Spinoza had been before the world of scholarship for many years when Locke published his political writings, and as Locke was peculiarly familiar with current philosophy, there is no room to doubt that the many points of coincidence between his theory and theirs were the results of conscious adoption.

The comprehensive toleration thus established by Locke is sustained by the same rationalistic reasoning that Milton had employed, and the only qualifications introduced are based on strictly political considerations: firstly, there need be no toleration of opinions that militate against the existence of civil society or contravene the principles of morality on which society rests—a qualification that had been laid down by Spinoza; secondly, no right of toleration

can be claimed by a church so organized that its members are subject to another prince—a familiar principle on which Catholics were excluded; and thirdly, there is to be no toleration of atheists, since covenants which are the bonds of human society, can have no hold on persons that do not believe in any god. Obviously, in the doctrine of religious toleration, Locke hardly reaches so advanced a point as that attained by Spinoza, or even by Milton, in their pleas for freedom of opinion. His purpose, indeed, is more restricted than theirs, and he strives only to make a case for freedom of worship, although a general toleration of expression is implied at some points in his argument. It is quite characteristic of Locke, however, to pause before reaching the extreme point in the logical development of a theme. Moderation and the avoidance of extremes is eminently his chief philosophical quality, showing themselves in the political as well as the other branches of his thinking. He has none of that confidence which Hobbes and Spinoza manifest in the capacity of the human intellect and judgment for the solution of all the problems that human conditions can suggest. Locke, while following these thinkers in their doctrine of the supremacy of law as the essential element in governmental organization, refuses to recognize in any determinate human organ an incontrovertible law-making authority. He rejects, in other words, the conception of sovereignty as it had been developed by Hobbes and lapses back into the vagueness and uncertainty of the Grotian school of thinking.

As to Locke's treatment of the separation of powers, it is to be observed that he merely suggests the principle as useful in determining the relations of legislature and executive. The tripartite separation which is familiar to-day, and the justification of this separation on the ground of the mutual checks which it calls into play, have no place in the speculation of Locke, but owe their development to the genius of the French man—Montesquieu who so effectively expanded the English philosopher's suggestion. Locke, though influenced obviously enough by

the actual conditions in England, "...is nevertheless on new ground so far as theory is concerned, is that in which he sets forth the doctrine of the separation of power".⁶⁴ On the whole, Locke's doctrine as to the social contract embodies in its essential features nothing that had not been worked out by preceding philosophers. It does, however, give to the conception a high degree of definiteness, and it brings into peculiar prominence its individualistic implications. Where Hobbes and Pufendorf had analyzed the formula of political union in order to make governmental authority absolute, Locke labored primarily to establish its limitations. Of this difference there is impressive evidence in the fact that the conception of sovereignty, which the earlier writers were at such pains to elucidate, received only the most casual notice in his constructive treatise. The term itself he does not use at all, and the idea of unrestricted power in any human hands finds no place in his theory. In explaining the origin of political authority, Locke adopts the same individualistic point of view that Hobbes had taken, and starts with a conception of the state of nature; but it is not the original Hobbesian doctrine so much as Pufendorf's modification of it that is presented by the Whig philosopher. The state of nature as conceived by Locke is a pre-political rather than a pre-social condition. It is not a state in which men live in brutish reciprocal hostility, but one in which peace and reasons prevail. It is not a lawless state. Rejecting the incisive distinction made by Hobbes between the law of nature and real law, Locke follows the Grotian doctrine and declares the law of nature to be a determining body of rules for the conduct of men in their natural condition. Under this law, of which reason is the interpreter, equality is the fundamental fact in men's relations to one another. On this foundation Locke constructs his doctrine as to the natural rights which belong to every man in the pre-political state

Lockean Discourses display an enormous amount of historical erudition, with special predilection for the Roman Commonwealth, and at many points both the substance and method of his thought closely parallel Machiavelli's. He is, however, distinctly less broad in his philosophy than Machiavelli; and in this respect he is far behind Locke also, with whose doctrines he is in substantial accord. Locke, the son of a Puritan soldier, received his education when the schools and universities were under Puritan influence, and became closely associated in early manhood with that brilliant and liberal-minded, if unscrupulous and erratic, Earl of Shaftesbury who was the founder of the Whig party. All these circumstances combined with his temperament to make Locke alien to the controlling ecclesiastical and political forces during the last Stuart reigns. At the same time he had no sympathy with the extremist doctrines and tendencies among the Whigs. Late in the reign of Charles II, however, he fell under suspicion and was obliged to seek safety in Holland, where he remained until the expulsion of James II. Returning then to England, he published for the first time the works on which his philosophical fame rests. His Two Treatises of Government embodied in purely scientific form the justification of the Revolution. The Letter Concerning Toleration set forth a theory of the particular relations between church and state which Locke conceived to be sound, though it was one which the existing conditions did not permit to be adopted by the triumphant revolutionary party. Of his Two Treatises of Government, the first follows precisely the method of Sydney in refuting step by step the arguments of Filmer's Patriarcha, the second goes far in advance of Sydney by presenting a coherent, systematic, constructive theory of state and government. Of all the opponents of the royal power in the later days of Charles II, when party feeling ran highest, one of the most scholarly and philosophical in temperament was Algernon Sydney, who was executed for treason. His Discourses Concerning Government, published after the Revolution of

1688, embodied an elaborate attack on the doctrines of the court party. His text was Filmer's Patriarcha, which he subjected to a refutation, step by step. The form which his work takes in consequence of this method leaves his constructive theory very vague and uncertain. He has generally been described as a Republican but his influence is evidenced in Lockean political positions. His major point on private property and individuals' ownership of themselves was to place on a firmer theoretical foundation the claim made by an earlier generation of anti-absolutist thinkers that, to be free in political society, one must be a property holder. There is no doubt that according to Tully that Locke, "whose library included works by Grotius and Pufendorf, was deeply influenced by them".⁶⁵ This was why he offered an explanation for the transition from communal to private property that was "immune to Filmer's critique of Grotius and thus resisted the former's conclusion that the only plausible basis for a system of private property was God's donation of the earth to Adam and his heirs".⁶⁶

Both in theory and practice, the views which Locke advocated will be held for many years to come by most vigorous and influential philosophers and politicians. His political doctrines are embedded in socio-political context. The British constitution is also based on his political convictions which the French too adopted in through the interpretative effort of Voltaire. Indeed it is appropriate to note that Locke being the theoretical architect of philosophy of public good driven by his concept of liberty is as a result of loads of experiences both political and religious he encountered while growing up. It is upon this consideration and having understood the background to his political scholarship that we thrust into an exposition of his political philosophy with a view of understanding his concepts of liberty and how the concept expands individual liberty into public good.

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CHAPTER FOUR

4.1 JOHN LOCKE'S CONCEPT OF LIBERTY

Locke's position on liberty is that the freedom of man and liberty of acting according to his own will is grounded on his reason, which is able to instruct him in the law. He is to govern himself and become enabled and to understand how far he is left to the freedom is based on his reason which relying on either the natural or positive law directs man on how to act so as not to run into conflict with authority. Consequently, the law gives fangs to man's liberty. Implicitly, liberty for Locke consists in the mental power to do or not to do as one wills without restraint. In the argument of Locke, the individual is the master of his liberty because he has the capacity and power to will his acts and actually perform them. Thomas Hobbes in his part is known for his advocacy of absolute power of the sovereign. In his text, "the Leviathan" he differed from Locke in his understanding of liberty. Hobbes maintained that if every man is allowed this liberty of following his conscience and will in such difference of consciences, no one will live together in peace for an hour. Therefore, liberty appears in the likeness of the rule and government over others. For him, the sovereign precedes absolutely over the individual. From the foregoing account of Locke and Hobbes, there is a clear indication that they were at variance with their concept of liberty in some perspectives. Hobbes opined that liberty of the individual should be determined by the sovereign power, while Locke based his idea of liberty on the individual sacrificing some aspect of his right so as to enjoy a larger liberty through the public good.

Philosophically, one discovers some similarities in Hobbes and Locke understanding of natural liberty of man. In effect Locke demonstrates that the state of nature is a state of perfect freedom, which men order their actions and dispute 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. Equally, Hobbes maintained that the right of nature is the liberty each man has to use his own power, as he wills himself for the preservation of his own nature and consequently of doing anything, conceived by his own judgment and reason to be the best for him. Locke's concept of liberty is akin to that of his contemporaries. This is because they have one thing in common. Their common characteristic concerns the notion that the individual should be allowed to act freely without any form of restraint from any external influence. He emphasized that human being should be given the opportunity to exercise liberty. Because of this, he relied solely on some measure of enlightened co-operation in both political and social affair. Hence, "Locke vehemently criticized some ideas typical of Hobbes, notably the notion that the state of nature is a war of all against all and one against all. However, he advanced the view that in a state of nature, peace, goodwill and mutual assistance are assured."¹. To drive his point home, Locke contended that the law of nature equips man with certain fundamental human rights and duties. The major short coming or demerit of the state of nature lies in the fact that it lacks proper organization such as written laws, magistrates and penalties to enforce the rules of rights.

He claims that natural law gives each individual some innate rights. Consequently his theory was by implication as egoistic as that of Hobbes. Various government and society at large exist to preserve these innate rights. And any encroachment on such rights is to my mind a limitation on the authority of both the state and the individual. Up to a certain extent Locke's theory showed great concern for the individual and his rights. In other words the individual and his rights figure as ultimate principles. In the state of nature everyman must protect his own rights and is also duty bound to respect the rights of others in order to create a congenial atmosphere similar to the one experienced in modern states. It is pertinent at this point to stress

that Hobbes has taken this stand centuries before Locke. From the foregoing it then follows that Locke's whole theory was mainly concerned with elucidating exactly what was meant by the law of nature which formed the foundation of his social and political works. This is the basis upon which society arose. Before discussing the general question of the validity which Locke attributes to natural law, it will be better to present his theory of the right to property. He posits that right to property is analogous to or takes the same form with all natural rights. For the mere fact that everyone has the right to draw subsistence from whatever nature offers shows that property in the state of nature was common. From his theory of the origin of private property it shows that the right predates even primitive societies which he described as the state of nature. Locke carefully states that "property is without any express compact of all the commoners. It is a right which each individual brings to society in his own person, just as he brings the physical energy of his energy. Hence society does not create the right and except with limits cannot justly regulate it, for both society and government exist in part at least to protect the prior private right of property"²

This notion of property had a profound effect on his political and social philosophy. Locke certainly did not believe that there was no natural right except property. The expressions which he used to enumerate natural rights were life, liberty and estate. Most of the time he used "property" where he seems to have meant any right and since it's the aim of this chapter to expound Locke's concept of liberty, we shall discuss extensively his concept of right to liberty. In any case he conceived all natural rights on the same lines as property that is to say as attributes of the individual person born with him, and hence as indefeasible claims upon both society and government. Such claims can never justly be set aside, since society itself exists to protect them. Their regulation can only be regarded as effective and progressive if they are aimed

at protecting the rights of the individual. In other words, the life, liberty and estate of one person can be regulated and controlled to make effective the equally valid claims of another person to the same rights. Locke is of the view that only individuals and their private interests can make both society and government agencies or organs for protecting life, liberty and estate. He contended that the whole system should be represented as being the individual and his rights. This is undoubtedly the most significant phase of his political theory. And this made it primarily a defence of individual liberty against social and political oppression. In the main, ‘his program contained the same idealization of individuals rights, the same belief in liberalism as a panacea for social and political ills, the same tenderness for the right to liberty, and the same conviction that public interest must be conceived in terms of private well-being’³. Experience within despotic and tyrannical government, shows that certain laws and institutions prevent such operation and execution. Oppression and enslavement are the likely effects or outcome of totalitarianism. Obstruction and interference do not work well for the exercise of absolute liberty (the latter is only feasible in the state of nature) but restraint within the ambit of the law is needful for enjoyment of expanded liberty in the civil society. Complete eradication of laws and power of magistrates will admit the individual back to the state of nature.

It is also believed that individual has such a ‘native or’ original endowment of rights power and wants. And therefore it is expected of social institutions and laws to eliminate these obstructions so that the individual will be given the opportunity to exercise these rights which are natural to him. Locke’s concept of liberty also highlighted the idea concerning the equality of man to act freely despite the vast difference in their social status, educational attainment wealth and the control of social environment. Liberty like freedom is two pronged. One is the metaphysical capacity to make decisions freely. The other is the social fact of having an elbow

room to perform certain social functions and roles in society. But it is important to stress at this point that this work shall concentrate more on the latter, which is the social aspect of liberty. From a social standpoint the term liberty refers to the area of non-constraint granted man (or which) should be granted him.

In Locke's second treatise on civil government, he clearly stated that 'men possess by nature certain rights which society should recognize of which men cannot be arbitrarily deprived. These rights are the gift of God; what God has given man cannot be arbitrarily taken away' ⁴. When the rights are applied universally liberty has a greater chance of being exercised. Locke placed social contract at the base of society and he was one of those political philosophers who transferred the power of sovereignty to the people. Natural rights are offshoots of natural law. Locke defined natural law as 'the rule of common reason and equity which god has set to the actions of men for their mutual security'. It is available to man in the state of nature and society. The dispute about the meaning of liberty has troubled the minds of some libertarian philosophers Like Locke, John Rawls and J. S. Mill . We shall in this work mostly be concerned with the relative values of the several liberties and not many definitions. We may also be interested in what becomes of these liberties when they come into conflict with the State or civil government authority. Liberty of the modern states is of greater value than that of the primitive or ancient cities. "Liberty can always be explained by a reference to three items; the agents who are free, the restrictions or limitations which they are free. From and what it is that they are free to do or not to do and these three items and their activities would be exposed after analysis and interpretation must have been made. "These items when related to the general description of liberty take the following form this or that person (or persons) is free (or not free from this or that constraint (or set of constraints) to do (or not to do) so and so" ⁵.

Natural persons as well as associations may be free or not free from constraints and prohibitions. The influence of public opinion and social pressure should not be over-emphasized public opinion inhibits the proper exercise of liberty by the citizens of any state. Consequently, social pressure not only prevents people from exercising their rights but also leads to social and political uprising. A rather intricate complex of rights and duties characterize any particular liberty. Not only must it be permissible for individuals to do or not to do something but social institutions and other persons must be prevented from causing any obstructions or intrusion. The basic liberties must be assessed as a collective thing that is, as one system. The worth of one liberty depends greatly on the specification of the other liberties. This should be taken into account while framing a constitution or making a law. By and large, “the idea of having greater liberty is inherent in man and it permeates the entire concept of liberty”.⁶ It is an incontestable fact that when the liberties are left unrestricted they collide with one another. This goes to show that certain rules of order are necessary for intelligent and profitable relationship among members of any society. When there is an apparent lack of rules and regulations the exercises of such rights as freedom of speech, freedom of movement are bound to lose their value. On this note we shall discuss briefly on private liberty, political liberty and economic liberty. What leads to an unworkable arrangement of these liberties is the totality of the limitations which they are subjected to. Liberty is being exercised in a lopsided manner when a class or group of people tends to suppress other groups. Hence, liberty is less extensive than it should be. Rawls restated that “Liberty must be equal for each member of society. Nevertheless, some of the equal liberties may be more extensive than others”.⁷ It can be broadened or narrowed according to how they affect one another. These remarks about liberty and its fundamental principles are abstract up to a certain extent.

Private liberty is synonymous with what one may term human liberty. It comprises the inward domain of consciousness namely: liberty of thought and feeling, freedom of speech and opinion et al. Liberty of expressing and publishing opinion differ widely in principle from other aspects of private liberty but they are both of practical importance in that they affect the conduct of members of any society. This opinion is part of the exercise of private liberty that affects or concerns other people. The guiding principle in the exercise of private liberty is the notion that one would like to act according to his own volition without impediment from his fellow creatures. And this presupposition would be authenticated if what one does will not in any way harm others. Even though, that some people have the right to condemn ones conduct and regard it as foolish, perverse or wrong. The liberty of individuals may lead to a mass of individual or private liberty which acts as a unifying force in society. The only freedom which deserves the name is that which allows the individual to pursue his own good in his own way in so far as he does not attempt to deprive others of their or impede their efforts to obtain it. The exercise of political and economic liberty is more in contemporary societies. In the world at large there has been an enormous increase in the inclination to stretch unduly powers of society over the individual. The weapons in their armoury include force of opinion and even that of legislation. The central notion of the changes taking place in various societies is to enhance the living conditions of the individual members of these societies with a view to strengthen society at large. Human nature supports the disposition of mankind, whether as rulers or as fellow citizens to impose their own opinions and rule of conduct on others. For example, in the present circumstances of Nigeria many rulers are so much interested in assuming power even if the masses are yearning for their removal. This is because people seldom understand or know the chief end of governance. And man tends towards assuming power so that unless a strong barrier

of normal conviction can be raised against the mischief it is bound to be on the increase. It is pertinent here to clarify certain issues like the argument that law is not an important condition in the exercise of liberty and what is meant by the worth of liberty.

It is evident from the above analysis that law is undoubtedly an important condition of liberty. Montesquieu argued indeed, ‘That it is principally by the nature and proportion of punishments imposed by law that liberty is established or destroyed’.⁸ the autonomy of the judiciary is considered to be essential to freedom or liberty. Judges are at times called upon to protect the liberty of individuals from encroachment or invasion by private individuals or movement authorities. Representative democracy plays a vital role in this regard. Thus, ‘‘It is a form of government in which political power is with the mass of the people. J.S. Mill insisted it’s superiority over other forms of government is based on the principle that the rights and interest of every or any person are only secure from being disregarded when the person interested is himself able and habitually disposed to stand up for them’’⁹. Therefore, law per se, is an essential condition for the exercise of full liberty in democratic societies. Hence Locke’s contention that law in its true notion does not involve the limitation of the individuals exercise of liberty. Rather the end of law is solely to preserve and enlarge liberty. The worth of liberty is not the same for everyone. Some have greater authority and wealth and therefore greater means to achieve their aims, ambitions, aspirations and ideals.

The worth of liberty to persons or groups is usually proportional to their society status, economic standing and the role they play in the framework of the system. Equal liberty without equal worth of liberty is null and void, and of no effect. That is to say that it would be worthless. In short it is contradictory to say that there is equal liberty when there isn’t equal worth of liberty. And it is also irrational to choose equal liberty without choosing equal worth of liberty.

In a passage that summarizes much of Locke's philosophy of liberty and government, Locke writes that:

the natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but to have only the law of nature for his rule. The liberty of man in society is to be under no other legislative power, but that established, by consent, in the common-wealth, nor under the dominion of any will or restraints, of anyhow, but what the legislation shall enact, according to the trust put it¹⁰

To buttress this position Locke posits that :

Freedom then is not what Filmer tells us, a liberty for everyone to do what he lists, to live as he pleases, and not to be tied by any laws: but freedom of men under government, is, to have a standing rule to live by, common to every one of the society, and made by the legislative power erected in it; a liberty to follow my own will in all things, where the rule prescribes not; and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man as freedom of nature is to under no other restraint but nature.¹¹

This passage points to many of Locke's key points about liberty that are developed in more details elsewhere in his second treatise, many of which are repeated or shared in one form or another by many other writers on liberty that follow him.

For Locke there are two states of liberty, "Natural liberty" and "Liberty in the society". Natural liberty is the original liberty in the state of nature before one has entered into society or the social contract (compact). As is well known, all sorts of criticisms have been leveled at Locke's concept of state of nature. But the concern here is not whether the idea of natural rights makes sense but rather with the question of how liberty and law are thought to complement each other in Lockean concept and how giving up of individual right extends to enlargement of liberty and enjoyment of public good, the latter which to Locke is the end of government or the civil society. These two states of liberty (natural and civil liberty) are somewhat different from one another. But in both cases, in nature and society, liberty is constrained by law. There is no pure

freedom in the state of nature; people are subject to the law of nature which is known through both reason and scripture. Locke writes

...but though this is be a state of liberty, yet it is not a state of license, though man in that state have an uncontrollable liberty to dispose of persons or possessions, yet he has not liberty to destroy himself or so much as any creature in his possession but where some nobler use, than its bare preservation calls it. The state of nature has a law of nature to govern it, which obliges everyone and reason which is that law, teaches all mankind....¹²

Locke posits that in the state of nature, people are created equal and as the workmanship of God. Therefore one person has no right to take the life of another person, or enslave them, or take their property. It should be noted that people also do not have the right to take their own lives or sell themselves to slavery. For Locke, people's life belongs to God who created them. People's life for Locke is God's property. So even in this state anterior to society, Locke does not imagine a "total freedom". Even in this state outside society, there is the law of nature (Reason) that people are expected to follow. In this original state, people do have core "natural" or original rights given to them by God and the law of nature. Specifically people have right to "life, Health, liberty or possessions" as Locke puts it, "...the preservation of life, the liberty, health, limb or Goods of another¹³ or the power "to preserve his property, that is, his life, liberty and estate"¹⁴

Often people tend to sum the core individual rights as "life, liberty and property" as it appears in the American Bill of Rights or "life, liberty and the pursuit of happiness as formulated by Thomas Jefferson in the declaration of independence. And because we have often taken these rights for granted, we often miss the specific significance of these terms and misunderstand them. It is significant that Locke mentions "Health here and not just life and liberty and possessions". It is also significant that Locke mentions possessions and not property". It is clear that Locke construes the original rights of individuals in the state of nature broadly to include

anything that is linked to or preserves life. Indeed, for Locke, the right to life is the basic right from which flows other derivative or secondary rights such as the right to liberty and property. That the right to possession and liberty are secondary to the right to life is evident in several places in Locke.

For instance, when Locke was explaining why people have no right to take another person's life, he says: "...unless it is to do justice on an offender, take away, or impair the life, or what tends to the preservation of life, the liberty, Health. Limb or goods of another"¹⁵ Thus, liberty, Health, limb or goods are explicitly described as rights that tend to protect life. They are thus derivatives from the original right to life; which is the core right which itself flows from the fact that people are the workmanship of God. But these derivative rights are so closely linked to life that they are also original rights that derive from the law of nature and do not depend on any social agreements. In a similar way he puts that slavery is an infringement to liberty because it is a fence around the right to life. For Locke, one should see a person who is trying to enslave on as someone trying to kill him or her. He writes:

To be free from such force is the only security of my preservation: and reason bids me look on him, as an enemy to my preservation, who would take away that freedom (from slavery), which is the fence to it: so that he who makes an attempt to enslave me thereby puts himself into state of war with me. He that in the state of nature would take away the freedom that belongs to any one in that state of nature must necessarily be supposed to have a design to take away everything else, that freedom being the foundation of all the rest...¹⁶

Just as the right not to enslave is a fence around the preservation of life, so too possessions are thought of as a right in so far as they support life and preservation.

4.1.1 LIBERTY AND STATE OF NATURE

Locke opens his second treatise on Government by supporting what he calls the true origin of the government. He begins by supporting what he termed the "state of nature". For

Locke, it was one of the perfect equality and freedom regulated by the laws of nature¹⁷. There is no subjection or subordination in the state of nature. People are their own judge and master, each seeking his good individually. Locke posits that this is antecedent to all human government. He envisaged this state as "...a state of perfect freedom to order their action, and persons as they think fit within the bounds of the law of nature, without asking Leave or depending upon the will of other men"¹⁸. In essence, the state of nature can be described as a selfish state, a state where everyone is a lord of himself. It is a state where a person depends on his own thought. It is a state of individualism. However, Locke warns that having a State of liberty is not one of license. The state of nature differs from state of war in the sense that the former is a state of total freedom of men "without common superior on earth" but the state of war is a state of force on others since they have no common authority to appeal to. For Locke, "...want of a common judge with authority, puts all men in a state of nature, force without right, upon a man's person, make a state of war.

The state of war according to Locke, results from the condition of the state of nature. In order to evade this state of war, men put themselves under an authority to appeal to and take them away from the state of nature into political society through pact (treaty). For Locke, the state of nature is not same as Hobbes' "war of all against all" and life was nasty, solitary, short and brutish"¹⁹. Locke's individual in the state of nature has no liberty to destroy himself or so much as any creature in his possession"²⁰. Lockean state of nature is intrinsically characterized by freedom and equality, a state in which all the powers are equal, no one having more than the other. Everyone is classified equally with same intelligence and faculty even of punishing offenders against him and as such no one may be subjected or subordinated to others. Thus, Locke writes, "the state of nature has a law of nature to govern it, which obliges everyone and

reason, which is the that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions...”²¹ . It is a state governed by the principle of reciprocity whereby the measure given one will be the measure he will get”²². The state of nature exists wherever there is no legitimate political authority, able to judge disputes and where people live according to the law of reason. On this account, the state of nature is distinct from political society, where a legitimate government exists and from a state of war where all men fail to abide by the law of reason. Despite the merits of state of nature, it will however be utopic and contrary to common sense for one to hold that complete sanity would reign since there are certainly men who do not live according to the law of nature. Therefore, such a politeria contains the seed of its own destruction. Since everyone is the judge of his own cause, the next effect for Appadorai is that while the state of nature is not a state of war as in Hobbes, it is still full of fears and continual dangers and man’s enjoyment of right is very insecure. Therefore, the peace among men may be so precarious as not to be easily distinguishable from the anarchy depicted by Hobbes. For the sake of maximum happiness for all individuals Locke infers the necessity of what he calls natural law in his political philosophy.

The difficulties and inconvenience arising in the application of punishment in the state of nature are basically due to three factors: 1. Every individual in the state of nature is his own judge of what is wrong and right, ad this largely leads him to make biased judgments. One man for example, may vehemently deny it. Who is to decide the merits and demerits of the disputes? 2. Even where it is plain that someone has violated the law, one may not have adequate force and power to punish the transgression. 3. Moreover the degree of punishment will vary for the same crime. A man who steals a loaf of bread, for example may be hanged by one group of individuals but another man may merely be fined. It should be underscored that the Hobbesian state of

nature is radically different from Locke's. What Hobbes referred to as state of nature is to Locke a state of war. Hobbesian state of nature is characterized by one man or group of men seeking absolute domination over others. In such a situation, there is need of a common judge" for there exists a struggle for survival. Men will assault and main each other and life was filled with dread. This is for Locke a theoretical mistake and misunderstanding of the life in the state of nature by Hobbes.

4.2 Dynamics of Liberty and Political Society

According to Locke, there are number of challenges of living outside civil societies that drive people to form and live in commonwealth with political structures and laws. The tendency however, to join political societies is both the attempt to avoid the problems in the state of nature but also because God intended people to live together so as to enjoy greater liberty. Thus, he writes: "God having made man such a creature that in his own judgment it was not good for him to be alone, put him under strong obligations of necessity, convenience and inclination to drive him with understanding and language to continue and enjoy it"²³ Locke argues that these political frameworks make life better for the individual for its in such society that liberty is assured. In this view, these political frameworks that one consent to, both expand and contract liberties, but the net is that the overall gains outweigh the loss. Hence, there is a trade that individuals make when they join or choose to live in political societies. People give up some of their right that they had within the state of nature to reap the benefits of living in political society. The benefits are quite various and extensive and are tied to the concept of public good. But in order to gain these benefits, individuals have to relinquish some of the rights and liberties they otherwise would have living outside, or without political societies. It is not just that the overall benefits in society are better than outside, it is also that political institution actually

enlarges liberty. For Locke, it is through law that liberty flourishes and is expanded. Locke rightly points society is the lack of a supreme human authority for making and enforcing law. Thus, civil government is the solution to the inconveniences the state of nature, where men are judges in their own cases.

Hence, ‘to avoid this state of war, is one great reason of men putting themselves into society and quitting the state of nature’²⁴. Though in Lockean state of nature, people can appeal to the law of nature, people are biased in their own cases and this often leads to enmity and even loss of liberty. But because the political society is draped in Social Contract, the liberty of individual is protected and his happiness assured unlike the state of the individual outside the political society. Locke takes what he calls the social contract to be the origin of the state or political society instituted by way of remedy for the inconveniences of the state of nature²⁵. For Locke, Social contract is the pact, which men freely consent to in order to enter into a political society to avoid the inconvenience of the state of nature. By so doing they form a single body polity- a commonwealth, by which the people put themselves under a political power. This does not mean according to Locke that people will forgo their liberty and live in servitude. It means rather that they forgo their legislative and executive powers. That is, they forgo the right of correction and punishment which they had in the state of nature and hand them over to the common legislative power for public Good. This fact is between equal free men not between the ruler and the ruled. According to Appadorai, the inconveniences of the state of nature can be submitted in three spheres.

1. The want of an established, settled known law, received and allowed by common consent to be the standard of right and wrong, and the common measure of deciding all controversies.

2. The want of a known disinterested judge, with authority to determine all differences according to the established law.
3. The want of power to back and support the sentences when right and to give due execution”²⁶.

Hence, the state for Locke is created through the medium of a contract in which the individual agrees with every other to give to the common wealth the natural right of enforcing the law of reason in order that property might be protected. Social contract theory according to John Locke is the remedy to men’s partiality and the inclination on the part of some men to violate the rights of others. The aim of the social contract is to preserve the lives, freedom and property of all as they belong to each according to natural law”. Locke stresses that whoever attempts to gain absolute power over another puts himself in a state of war is a tyrant and shall be removed by the people. The social contract is an “artificial product of the voluntary agreement of the true moral agents that there is no such as natural political authority”²⁷. The compulsion to constitute a civil society was to protect and preserve liberty and to enlarge it. The state of nature was one of liberty and equality, but it was also one where peace was not secure, being constantly upset by the “corruption and viciousness of degenerate men”. Through the theory of social contract Locke tries to tell us the meaning and importance of authority namely that human beings came together to ensure the observance of the laws of nature, to guarantee the greater possibility of impartiality in the implementation and execution of rules that governs the society and thereby increase the chance of greater liberty evidenced in public good. However, it must be understood that the Lockean social contract theory does not mean that contracting parties forgo their liberty and then live in servitude as obtained in the rule of Hobbe’s Leviathan”²⁸. Locke unlike Hobbes

gives power to the community and not the ruler. Thus, Appadorai writes “the contract is not general but limited and special for the natural rights of enforcing the laws of reason...”²⁹

This special contract and consent must according to Locke go through stages. Firstly, men must agree together to uphold one another as a community, to pool the natural power so that they act together to set up legislative and other institution. Secondly, power of property must agree either personally or through their representative to whatever taxes are imposed on the people this should constitute the basis of democracy which is nothing but the consent of any member of freemen capable of majority”³⁰. The Lockean state is commissioned by a people to serve their interests in securing their rights to live peacefully. It opposes the organic Aristotelian conception of the state that perceives the state as the natural result of social growth- a development Locke agrees with but rejects the non-consensual characteristics of the Aristotelian state. Locke’s conception of the civil society which is an offshoot of social contract moves away from that of the ship an captain analogy to conceiving the civil society as an instrument whose sole purpose is to provide a secure framework for the life, property and liberty of the people. Political power is the power that every man in the state of nature possessed but which is given over to the society that they form i.e., to the government set up to create an established and known set of laws to arbitrate in disputes, and to preserve the life and property of its members. Locke’s vision is thusly of a minimal state (not a state without powers to checkmate wrongs by individuals and settle disputes) whose justification, can only be that of consent . For Locke, the civil society must not possess arbitrary, absolute powers over the lives and property of citizens, yet the mandate must seek the public good so that the citizens would enjoy greater liberty.

Unlike in the Hobbessian conception where the Leviathan is not a party to the contract and hence can legitimately be absolute and arbitrary in his decisions, the sovereign in Locke’s

position is a party to the main purpose of this socio-political contract and consent. Locke explains that the social contract is for the purpose of the individual property by property he means not just material possession. Locke in other to ensure public good brought out the perils of human partiality, and how absolute power made partiality dangerous. Flattery and servility would only make it worse. Locke in his social contract recognizes the tremendous potentiality of power for making human life better, but feared that it had to be entrusted only to those who are responsible towards those on whom it was exercised. Most societies are based on force rather than right. Locke rising from his social contract depicts that he is not an anarchist, but he is conscious of the dangers that is posed. Governance is a trust and if the terms of the trust are violated, the community has the right to take remedial measures in order to preserve public good. It was on this ground that Locke objected to Hobbes' argument that only total order could provide for commodious living. It did not seem credible that people who did not trust one another would entrust an all-powerful sovereign to safeguard common interest. He found it objectionable that there are and safety measures against potential violence and oppression of this absolute ruler"³¹. To further buttress the point, he puts "This is to think that men are too foolish that they take care to avoid what mischief's may be don them by pole-cats, foxes but are content, nay think it safety, to be devoured by lions"³².

4.3 Right to Preservation and Property

Locke in his political philosophy does not use the term "property" in his statement that original rights include "life" Health, Liberty or Possessions". Locke thinks of property as including more than just material possessions. Property is the term that is synonymous with ones overall rights to "life, health, liberty, possessions and goods". Man being born as has been

proved with a title to perfect freedom and an uncontrolled enjoyment of all the rights and privileges of the law of nature, equally with any other man... hath by nature the power, not only to preserve his property, that is his life, liberty and estate...”³³ . Thus, the mission of political society is to preserve these rights. Thus, it is the essential of the government to ensure the protection of one’s original rights to life, liberty, Health and possession. For Locke, Liberty is the opposite of slavery just as property does not mean only possessions in Locke’s list of original rights. Liberty also for Locke does not mean freedom generically speaking or freedom from law”. On the contrary, Locke like many thinkers on liberty uses liberty in his list of rights with a more specific meaning. Liberty refers to ones specific right “not to be enslaved” there is an important and often overlooked difference between this concept of liberty as a right to own one’s body and labour and the concept of liberty as freedom in general. This means that if one is enslaved, another person owns his body and his labour. But if one is not enslaved (at liberty) one can still be subject to government law. This liberty as the opposite of slavery differs from the more general concept of liberty as freedom to do whatever one likes. This is a critical distinction which is often overlooked in discussions of liberty. However, for Locke, the fact that one is under the obligation of law does not mean that one has lost his liberty. This according to Locke is because social life, when governed by a legitimate and just social law, is not the same thing as slavery. For if laws are unjust, the government is a tyranny, which according to Locke is like slavery. Its significant to note that in Locke, original right to liberty is not freedom to do what one lists but not to be enslaved. Hence, original rights are not only rights to protect ones individual self. One also has rights and duties to preserve the species as a whole. He writes; “when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind ³⁴ or as he restates elsewhere, “if a person transgresses the law of nature, which being a

trespass against the whole species, and the peace and safety of it, provided for by the law of nature, every restrains, or where necessary, destroy things noxious to them...³⁵. It is from these two rights of individual and species preservation that the further right to punish transgressors arises. Thus, it is obvious for Locke, even natural liberty as it is conceived to exist outside of society and it does not mean freedom in general. Liberty has a specific meaning. It means one has the right to limit others in ways that lead to one's own preservation or the preservation of the species as a whole. No one has a right to take another life, to compromise another's health to enslave one or to take one's property. All these according to Locke are fences around one's fundamental right to preserve life. But for Locke, one is still obligated to live within the law of nature, even if there is no common human authority that enforces it.

Locke uses the word property in both broad and narrow senses. In a broad sense, it covers a wide range of human interest and aspiration, more narrowly, it refers to material goods. Locke posits that property is a natural right and it is derived from labour. To explicate this he writes: "though the earth and all inferior creatures be common to all men, yet every man has a property in his own person, this nobody has any right to but himself. The labour of his body and the work of his hands, we say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property"³⁶ Unlike Hobbes, Locke says that the right to private property precedes the civil law, for it is grounded in the natural law. For Locke, the justification of private property is labour. The mixture of labour and property for Locke is to ensure peace and orderliness in the society. To buttress the later, Locke posits that one's labour is one's own and whatever one transforms from its original condition by one's labour becomes one's own, for one's labour is now mixed with those things. It is on mixing his or her labour with

something that a person takes what was common property and makes it private property”³⁷. Locke goes further to state that there is a limit to that quantity of property one can accommodate namely: “as much as anyone can make use of to advantage of life before it spoils”³⁸. On the acquisition of private property Locke holds that God has given the earth and its resources to men in common and they are free to appropriate it for private use through their labour. For Locke, labour takes what is common out of the hands of nature and makes it his property. Labour gives the primary title to private property. This refutes the view of all who resist private ownership because all belong to mankind in common. But man through labour must supply for his needs and therefore can acquire.

But the question is to what extent can one through his labour acquire property? Locke replies that some law that entitles us to acquire also limits us. For Locke, nothing should be wasted or destroyed; man must keep to the bounds of reason. Locke’s treatment of property is generally thought to be among his most important contributions in political thought but it is also one of the aspects of his thought that has been most heavily criticized. There are important debates over what exactly Locke was trying to accomplish with his theory. Much of Lockes thesis depends on the status of property- that a man initially owns himself and then owns that with which he mixes his labour. It is a powerful theory and one that goes a long way in justifying private property both on utilitarian grounds that it creates wealth and on moral grounds. The Lockean conception of the social contract and by extension the civil society depends greatly on the role of property-. Thus, in the state of nature, everything is commonly owned, but as God gave man senses and reason to use for his preservation and reproduction, that which he removes out of the state of nature with his own hands becomes his property and this is natural and just. The fact that a man labours to pick fruit or till the soil presents the distinguishing characteristics

of private versus commonly need property. Thus, there is no need for any consent to be given by his comrades living in the state of nature, indeed awaiting that state consent may mean the starve and the labour that was man removing them out of that common state they were in, hath fixed my property in them”³⁹. He argues further, “but take a river from which a man draws water. The water in his pitcher is necessarily his-by virtue of his laboring to retrieve it: however, the water remains in common ownership. Any game in the world is owned by all, until the hunter makes it for the chase, upon which the Hare or the Deer begins to become his property”⁴⁰. Locke deals with the first objection that if a man with his labour, manages to secure vast resources, there are brakes on such an engrossment. Christian morality demands that a man take from nature that which is for his enjoyment “as much as anyone can make use of to any advantage of life before it spoils... whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy”⁴¹ While human population was small, there was of course enough resources to go around, but with the increase in numbers, pressures are put on Locke’s proviso as debated by philosophers that arose after him. Locke believes that there is land enough in the world to suffice double the inhabitants. He acknowledges the natural right to inherit property. Hence, he posits that every man is born with a double right- a right of freedom to his person and a right to inherit with his brethren his father’s goods”. But as men settle down, Locke stresses, they needed to delineate their titles to the land, a pressure that gathers as a population increase. Nonetheless, in early state of ownership, a man’s title to the land depends on his continual cultivation of it ”. If he lets his grass rot, or his fruit perish, then his enclosure reverts back to wasteland-i.e., common ownership and hence to be available for another to cultivate. He argues further that once land is taken under private ownership, its production

increases and a man can sell its surplus; in turn, economic growth causes a population to grow the value of which results in increase in value of cultivated land,

4.3.1 Liberty is not License

The goal of this work was to show that one of the most important political thinkers, one who did much to popularize the natural rights, conception of liberty, public good and who is credited with an emphasis on individual rights, in fact placed significant limits on individual liberty in society. Liberty was not conceptualized in Locke as mere maximizing individual freedom or minimizing government restrictions - the way liberty is so often talked about today by libertarians. On the contrary, in this major political theorist, whose ideas profoundly shaped many societies, liberty was a set of freedom within a set of restraints that were set by society for the public good. More than that, these restraints were thought to provide a kind of platform that in some sense made freedom possible and expanded liberty generally. We have seen that for Locke, a kind of trade is involved in social life. One gains tremendous benefits from society. One is no longer subject to the vagaries of life without a human law and supreme authority for enforcing it. Without that law, an impartial judicial system and an enforcement arm, one faces the conflicts and disagreement that are part of living with other people. In such a situation, one could be enslaved, one's possessions could be taken and one could even lose one's life. To better secure these original rights, most individuals prefer civil life. According to Locke, life in civil society is more secure, provides a more peaceful life, and provides "quiet". But more than showing up one's core rights, we also want to live in society because we are social animals who want to interact with others and have the convenience of social life. To have those benefits, Locke posits that we make a trade, not unlike a commercial transaction we curtail some of the freedoms that we would otherwise have when we agree to live under a legislature that represents

the interests of the society as a whole. This legislation can make laws that restrict our actions; it can define the boundaries between our rights to property and others. It can define what the right to possession means. The law of society thus creates an umbrella of human law within which one consents to live and by which one is restricted. This law thus restrains freedom even as it makes more freedom possible. One's core original rights are expanded even as specific laws now limit one's individual actions. The original rights of individuals that Locke believes exist outside of social life are "life, liberty and possession". But freedom does not mean license to do what one wish. We have seen that life or preservation is the primary right from which flow the secondary rights of liberty and possessions. Liberty has the specific meaning, not of freedom in general but the right not to be enslaved is a fence around one's life, for if one can enslave one, such person can take one's life. Similarly, the right to possessions derives originally from our right to preservation. Our original right to take from nature derives from our right to preserve ourselves and the species.

The reason individuals prefer civil life over living on their own is their own personal interest in security and comfort. But the end of the social laws is the "public good" which is not identical to the original rights of "life, liberty and possession". The social good is defined by the majority or by the representatives of the majority while an individual may prefer to drive against the traffic, or smoke Indian hemp inside a public vehicle carrying many other passengers, play music as loud as one can in ones house et al, the majority may have a different view. Thus, Locke envisions the representatives of the majority making a great many laws that constrains individual action but develops and creates the public good where liberty is enlarged.. One could reasonably argue that Locke did not anticipate the problem that might emerge in giving the majority power. That problem of government would be raised more fully and thoughtfully by

others after him. But the point here is that one of the major thinkers on civil society and government never saw liberty as license or as absolute maximization of individual liberty or complete removal of government interference in day to day activity of individuals in civil society as demanded by the extant laws governing the society. The importance of the public good, as a concept above and beyond individual core right, provides a powerful critique of avant-garde libertarian's tendencies which depend on total withdrawal of government or state interference on activities of individuals. However, to imply that, liberty from its initial Lockean conception, denotes license which emphasizes only individual liberties at the expense of the public good is to fundamentally misinterpret the work of John Locke.

4.3.2 Liberty and Natural law

Since there was no formed system of government by which “relationships” are checked, one may ask how it was possible in the state of nature to avoid harming another person). Locke explains that there is “laws of nature to govern it, which obliges everyone, and reason which is that law teaches all mankind, who will consult it”⁴². This explains why Locke describes the state of nature as that of “men living together according to reason without a common superior on earth with authority to judge between them”⁴³. According to Locke's theory of knowledge, people are able even in the state of nature to know the moral law so as to maintain maximum liberty for every individual. Locke underlines that natural law is not simply the egotistical law of self-preservation but the positive recognition of each person's value by virtue of his or status as a creature of God. The natural law according to Locke, implies natural rights with correlative duties and among these rights Locke emphasizes particularly the right to private property. Perhaps the most central concept in Lockean political philosophy is his theory of natural law and natural rights. The natural law concept existed long before Locke as a way of expressing the idea

that there were certain moral truths that applied to all people regardless of the particular place where they lived or the agreements they had made. It does appear, that Locke distinct natural law from divine law, the latter in the Christian tradition normally refers to those laws that God had directly revealed through prophets while natural law is discovered by reason and applies to all people. The divine law for Locke and his likes are not binding to all but for the people the prophet directed the law to. Thus, the 10 commandment is not binding to all mankind but the natural law.⁴⁴. Though Locke argued that there is no contradiction in God playing a part in the argument so long the relevant aspects of God's character could be discovered by reason alone. However, Locke opposes the Bible teaching that is contrary to natural law. To understand Locke's position on the ground of natural law, it must be situated within larger debate in natural law theory that predates Locke. At its simplest, the Voluntarist declares that right and wrong are determined by God's will and that we are obliged to obey the will of God simply because it is the will of God. With respect to the grounds and content of natural law, Locke is not completely clear. On the one hand, there are many instances where he makes statements that sound Voluntarist to the effect that law requires a law giver with authority"⁴⁵ . However, Locke adds that the moral law neither supposes nor allows men to be inflamed with hatred for one another and to be divided into hostile states. But with respect to the specific content of natural law, Locke never provides a comprehensive statement of what it requires in the two treatises, he states that the fundamental law of nature is that as much as possible, mankind is to be preserved. Thus, one has duty to preserve one's self; a duty to preserve others when self-preservation does not conflict"⁴⁶ . Locke is extremely vague about the law of nature but in his "Essay on the Law of Nature" he held that laws rests ultimately on God's will. Reason discovers it. He maintains that it is not innate in man. But when he speaks of such law as "writ in the hearts of all mankind" he

suggests some kind of innateness. Various exponents of natural law all agree that it presupposes the brotherhood of man and human benevolence. Though Locke's adduces that with the aid of natural law that peace prevailed in the state of nature, it is obvious that the absence of collective will, it is only a matter of time for explosion of Hobbesian anarchy. It is on this delayed catastrophe that explains the need for social contract.

4.4 Absolutism and Lockean Liberty

By the opening years of the sixteenth century, absolute authority (monarchy) either had become, or was rapidly becoming the prevailing type of Government in Western Europe. Everywhere, there was an enormous wreckage of medieval institutions for the absolute monarchy was a thing of blood and iron which rested in large part on force⁴⁷. Aristotle had treated monarchy as an academic question but Alexander's empire and the parts into which it divided made a large part of the ancient world subjects to Kings- the Ptolemics in Egypt, selucids in Persia, and the Antigonids in Macedonia and even the confederations were subject to their influence and control⁴⁸. The new monarchies (other than Macedonia) were predestined to be absolute, since there was no other form of government that could combine Greeks and Orientals. The King was not only the head of the state, he was practically identical with it, for there was no other cohesive force to hold it together⁴⁹. Despite this form of leadership being the order of the day in the history of man absolute monarchy which by some men was counted as the only government in the world, was indeed inconsistent with civil society, and so could not be accepted by some as a form of civil government at all⁵⁰.

John Locke was renowned for his criticism of hereditary monarchy and patriachism because in his view, monarchy and civil government are extremely opposite. His major contention here was that freedom (as man's natural gift) is not associated with monarchism, but

is what characterizes a civil society. However, such freedom comes, according to Locke mainly when everyone of the members of a society has quitted his/her natural power, resigned it up into the hands of the community in all cases that exclude him not from appealing for protections to the law established by it”⁵¹. Therefore, earthly rulers do not derive their authority from God but from contracts made by man”⁵². Locke’s Treatises apart from its defense of the revolutions, was also a direct attack on Sir Robert Filmer who defended this forms of authority (Monarchy) on the grounds that “men are not born free and therefore can never have the liberty to choose either governors or forms of government”⁵³. Filmer strongly believed that the creation of Adam gave rise to absolute authority and that a natural freedom of mankind cannot be supposed without the denial of the creation of Adam”⁵⁴. The Filmer theory traces the right of the monarch to the establishment of monarchical power in Adam (the first man of the Bible) by God. This absolute authority to rule them then gets passed along down to the present King of England”⁵⁵. But for Locke, a supposition of natural freedom is in no way a denial of Adam’s creation, for his coming to being was made possible only when he received omnipotence from God. Locke’s ground for the refutation of Filmer’s argument for Adam as natural King was that: “the natural liberty of man is to be free from any superior power on earth and not to be under the will or legislative authority of man but have only one law of nature for his rule”⁵⁶. Locke further argued that man is endowed with freedom from birth and that the only authority man can be put under is that which is established by the consent of the people in commonwealth, not under the dominion of any will or restraint of any law but what the legislative shall enact according to the trust put in it”⁵⁷. The power given to the legislative by the people in society is what for Locke is called political authority.

For Locke the social contract depicts that for man to preserve his rights and privileges, he has to be in agreement with others, quit his natural execution power and resign to the community. The community becomes the umpire of defense and property. In the civil society according to Locke, one relinquishes his legislative and executive powers to the commonwealth and authorises it to legislate for the public good. The question one asks is this: if people have natural rights and also know moral laws, why do they desire to leave the state of nature? To this question, Locke answers that the great and chief end of men uniting into commonwealth and putting themselves under government is the preservation of their property” . The latter for Locke is the guarantee of liberty. Man, who has been said to be a political animal, may also be argued to be condemned to authority. Bowe’s view supported this when he claimed that “there is in man natural inclination to live in a society with his fellow men. Authority is necessary to maintain justice and peace in this society”⁵⁸ . For Locke, “when any number of men have by the consent of every individual, made a community, they have thereby made that community one body which they entrust with the power to act on behalf of the majority”⁵⁹. Thus, the act of the majority passes for the act of the whole and also by the law of nature and reason, has the power of the whole”⁶⁰ . The body constituted as authority and also having the power (of the whole) introduces two concepts which demand for clarifications, “power” and “authority” which some have mistaken to be the same. However, political theorists like Michels and Bierstedt were caught in this web. Authority according to Michels is defined as the capacity, innate or acquired for exercising ascendancy over a group. To this Bierstedt disagreed, on the grounds that authority is not a capacity, but rather a relationship and therefore cannot be said to be innate or a matter of ascendancy”⁶¹ . So Michels’ submission was that authority is the manifestation of power. While Bierstedt argues that authority becomes a power phenomenon or a form of sanctioned or

institutionalized power”⁶². This distinction notwithstanding, both concepts cannot be divorced of close relationship they both share or that, both are quite complementary. Thus, Machiavelli would rather choose to use political power instead of political authority.

To understand better, Locke’s idea of political authority, one must understand what a political or civil society in Locke’s thought mean. But before this, we have to understand the term “society” Society is defined as an association of men for mutual help in the attainment of the full humanity implied in the existential ends”⁶³. Hence for Njoku, “with mutual fellowship in society, humans gain protection more than they would have had if individuals or families wanted to protect themselves. Thus, the first society was between man and wife, and gradually parents and children, then masters and servants. Though all these according to Locke, had either a master or mistress as its head, or some sort of rulership, each of these, all put together, came short of “political society”⁶⁴. For Locke, there is a political society only when the whole end of such authority, preserving their properties which for Locke are their liberty, life and estate. While a society is a state of harmony amongst individuals to foster their humanity, a “civil society” is that in which this humanity is fostered under a consented authority, thus making the sole end of this authority to be that which assists or enables each and every member achieve their goals within the confines of the law they enact. This is why Rousseau asserted that: it is only through living in civil society that men experience their fullest freedom”⁶⁵. In this form of society that John Locke calls commonwealth, men procure, preserve and advance their own civil interest.

Hence, the emergence of political society occurs, when any number of men have so consented to make one community or government, by making one body politic, where in the majority have a right to act and conclude for the rest”⁶⁶. On the main, Locke holds that absolute

monarchy is inconsistent with what a civil government is. This is because; the monarch appears to be the only one who retains all the liberty of the state of nature when others have quitted the state of nature. The latter is no civil society for Locke. The civil society for Locke is the creation of people consent. According to Locke, in the state of nature each had the right to enforce the law and punish the transgressors. In the absence of common legislative, executive and acceptable arbitrary power in the state of nature, there were disputes on the interpretations of law. In the absence of a common and acceptable arbitrary power, there were disturbances for it becomes a case of one's word against that of the others. Locke unlike Hobbes characterized human beings as naturally social ad pacific, but did not rule out possibility of disputes among them. For this reason, comes the obligation to form and obey the government on the fact that public power was used for peace, safety and public good. For all there, individual relinquishes his powers of execution and legislation to the public good. According to Locke, the civil society so formed, shall ensure institution of common law by common consent, to determine right and wrong. In the state of nature, although law of nature is plain and intelligent, men were biased by their particular interests; election of a known and indifferent judge with authority to determine all differences according to established laws and institution of the general executive power to carry out right judgments.

4.4.1 Liberty and Legislation

Locke claims that legitimate government is based on the idea of separation of powers. First and foremost of these is the legislative power. Locke describes the legislative power as supreme' ⁶⁷ in having ultimate authority "over how the force for the commonwealth shall be employed"⁶⁸. The legislature according to Locke is still bound by the law of nature and much of what it does is set down laws that further the goals of natural law and specify appropriate

punishments for them ⁶⁹. The executive power is then charged with enforcing the law as it is applied in specified cases, interestingly, Locke's third power is called the "federative power and it consists of the right to act internationally according to the law of nature. Since countries are still in the state of nature with respect to each other, they must follow the dictates of natural law and can punish one another for violations of that in order to protect the rights of the citizens. Dynamics of power in Locke's philosophy could be said to be separation of power, it is the division of political powers that exist in any given state into three organs of government. The fundamental principle of separation of power stresses the deconcentration of political power i.e., division of power amongst the three organs of government namely legislative, executive and judiciary. However, the origin of the separation of power may be traced to ancient and medieval theories of mixed government, which argued that the process of government should involve the different elements in society such as monarch, aristocratic and democratic interests" ⁷⁰. Locke holds that in the state of nature, man had two powers. The first was for him to do whatsoever he thinks fit for the preservation of himself and others within the permission of the law of nature. The second power he had in the state of nature was the power to punish the crimes committed against the law. Locke built his idea of separation of power based on these two powers. He argued that in entering into a political society, man gives up these two forms of power (power of self-preservation and power of punishing offenders, there he called legislative and executive powers. These powers surrendered should be used for the public good. In this he mean that surrendering of individual right for the common good is for enlargement of liberty. Thus, they would be also be directed by established standby laws, promulgated and known to the people and not by extemporary decrees. The supreme power, for Locke, should lie with the legislative and should be "sacred and unalterable in the hands where the community has once placed it"⁷¹. Thus,

Locke write: Nor can any edict of anybody else in what form so ever conceived, or by what power so ever backed have the force and obligation of a law which has not its sanction from the legislative which the public has chosen and appointed, 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 nobody can have a power to make laws... ultimately terminates in this supreme power, and is directed by their laws which it enacts”⁷²

The fact that Locke does not mention the judicial power as a separate power becomes clearer if we distinguish powers from institutions powers relate to functions. For Locke, to have a power means that there is function (such as making the laws or enforcing the laws) that one may legitimately perform. When Locke says that the legislative is supreme over the executive, he is not saying that parliament is supreme over the King. Locke is simply affirming that “what can give laws to another must needs be superior to him”⁷³. Moreover, Locke thinks that it is possible for multiple institutions to share the same power; for example, the legislative power in his day was shared by the House of Commons, the House of Lords, and the King. Since all three needed to agree for something to become law, all three are part of the legislative power. If we compare Locke’s formulation of separation of powers to the later ideas of Montesquieu, we see that they are not as different as they may initially appear. Although Montesquieu gives the more well-known division of legislative executive and judicial, as he explains what he means by these terms he reaffirms the superiority of the legislative power and describes the executive power as having to do with international affairs (Locke’s federation powers) and the judicial power as concerned with the domestic execution of the laws (Locke’s executive power). It is more the terminology than the concepts that have changed. Locke sees arresting a person, trying a person and punishing a person as all part of the functions of executing the law than as distinct functions.

However, Locke was more concerned that the people have representatives with sufficient power to block attacks on their liberty and attempts to tax them without justification.

This is important because Locke also affirms that the community remains the real supreme power throughout. The people retain the right to “remove or alter” the legislative power⁷⁴. Locke also opines that if the rule of the law is ignored. If the representatives of the people are prevented from assembling, if the mechanisms of election are altered without popular consent, if the liberty expected in political society is diminished by the people vested with political authority, the people can take back their original authority and overthrow the government⁷⁵

4.5 Paradox of Liberty

Some school of thought asserts that liberty means absolute freedom. Thus as cited in Petro, “to every individual in nature is given an individual property by nature, not to be invalid or usurped by any: for everyone as he is himself, so he hath a self-propriety, else he could not be himself... no man hath power over my rights and liberties and I over no man’s”⁷⁶. The latter is not even feasible in the state of nature though such mindset could be the ideal; it was not practicable in state where there was no control but survival of the fittest. However, Lockean state of nature depicts a state where men were controlled by reason and not instinct. But the evidence of usurpation of others right or property which demands annihilation of such person’s forecloses that in Lockean state of nature, there was no absolute freedom. The desperation to preserve individual right by extension gave rise to Lockean civil society which has sole intention of enlarging liberty. Liberty to some scholars is the right for to do whatever one wants, such mindset sees liberty as same as license. They also see civil legislation as bunch of infringement on liberty. To such school of thought liberty means maximizing individual choices and minimizing civil legislation. Civil society or government is a symbol of restriction on liberty.

But liberty understood in civil society is not absolute choice to act as one desire without limitations. Hence, “individual freedom is not to be understood as exercising free will or choosing one’s course of action and sticking to it... the question is whether others can follow my own will...liberty and responsibility cannot be separated. Liberty requires that the individual must bear the consequence of his actions”. Governance becomes inimical to liberty and the import of civil union when the people have no consent to the legislation that controls their liberty. In such situation which could be described as tyranny or despotism, Locke obliged that the people should revolt so as to upturn such imposed legislation and enthrone a rule powered by their own consent.

Hume bemoaned such usurpation as he rightly puts that “nothing” appears more suppressing... than the easiness with which the many are governed by their own sentiments and passions to those of their rulers... this maxim extends to the most despotic and military government⁷⁷. The existence of law and government or what earlier writers called constitution was thought to provide a platform that both set limits within which the individual could rightly act and both provided a framework that in effect expanded the individual liberty. Many people still have the mistaken notion that liberty means absolute freedom. They assume that “to be free” is to do “what one wants” when they think of liberty they think of the protection of life, liberty and property” or as they think of Jefferson’s word in the declaration of independence, “life, liberty and the pursuit of happiness”. They see big government with lots of rules as an infringement on liberty. Such persons argue that freedom implies maximizing individual choices and minimizing government. For this school of thought, an infringement on one’s right to buy or sell or restrictions on markets by government is a restriction on one’s liberty. Hence, government

should remain small, markets should work without interventions and individuals choices should be maximized without any iota of restrain.

But in the modern era of liberty as it developed originally in Britain, where it principally started, and as it came to be appropriated in the American colonies before the revolution, liberty did not mean total freedom, or the ability to do whatever one wanted with no constraints. On the contrary, liberty is referred to as the ability to exercise one's will, within a set of known constraints and limitations set by legitimate law, which was the outcome of government. The existence of law and government or what earlier writers called "constitution" was thought to provide a framework that both set limits within which the individual could rightfully act and provided a platform that in effect expanded the individual liberty. Somewhat paradoxically then, government and law in this earlier thought on liberty are thought to ensure liberty while at the same time restricting individual freedom and making it possible. This is a different idea of liberty than typically meant by many people today.

Liberty could be associated with one's ability to act without any obstruction from an external influence. In other words, it is the power to act which enables one to achieve his or her aims, ambition, ideals and aspirations, liberty without rights is empty. In view is expressly and clearly enunciated by Appadorai when he said that "when liberty is being exercised fully in a state, it gives its citizens the impression that the decisions of the government are based upon widest knowledge open to its members"⁷⁸ Liberty eliminates dissatisfaction of ingenious yen which destroys the special character of men. Liberty is meaningless when it encourages segregation on the part of the citizens of a state. Thus, "liberty therefore, is not merely the obedience to a rule rather it entails the realization of ones aims and ambitions"⁷⁹

However certain restrictions like preventing someone from urinating in a public place and other immoral acts are not regarded as factors limitating against the exercise of liberty. But no normal person will regard restrictions of this kind as so unrelated to his will as to constitute coercion of it. So that where restraint becomes an invasion of liberty is where the given prohibition debar one from doing something that is worthwhile to do. Restriction is regarded as evil when it frustrates the nature and essence of the individual. Any system of prohibitions which limits our initiative undermines the exercise of liberty. People should be active so that they can think and act freely. "Liberty is synonymous with the encouragement of the will, in relation to the conscience of men"⁸⁰. One's activities most of the time have some social undertones in the sense that what we do directly or indirectly affect others. There is an atmosphere about which liberty can be fully exercised significantly enough. Hobbessian account of man's activities under the state of nature is a case in point. In a state of nature according to Hobbes, "man had no rules or laws, and this made life, under the state of nature, solitary, Poor, nasty, brutish and poor"⁸¹. However, "Morality is not concerned simply with the pursuit of personal goods rather it dwells more on the acceptance of rules that limit the pursuit of good when it effects that of others"⁸². According to the tradition of the stoics such rules are universal preconditions of social life and do not depend as if custom and law are local circumstances. The Dutch Jurist Grotius regards this law of nature as self evident set of principles binding on all men. In a state of nature equality is being maintained but without limits. The point here is that even in the state of nature, where it is claimed that there was absolute freedom, so to speak, proved unsatisfactory is the exercise of liberty. The establishment of the social contract to a large extent saved man from anarchy and civilized him.

The inherent attribute of freedom is restraint because separate freedoms are not meant to destroy those of our neighbours. But in the main, “freedom is an avenue of choice through which one as he deems fit, construct for oneself his own course of action”⁸³ In view of this, it would be sound or logical to indicate that these freedoms are essential for the proper exercise of liberty. Freedoms are therefore opportunities which history has shown to be essential to the development of personality, freedom and rights go hand in hand or are inseparables. For example, if someone makes a meaningful contribution in relation to certain issues, and it leads to persecution, that person may also cease to be a citizen since his inability to air his view is antithetical to the fundamental human rights concerning freedom of expression. The state for that person is an agent of suppression and subjugation. Nothing therefore is so likely to maintain a condition of liberty as the knowledge that the invasion of rights will result in protest, and if, need be resistance. Ways and means of achieving ones aims and aspirations can be created but we are normally left to take advantage of these avenues. This is because we have individual differences. A man has top most in his scale of preference success in love and the state can remove certain forms which militate against this but he can't be guaranteed success in his plea. It is also important to stress that the avenues which society can create are always limited. This is because the realization of oneself is personal and lacks social control. Yet the social control is important. When the state is unable to protect our lives both public and private it apparently means that the exercise of liberty would also be undermined. But it must first be argued that in this context state-action is action by government. And it means the maintenance of those rules which will enhance ones existence, social status and liberty. These rules will be issued by persons and normally those persons will be the government. Sin the contrast, in abused and dysfunctional ‘democratic’ societies, the citizens are the holders of power is to miss the vital point, because

such despotic and tyrannical societies, unfriendly conditions and daily pressure, prevent them from exercising liberty. Certainly, unless the government can be held responsible for when it invades rights, “it will always invade them unless its organization prevents it from being arbitrarily done or performed with a view to favouring a class of people”.⁸⁴

The three aspects of liberty, we have noted are always relative to this situation. By private liberty for example we mean opportunity to exercise liberty or freedom of choice in those areas of life where the result of one’s effort mainly affects one in that isolation, that one surrounded. Thus, Laski submits that “when the government of England denied public employment to Dissenters, it invaded private liberty. When France repealed the edict of Nantes it invaded private liberty; for the honourable profession of religious conviction involved political out Lawry”⁸⁵. It is being experienced in law courts where poor people are denied their private liberty and deprived of the opportunity to get legal protection, private liberty is too personal to be toyed with. Political liberty shows one’s ability to participate in the political affairs of a state. One with political liberty can attain any height in the affairs and activities of the state such as holding public posts and being actively involved in the activities in the state. By that we mean being at the helm of affairs or in the scheme of things. Economic liberty concerns the ability to look for a means of making ends meet which can only be possible under the protection of the state. That is earning of one’s daily bread. It also involves the provision of adequate security by the state which will make for economic and socio-political progress. Consequently fear of social maladies like unemployment and insufficiency are adequately taken care of if economic liberty is to be maintained. Libertarianism represents a social movement in the world. This movement owes its origin to the United Kingdom. However, it’s pertinent to note that libertarianism extended far beyond United Kingdom to countries like the United States of America.

Libertarianism had certain guiding principles and attributes which centered on the doctrine called *laissez faire*, which literally means freedom. The individual should be given the opportunity to use his potentials and creative impulse maximally. However, it was not the intention of this libertarians to attain an absolute society where they can do anything without constraints rather, their interest lies in correcting imbalance of power and to restructure social institutions in such a manner that would eliminate too much exercise of power”⁸⁶ Because the major source of social injustices is the monopoly and arbitrary use of power by any person or group as a means of political, economic and social domination, Diffusion of power enables members of a community to act freely and not by coercion or force. Philosophers of the 17th and 18th centuries shared the view that “society rested on social contract”⁸⁷. This simply means that the state is a human creation. People come together and agree to obey common rules with the sole aim of achieving their common aims, objectives and more importantly to enhance the attainment of public good

Certainly, without society and law that made society possible, freedom is thought to be unfulfilled, unrealized and even undesirable. One has to give up some of one’s freedom to achieve liberty. The latter is the thrust of Locke’s idea of liberty. And while there are constraints on what those limitations can be and how they should be developed, those limitations or law, are necessary for the individual to have a society and thereby achieve and maximize freedom. The paradox then is that the individual only gains real liberty by giving up freedom and becoming subject to the rules of society, designed to protect the public good. The latter according to Locke is the end of government. The concept of public good intersects with the concept of liberty. Though by attaining public good individual rights are restricted only for the enjoyment of larger liberty. The point here is that some rights that exist outside of the society (in state of nature) are given up in society. But the gain outweighs the loss. The civil society makes true liberty possible

unlike the mindset of recent theorists on liberty that see liberty as the right to maximize or enlarge the individual's sphere as far as possible without sacrifice of any sort and without any regards to basic laws of contract and harm. For people that uphold this view, government is an infringement on individual liberty and to be minimized as much as possible. For, some extreme libertarians, government should have no iota of control over an individual. Locke knows that there could be possibility of government or State overshooting its bounds of authority by adhering to despotism and totalitarianism and it is on that stand that Locke says that when government oversteps its boundaries and snuff out human freedom, it is then tyrannical and the only option is for the people to take back their authority by removing the tyrannical government and institute a new one

This research explores the original idea of liberty unlike the absolute monarch as espoused by Hobbes or absolute freedom espoused by Filmer. Locke stresses that absolute power be shifted from an arbitrary will of a single individual to the predictable and public rules of institutions that attend to the public good, held in trust by public officials. He does not argue that individual should be free as possible but that there should be strong legislature and executive playing a critical role in making liberty possible and larger. Many of the early American thinkers who relied on the teachings of Locke on liberty saw Lockean idea of liberty as the sure way of expanding individual liberty and the end of government. In the American context, the concern was less with the arbitrary will of an absolute monarchy, as it had been in the seventeenth century in Britain, and more with the arbitrary legislation of the British parliament and the House of Commons. The key point here is that liberty in both 17th century Europe and the early American civilization were thought as state of living within a body of rules promulgated by a society focused on expanding the individual liberty through the public good. The public good as

conceived by these thinkers was quite broad. It included not only security, but human happiness, prosperity. The public good was a broad regulative concept that was instantiated by the majority and the representation of the social body. Already in the mid-seventeenth century, Hobbes had talked about the public good as a “man writ large”. Locke would develop the idea of the public good and equate it with the view of the majority. However, the point here is that liberty is usually conceived as a state of living within a set of promulgated rules, second, that those rules circumscribed the liberties of individuals and third that there was a larger good thought of as the public good that superseded some aspect of individual freedom, in exchange for more secure basic liberties and a better life with more convenience. The public good is a twin to liberty and serves as a regulative concept that defines what liberty is in society.

Thus, the individual gives up something to share in this public good and the heart of special life is a trade, a sacrifice and responsibility. But with social life came benefit. But one has to give up something for those benefits. To understand this conception of liberty, Locke’s conception of liberty is needful. Locke is important not only because he advanced some of the most developed ideas about liberty but because of his importance for and impact on the early American revolutionaries and apostles of liberty today in various parts of the globe. As we shall be discussing soon, Locke sees liberty as a state that is achieved within and through law and government and is constrained by the search for greater liberty- public good.

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CHAPTER FIVE

Nexus of Liberty and Public Good in Lockean Thought

5.1 Public Good in Locke's Social Contract

The reason that the legislative can make laws to constrain our actions is that we confer that power on the legislative. According to Locke, the legislative body has a trust or fiduciary relationship to the people who constitute that society. For this reason, the legislative must enact law with the end of the public good in mind. In a statement that summarizes the whole thrust of the argument, Locke writes:

But though men, when they enter into society, give up the equality, liberty, and executive power they had in the state of nature, into the hands of the society, to be so far disposed of by the legislative as the good of the society shall require, yet it being only with an intention in every one the better to preserve himself his liberty and property (for no rational creature can be supposed to change his condition with an intention to worse), the power of the society, or legislative constituted by them, can never be supposed to extend farther than the public good; but is obliged to secure every ones property by providing against those three defects above mentioned, that made state of nature so unsafe and uneasier and so whoever has the legislative or supreme power of any commonwealth is bound to govern by established standing laws, promulgated and known to the people and not by extemporary decrees, by indifferent and upright judges who are to decide controversies by those laws. And to imploy the force of the community at home... and all is to be directed to no other end, but the peace safety ad public good of the people ¹.

All of Locke's major assumptions became explicit in this one statement. The legislative body makes laws "as the good of the society shall require", "yet" people enter society "being only with an intention in every one the bother to preserve himself his liberty and property". The use of the word "yet" is significant. Here, Locke underscores that the individual intention is to better preserve life, liberty, and property, but the legislative has a different goal, which is to promulgate law which "the good of the society shall require". Locke here recognizes that the "good of society" is a concept that is not identical with the aims and goals of individuals. The

public good is a broader concept that has different ends which include the “peace, safety, prosperity” of the society or as he says, it is another place, a person “is to part also with as much of his natural liberty in providing for himself, as the good, prosperity, and safety of the society shall require”²

He goes on to say that the only way by anyone detests himself of 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 greater security against any that are not of it.³ If the concept of public good were reducible to the core liberties of life liberty and possessions, Locke would not have needed a separate concept to designate the end of government. The public good and the individual rights would have been one and the same. But Locke does not see it that way. The public good according to Locke is something more than the individual intention to preserve life, liberty and possessions. Locke does not fully specify what the good, peace, property and safety of society shall require. He sees the content of the public good as something that can only be discovered in social life by consulting the people themselves. The public good of society cannot be known in advance like the law of nature but is known by consulting the majority. As a society attempts to implement the core liberties, it faces many choices and decisions: how to resolve disputes about the shared river, or speed limits, or size of cars or smoking or hiring and firing decisions, or what rights to give to corporations or the host of other regulations that are never specified in the basic core rights. Since these issues can be resolved in many ways that are all compatible with the basic liberties, a society has to consult its members on the best way for the particular society to implement liberty. Societies can look different from one another because there are many ways to implement core liberties. This is how a society defines the public good which is a concept that

sits on top of the core liberties of the individual. Locke insists that the way to decide social law and the public good is by appealing to the majority or to its representatives. Ideally, all members of a society should be consulted on the public good. But ultimately, it is the majority that has to make a decision. Locke posits that:

For when any number of men have by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority. For that which acts any community being only the consent of the individuals of it, and it being necessary to that which is one body to move one way; it is necessary the body should move that way whether the greater force carries it, which is the consent of the majority, or else it is impossible, it should at or continue one body, one community, which the consent of every individual that united into it, agreed that it should; and so everyone is bound by that consent to be concluded by the majority⁴.

When people choose to live in civil society, they form a single entity or single body. This body must have the ability to act and to make laws and enforce those laws or otherwise the very notion of a society is meaningless. If the social institutions have no mechanism to make decisions there is no civil society. Therefore, there must be some mechanism to drive consensus.

However, Locke says that

But such consent is next impossible ever to be had, if we consider the infirmities of Health, and Advocations of Business, which in a number, though much less than that of a commonwealth, will necessarily keep many away from the public assembly. To which if we add the variety of opinions and contrariety of interests, which unavoidably happen in all collections of men, the coming into society upon such terms, would be only like Cato's coming into the theatre only to go out again... For where the majority cannot conclude the rest, there they cannot act as one body, and consequently will be immediately dissolved again.⁵

Pragmatically speaking, a consensus of every member of society is impossible because not everyone can or will vote and because differences of opinion make consensus impossible. Since a perfect consensus is impossible, societies have to settle for the agreement of a majority. But individuals agree to live in societies knowing this. They can't eat your cake and have it.

They want the benefits of society and therefore have to deal with the costs. The cost is that they have to conform to decision by the majority. Hence he says, “and thus every man by consenting with others to make one body politic under one government, puts himself under an obligation to everyone of that society, to submit to the determination of the majority...”⁶. Societies have the right to structure their search for the public good in different ways. They can choose a democracy, an oligarchy or constitutional monarchy. As long as the structure of government is consulted to by the majority, the way in which society structures its search for the public good is consistent with the basic liberties of nature.

Locke takes what he calls the social contract to be the origin of the state or political society instituted by way of remedy for the inconveniences of the state of nature⁷. The compulsion to constitute a civil society was to protect and preserve freedom (public good) and to expand it. The state of nature was one of liberty and equality; but it was also where peace was not assumed, being constantly upset by the “corruption and viciousness of degenerate men”. It lacked three important wants: the want of an established, settled, known law, the want of a known and indifferent judge, and the want of an executive power to enforce just decisions. Through the idea of his social contract, Locke tried to tell us the meaning and importance of authority namely that human beings came together to ensure the observance of the laws of nature, to guarantee the greater possibility of impartiality in the implementation and execution of rules that governed common life, and thereby increase the chance of public good which impartiality entailed. Locke in order to ensure public good brought out the perils of human partiality and how absolute power made partiality dangerous. Servility would only make it worse. Locke recognized the tremendous potentiality of power for making human life better, but feared that it had to be entrusted, only to those who were responsible towards those on whom it

was exercised. Most societies were based on force rather than right. Locke was not an anarchist, distrusting political authority, but he was conscious of the dangers that it posed. Political authority was a trust, and if the terms of the trust were violated, the community has the right to take remedial measures in order to preserve public good. It was on this ground that Locke objected to Hobbes argument that only total order could provide for commodious living. It did not seem credible that people who did not trust one another would entrust an all-powerful sovereign to safeguard common interest. He found it objectionable that there were no safety measures against potential violence and oppression of this absolute ruler ⁸.

To ensure public good, Locke brought in issue of majority rule. Through a contract, individual consented to submit to majority rule and organize themselves as a community or civil society. The people surrendered their powers partially namely the three specific rights that constituted the natural right to enforce the laws of nature. Once a civil society is established, the individuals establish a government to act as a judge in the nature of a “fiduciary power” for promotion of public good.

5.2 Public Good in Locke’s Idea of Political Power

The question one asks is this: if people have natural rights and also know moral laws, why do they deserve to leave the state of nature? To this question, Locke posits that the great and chief end of men’s uniting into commonwealth and putting themselves under government is the expansion of liberty which is evidenced in public good. According to Locke, in the state of nature, each individual had the right to enforce the law and punish the transgressors. In the absence of common legislative, executive and acceptable arbitrary power in the state of nature, there were disputes on the interpretation of law. In the absence of common and acceptable

arbitrary power, there were disturbances for it was usually a case of one's word against that of others. Locke unlike Hobbes characterized human beings as naturally social and pacific, but did not rule out the possibility of disputes amongst them. For this reason comes the obligation to form and obey the government on the fact that public power was used for peace, safety and public good. In the state of nature, even when men seek to behave in accordance with the law of nature, each man is his brother's judge, had a right to punish him if he breaks the law of nature. But he may frequently judge wrongly. In this respect, the law of nature is not definite enough. And even when individual judgments are correct, they lack the power to enforce the judgment. For these reasons, men decide to enter into civil society for the purpose of public good. Thus, each individual gives up that power which the individual hitherto has in the state of nature to a constituted authority with vested powers to judge and enforce judgment for public good.

5.3 Liberty and Public Good Amongst Modern Theorists

Although his work focuses primarily on Locke, similar conception of public good and liberty are present in other modern thinkers such as Sidney, John Trenchard, Thomas Gordon and in the writings leading American colonists, leading up to the American Revolution, in the writings of James Otis and others. It is beyond the scope of this thesis to do an exhaustive survey of such thinkers, but to show that Locke-like conceptions of liberty and the public good were articulated by some other theorists leading up to the American revolution and constituted one important strand of liberty that shaped modern states conception of liberty and public good. There was a strong impulse in the conception of liberty emphasizing that individuals give up some of their natural liberties to benefit from society and that good governments are attentive to the public good. Bad governments are run by people whose self-interest is not aligned with the

public good. While debates continued on which form of government was best for protecting the public good, there was a consistent sentiment that the end of government was the public good.

There are, to be sure, some interesting differences between Locke and other theorists in the Anglo-American tradition of liberty. These thinkers were developing and extending ideas beyond Locke himself. Thinkers like Trenchard and Gordon, for example were concerned about corruption among public officials who seemed more concerned with their own interests than those of the public. As a result, they developed more detailed ideas about nature of the public servant and public spiritedness than Locke. The American colonial thinkers for their part were more concerned about the meaning of “representation”. If government had to represent the individual’s collective interests, what status did the colonies have in the constitution et al? These differences are interesting and worth pursuing in another context. But here the point is that a stress on the public good is present in the rational track of subsequent thinkers. Like Locke, Sidney wrote a lengthy critique of Filmer’s Patriacha called “Discourses Concerning Government”. Sidney clearly moves along similar lines of thought as Locke in seeing the “principle of liberty in which God created us” as individual rights not dependent on society initially. These liberties are partly given up as individual choose to join together into societies for the benefits of social life. Thus he says:

that the first fathers of mankind left all their children independent on each other and in an equal liberty of providing for themselves: that every man continued in the liberty, till the number increased, that they became troublesome and dangerous to each other; and finding no other remedy to the disorders growing, or like to grow among them, joined many families into one civil body, that they might be better provide for the conveniency, safety, and defence of themselves and their children. This was a collations of every man’s private right into a public stocks and no one having any other right than what was common to all, except it were that of fathers over their children, they were equally free when their fathers were dead; and nothing could induce them to join, and lessen that natural liberty by joining in societies, but the hopes of a publick advantage⁹.

In a very close line to Locke's thought, Sidney rejects Filmer's claim that liberty is of no use to man. He puts that

it were a folly hereupon to say that the liberty for which we contend is of no use to us, since we cannot endure the solitude, barbarity, weakness, want, misery and danger that accompany it whilst we live alone, nor can enter into a society and the liberty of framing it according to our own wills, for our own good, is all we seek. This remains to us whilst we form governments, that we ourselves are judges how far tis good for us to recede from our natural liberty; which is of so great importance, that from thence only we can know whether we are freemen or slaves¹⁰

In the same dimension of view, Trenchard could go on to say that:

All men are born free; liberty is a gift which they receive from God himself; nor can they alienate the same by consent, though possibly, they may forfeit it by crimes. No man has power over his own life or to dispose of his own religion; and cannot consequently transfer the power of either to anybody else... that right being conveyed by the society by their publick representative, he can execute the same no further than the benefit and security of that society requires he should.¹¹

Gordon like Locke's has a strong concept where liberty is made greater in the public good which is thought to be the end of government. He writes:

Hence grew the necessity of government; which was the mutual contract of a number of men, agreeing upon certain terms of union and society, and putting themselves under penalties, if they violated these terms which were called laws and put into the hands of one or more men to execute and thus men quitted part of their natural liberty to acquire civil security. But frequently the remedy proved worse than the disease and human society had often no enemies, so great as their own magistrates, who, where-ever they were trusted with too much power, always abused it...¹²

Gordon regards the attention to the public good as one of the key benefits of the people of the ancient British constitution in which the people had a large share. In further highlight on the importance of public good, Trenchard states that:

...nor has any man in the state of nature power over his own life, or to take away the life of another, unless to defend his own, or what is as much his own, namely, his property, this power therefore, which no man has, no man can transfer to another, no man in his senses was ever so wild as to give an unlimited power to another to take away his life, or the means of living according to the caprice,

passion, and unreasonable pleasure of that other: But if any man restrained himself from any part of his pleasures, or parted with any portion of his acquisitions, he did it with the honest purpose of enjoying the rest with the greater security, and always in subserviency to his own happiness, which no man will or can willingly and intentionally give away to any other whatsoever¹³ .

Trenchard, and Gordon go further in thinking about the relationship of the individual ends and the nature of the public good. Locke never thought very deeply about how individual intentions and the public good though individuals seek specific individual ends, the end of government is larger than those ends and are focused on the public good. These later thinkers go further in asking about how individual interests and the public good interact. Public good is clearly a strong stream in the thinking of Locke, Trenchard, Gordon and Sidney.

Reference

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10. *Ibid* (sec 10, p. 36)
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CHAPTER SIX

EVALUATION AND CONCLUSION

6.1 Evaluation

Locke started his discussion first with the state of nature. The state of nature for him is pre-political because it lacks a common superior on earth with authority to judge. In it men live together under the guidance of the law of nature by which their rights and responsibilities are determined. According to Locke's law of nature, men by the use of reason were free, independent and equal in the enjoyment of inalienable rights, among them being life, liberty and property. The state of nature for him is social in character. War and violence arise but only when men abandon the rule of reason integral to their character. This is a far cry from Thomas Hobbes' state of nature as solitary, poor, nasty, brutish and short. Above all, Hobbes sees human life in the state of nature as one of the unceasing conflict, of a fiercely competitive struggle for power and prestige and war of every man against every man. As there is no common superior to enforce the law of reason, Locke says that such individual is obliged to work out his own judge, though confusion and inconveniences may arise. The peace among men may be so precarious as not to be easily distinguished from the anarchy depicted by Hobbes. The state of nature has been shown as not being limited to any era, prehistoric or historic. This may mean that it is in the action of men which determines the state in which they are. Robert A Goldwin, writing on Locke's state of nature says that State of nature "is a fact of the present and the future as well as the past and that the state of nature is not only a persistent fact but a necessary and pervasive component of political life."¹ Rising from the latter, the study can say that unruly behavior by any group of people living together or in an organization smacks of a state of nature and found it in the institution of civil society. This is for the overall enjoyment of the natural rights of men

which fall into three categories, namely; the right of the individual to live, liberty of one's obligation to his fellow and respect for their claims. Locke rightly defining property says that it is that which "every man has in his own person."² For Locke, it is that which a man had mixed his labour with. For Locke, it is the labour put in anything that determines property. Whatever comes out of one's labour for him, is his property. It is this man's labour that takes property out of nature, he therefore has right to appropriate it to himself. Locke maintained. Locke also maintained that a hunter who kills an animal has removed something out of nature and it becomes his own. Labour therefore gives a right of property. This led many to think that workers are deprived of their product by their employers. Locke limits the amount of property to which a man has right to "as much land as a man tills, plants improves, cultivates and can use the product."³ Locke made individual property, along with life and liberty, a natural right-a right existing in the state of nature. Another issue that can be located in Locke's theory of property concerns perishability and imperishability of property. He maintains that a property should be used before it spoils. The latter means that any property which may perish within a week can be exchanged for that which would last for one year. For Locke, the latter is no injustice.

Political society for Locke is formed by consent. That is why he condemned absolute monarchy as being inconsistent with civil society. Political society he maintained can be formed when a majority of free men unite and incorporate a society by mere consent. Patrick Riley expressing Locke's view about consent says that 'even though God has appointed moral and political ends in the form of natural laws and rights, the consent and contrivance of men is necessary if those "ends" are to be effective on earth "⁴. The greatest threat to self-preservation in civil society according to Locke is the man who abuses political limits. For instance when a ruler uses power in a way that makes people feel unsafe or when their lives, liberties and estates

are in danger of confiscation. But Locke recommended that men can resist this by appealing to the law of self-preservation, a law that is antecedent. At that point as he said, the government forfeits its claim of obedience of the people because the people's trust has been breached. Locke can rightly be said to sanction revolution. Locke greatly feared the possible concentration of authority in the executives. Consequently, his theory sharply restricts its powers. To begin with, the legislature is to be the supreme authority in the ideal commonwealth. It and only it has the power to make laws, the executive merely has the function of enforcing them. It cannot punish anyone unless the person has violated an explicitly promulgated law, and even this punishment is to be revived by an impartial judiciary. Locke was of the view that greater authority has to be exercised by the legislative branch. What he means by the legislature here is "the people in the society"⁵

Locke says that the law of nature was, a law of reason when he discussed about the state of nature. But how, in fact this has been the major controversy between the natural law theorist and the positivist theorists cannot be over emphasized. Lock may be charged with inconsistency. This is true because in his *Essay Concerning Human Understanding*, he attacked the doctrine of innate ideas, and contended that all knowledge is derived from experience; whereas he built his treatise on two concepts -the state of nature and the law of nature that are not abstractions from experience. In perceiving that stability and self-government are not incompatible, Locke became the source of inspiration for democratic societies. His argument is often repeated in struggle for self-government. Government should always act for self-preservation, Locke was doubtless correct. But leaving aside the psychological question, what can be said for and against the political theory of Locke which is embedded in his concept of liberty? Two main criticisms are

directed against it; one against the doctrine of “rights”, and the other against the notion of majority rule. Both of these doctrines, it is held, suffer from difficulties.

The main objection to Locke’s doctrine of rights is that it is based on the idea of natural rights” i.e, rights that men enjoyed in the state of nature before the emergence of organised society. The objection is that such a claim is incomprehensible, since it is difficult to know how rights could exist before there existed a government and a system of laws to grant them and to uphold them. Examination of the term shows that it does not have this kind of descriptive meaning. It makes a prescriptive claim that men ought to have their rights. This must cast some doubt on the validity of Locke’s argument which seems to be based on a belief that in a state of nature, men do have their rights in the literal evocative sense. Even if we agree with Locke’s claim and accept that these are rights that men ought to have, there are still difficulties to be overcome. For example the rights we feel men ought to have may be incompatible with the notion of the public good; Locke held that the purpose of government is to preserve certain rights and at the same time work for the public good. However, there may be cases, where we cannot do both if we are the government. Consider the famous case of a man who shouts “fire” in a crowded theater, knowing that there is no fire. People may be stampeded in an effort to get out of the theater; some will be injured and others may die. If we accept the doctrine that a man has the “right” to free speech, we cannot penalize him for speaking freely. But the exercise of free speech is obviously in this case incompatible with the public good. Such a man is a menace to the general public and in punishing him for his action, the State do so on the ground that he has acted against the good of the commonwealth. But it is clear that by so doing, we abandon the view that he has the absolute right to free speech.

Secondly, in raising the question “who should rule? Locke, unlike Plato and Hobbes, was on the side of the people as opposed to the few; on the whole his doctrine of majority rule has wholesome effects. The few traditionally have been the wealthy and the privileged and in ruling they have worked for their own interest, or for the interests of a special class, against the interests of the majority. But what Locke never realized is that the majority itself can become a tyranny; it can be prone to despotism as fierce as any monarch in submerging the minority. Locke emphasized majority rule as one of the basic tenets of democracy; and in so doing he was right. But at the same time, no government can be a democracy without allowing for the protection of minorities and the latter was Locke’s great critique. The artificiality of Locke’s theory is very glaring. The state picture in the second Treatise is an artificial structure made up of independent individuals joined together by rational agreement. This can simply be objected by saying that the state as it really exists is the product of man centuries of almost unconscious development. Its institutions emerged by nearly undetectable steps in response to needs that are felt before they can be formulated. The emotions and loyalties which are its bonds of union are woven slowly through long ages of living together. It has also been pointed out that no enduring state has ever been the mechanical construction suggested by Locke and that men in politics are not as rational as he assumed.

Although John Locke has been hailed as the father of modern representative government in which he has constructed a political edifice that appeared to give almost equal right to the citizens of his own state it must be stated at this juncture that some of the bricks which build up the wall of his theory contain the seeds of their own cracking and destruction⁶. In the first place, the individual seemed to have been promoted but Locke’s theory leaves much to be desired. Contrary to the well-meaning and acclaimed purpose of the state, namely propagation of public

good, Locke informed by the spirit of the modernism as fathered by Cartesian cogito ergo sum, pivots the reason for the formation of the state on mere protection of the individual property. It appears that Locke did not make a clear distinction between private property and public property. This is difficult to really sieve out his idea of public good and private good. Public good is the end of government and by extension the sum of his political theories. In getting to this point of stating an end of government, he had a chest-run on various concepts in a bid to draw his conclusion of the sole aim of civil society or government. Locke roots his concept of government on the consent of the governed but this theory of consent is defective because Locke does not provide for the continuity of consent as did Rousseau through his notion of General will even, his tacit consent robs the word consent of all its meaning. His theory of origins obviously is open to critique for it is unrelated to hard facts.

Locke pleads for liberty but not equality. He does not realize the relation between liberty and equality. There can be no liberty where there is too much inequality. He goes on to view moral laws as finished and based on universal principles and also as temporary and related to different stages and types of society. Locke is an empiricist in so far as he rejects the theory of innate ideas. He is also rationalist and a champion of natural rights. His empiricism and rationalism make a sad mixture. He agrees with the idea of community being a corporation. He is also a strong individualist. Nonetheless, his concept of community as a corporation and as a mere collection of individuals is inconsistent. He in contradiction venerates the community but places the individual over it. Reading Locke, it tends paradoxical on what might be the end of moralizing and civilizing force of society, namely the creation of a moral atmosphere in which social realities get adjusted without the coercive power of the state. The latter is taken by Locke to be the conditional precedent to the creation of civil society. But if the moral tone of the state

of nature were as high as Locke assumes it to be, then, in spite of the inconveniences, there is little need for civil institutions and political organization. Locke shows a definite class bias in his portrayal of the civil society. He looked at the working class as subject to but without full membership of the civil society. He could be accused of having assumed that the working class does not and cannot live a rational life. Where were members of the civil society emerging from Lockean contract? If they were men of property, how could such contract rationalize political obligation of all men? Also, Locke goes on to insist on the right of the majority to revolt against bad government but in his majority he, by implication, does not include the labouring class. This is because the right of revolution depends on a rational decision and rational political action of which the labouring class is incapable. Thus by extension, the latter is in but not of the civil society.

The civil government of Locke with its roseate picture of the state of nature and the law of nature represent a philosophy of the propertied and privileged class to which Locke himself belonged, a class very jealous of its rights. The natural man of Locke is a propertied gentleman insisting on his own “rights and respecting the rights of others. Locke is led by the law of nature which represents a moral consciousness of one’s duty to himself and to his fellow beings. It may be said that Locke’s state of nature is very like civil society without a government. His natural man is governed by natural law which means the dictates of the right reason and moral consciousness. Need such a natural man enter into any control at all? It is often said that Locke “formulated” not a theory of government but a theory of revolution”. This misinterpretation arises from the idea that the institution of government was in the nature of a trust and not a contract. Hence, in case of misbehavior, the trust on which government was built-on could be modified or revoked by revolution. But for Locke, if the government which is subordinate

agency misbehaves and exceeds or abuses its powers, it becomes an oppressor. Thus, for Locke, the true remedy for such situation which represents illegitimate force is to oppose force to it by revolution. Locke believes in the sacred right of insurrection against a tyrant. Resistance to a tyrannical government is a natural right of the citizens. But he cautions against a light hearted resort to revolution. Locke in defense of revolution maintains that people should revolt only when a long train of abuses, prevarications and deceptions betray a sinister design on the part of the government to usurp the rights of the community and the individuals and set up a tyrannical rule. However, Locke could he said to be a philosopher that underlined revolution as the last resort against misrule. This could be said to be limitation because there could be other civil options to remove a tyrant that just revolution. Using violence against violence is by its foundation a return to the state of nature and incongruent with the principles of civil society.

Locke started with his original premises of perfect human equality of the rights but has, ingeniously, justified an unequal distribution of world's good. His theory of property resulting from a man mixing his labour with earth and having as much as he actually needs may suit an agrarian society but will not do in a contemporary capitalist and industrial society. Locke tries to overcome this difficulty by introducing the element of money which gives a man a means of storing up property without wastage. His theory led to later labour theories of value of Marx and many others just like his theory of property inspired the Marxian theory of surplus value. His view that property is a natural and inviolable right is the keystone of modern individualism. Locke continuously argues that the power of government by contract never extends beyond greater liberty, but it seems not to have occurred to him to ask who is to be the judge of the greater liberty. In any political organization, the leaders being human are not free from being coercive. This Locke foresees and set up some measures to control and limit these influences. In

this way, he sets a limit to the authority of government over the individual in matters or duties concerning others. Hence, he gives for chief measures all of supreme authority. First, the supreme authority should not have absolute arbitrary power over the life and fortunes of the people. For the power given by the people's consent is no more than what they had in the state of nature. According to Locke:

Man in that state of nature has not such power to destroy himself and that of others, how much more giving to another person to take control over his own life. Second, the supreme power should not take away the property of any man without his consent. For this is the salient end for which man entered into the civil society. Being in the society man has the right to own property as long as it is appropriated according to the laws of the society. Third, the supreme authority, should not assume to itself a power to rule by unplanned arbitrary decrees. Rather they are bound to dispense justices and to decide the rights of the subjects by promulgated standing laws and known authorized judges. Locke maintaining that it is only an established judge that can easily convince one of his mistake or guilt and as well determine the limit of the right of the citizen: in the society. By making this allusion to an authorized judge, he underscores the relevance of a judicial power which is inevitable in the core of the civil government. The latter was lacking in the state of nature. This is a way of reiterating the necessity of this power to be among the arms of civil government. Fourth, the supreme authority should not transfer their power of law making to any other hand rather than themselves. It is only the people that have such prerogative to appoint or give right by their consent to certain person whom they have elected⁷

Furthermore, the executive power is not exempted from this limitation especially the one that has the supreme executive power. Hence Locke writes: 'he having the force, treasure and office of the state to employ can under pretense of lawful authority change terrify or suppress and oppose who are factions, seditions and enemies of his government. Besides, since he has the power to dissolve the legislative, his consent is necessary before ever any law or degree made by the legislature can be sanctioned'⁸

This effect necessitates the limitation of the executive power. Locke again gave these measures: according to him, the supreme executive should not set up his own will in place of the will of the society declared by the legislature. He should not interfere with the legitimate function of the legislature, for if this is done, it would hinder them from acting freely. He should not alter without consent the electoral regulation: such would be converse to the public good. “The supreme executive and legislature should not make the people subject to a foreign power. The executive having the prerogative to execute the law should not fail or refuse to carry out this legitimate function.”⁹ However, Locke restated so often that if the government should act so unjustly by going contrary to the consent of the people or move beyond the limit of their power and jurisdiction as stipulated above, their subjects have a right to remove them from and elect new persons. According to Locke, In all states and conditions, the true remedy of force without authority always puts him that uses it unto a state of war, as the aggressor and renders him liable to be treated accordingly.¹⁰ The right inherent in the people to forcefully eject an arbitrary government is among the inalienable rights of man. It can sometimes be combined with the right of self-preservation (i.e right to life). The right to revolution can only be applied when the ruler puts himself into a state of war with the rest of the people or where there is no longer the administration of justice for the protection of man’s rights. In such a situation, the people as a whole have the duty to revolt against such government from power.

Nevertheless, this has led to the accusation of Locke as propagating a theory that gives vent to lack of restraint and continuous revolt. But he maintained that “the right to revolution does not insulate a perpetual foundation for disorder. It only comes into operation when the inconveniences to the people are so great and glaring that the majority feel it and are weary of it and find it necessary to have it amended.”¹¹ It is only then, that the right to revolution is

justified, with this measure indiscriminate revolt is prevented. The question now is, who determines the sufficient and suitable moment for a revolutionary action? Locke argued that the dissolution of government does not bring about the dissolution of civil society, unless the dissolution is brought about by the conquest of a foreign country. From the foregoing, while trying to explicate the limit of government power, Locke enjoins that absolute power can exist for some extreme necessities:

And to let us see that even absolute power where it is necessary, is not arbitrary by being absolute, but is still limited by that reason and confined to these ends which required it in some cases to be absolute.¹²

He exemplified this power with what is seen in martial discipline where an absolute obedience is required for the command of a superior official of which disobedience may amount to death. This power is necessary for the preservation of the army as well as the society at large. However, some libertarian philosophers believe that absence of coercion is one of the major tenets in the concept of liberty. In so far as man acts according to his own volition and he is not coerced in what he does, he is assumed to be free. Other writers who wished to add more feathers to the concept did that in one or two ways. They argued that not only natural conditions but also the will and power of other men imposed restrictions and obstruction on our ability to choose between alternatives. An increase in knowledge or anything else that enhance our capacity to imply natural conditions in solving our social, economic and political problems enlarges our liberty. These limitations adversely affect the willingness of the individual to perform certain acts. Unless we have the means and power to exercise liberty we cannot be free to choose some preferred alternatives. Lack of means and power is equivalent to absence of freedom to perform. Another factor is the absence of human coercion or restraint preventing one from achieving a chosen objective. Secondly, the possession of means or power to achieve the objective are

chooses. In recent political thought it is assumed that the possession of the means or power to realize preferred objectives is part of what it means to have liberty. This contention has gained universal recognition. For example, the members of Independent State of Biafra are being killed, dehumanized and denied their freedom just because they are not in control of power and as such are denied to exercise full liberty in their father land. As such they are harmed even when they have not harmed anybody in their life, property and health.

Consequently poverty or low level of education adversely affects the exercise of liberty. In other words poverty is one of the major constraints in the exercise of liberty.. Knowledge is a vital necessity for the exercise of liberty and it also enlarges one's capacity or faculty of choice and decisions. Knowledge extends the capacity to act freely. Sequel to suppression, distortion and misrepresenting or any kind of deceitful misinformation, the individual is adversely restricted to exercise liberty. Just like coercion these factors tend to restrict one's arrange of choice and also the character of the available alternatives. These factors militate against one's capacity to gain freedom or exercise liberty. Political participation has apart to play in the meaning of liberty in at least two different was as an interesting game or mode of activity it is highly admired and hotly contested for by political actors, hence, the importance attached to it. It is important to note that political participation or liberty forms the foundation upon which other liberties are built. This is because the extent to which this liberty is exercised shows the extent to which it is available in other areas. It forms the root of all other forms of liberty. That is to say that it permeates all other sphere of human activity. In a nutshell, what we are saying is that lack of political participation adversely affects the exercise of liberty in both pre-modern and modern times. Uneven power springs uneven exercise of liberty. This claim is made in a more germane sense and not in the sense that the man who is better off has the means to choose more than his

shoddier brother. There is a saying that might is right. And therefore, we cannot rule out the possibility that the more influential people in society can resist the range of choice of the less influential people in society can resist the range of choice of the less powerful. The inter-connection between liberty and democracy is as a result of the inequality of power and that of liberty. Having liberty and having the ability to exercise liberty mean two different things, for example one's inability to speak in public does not mean that the person has no liberty. Instead we say that the person lacks the ability to exercise liberty. Poverty, ignorance and a lack of means are some of the factors which devastatingly influence the exercise of liberty. But it is arguable that these factors instead of affecting the exercise of liberty influence to a large extent the worth of liberty. That is the value to the individual of his rights.

Other factor that influences the exercise of liberty includes training. This variable transforms the approach and way of life of the individual. For instance, the rich stands a better chance of influencing public opinion and having access to public offices. This inequality also enhances the chances of the rich to get to a reputable lawyer or counsel if there happens to be any dispute between members of these classes, hence the influence on the administration of justice both in civil and criminal cases. It is assumed that the wealthy and the poor are equally free to express their view and opinions. But because the wealthy have larger access to news media and thereby having greater opportunity to sell their views to the public at the detriment of the poor. Other constraints can only be revealed after a searching investigation into the combined effects of the above mentioned constraints that influence in a negative form the exercise of liberty. Some economic factors also act as obstacle. Economic factors could be likened to inequality of wealth. Lack of money and lack of capacity or ability appear to be synonymous with each other. Some people assume that constraints affecting the exercise of liberty are

normally legal restrictions. This assumption has been dismissed by our earlier enumeration of some of the non-legal restrictions which undermine the exercise of liberty. The obvious problem is that the idea of public good as espoused by John Locke and individual alienation of ones individual liberty for the sake of public good is supposed to be the driving force for a moral incubated and stable society; a society where there is security of life and property and optimum happiness of individuals but the attendant experience in our present society depicts negligence of such driving force.

How greater liberty can be realized amidst the barriers of large society that was united without the consent of the individuals in the society is a complex task. One of the reason people enter into a social contract according to Locke is to avoid the inconveniences of the state of nature. These include security of life and property, optimum enjoyment of the commonwealth and rule of law. It is not out of the mark that security of life and property cannot be guaranteed by rulers of many societies because such rulers tend towards their own will and not the public good. Though convincing the arguments espoused by Locke in support of his theories on majority rule, property and labour, Locke's political theories on liberty raises these questions: do people actually enjoy larger liberty in civil society? Is Lockean concept of liberty not an infringement of individuals right? Could sacrifice for public good be an act of approving enslavement for the state? Are there guarantee that state would not abuse such individual sacrifice for public good? Could there be equitable distribution of wealth for individuals in a civil society? What were the characteristics of the state of nature where men were presumed to live without organized civil authority? How much property did Locke think any one individual was entitled to own? Locke posited that people have the power to oust any government that works against the public good. How realistic is this propositions by Locke? Did Locke actually

believe in natural law? Why should people be willing to trade their natural freedom for the restrictions of civil society? What actually is the public good that should restrict someone's liberty? These questions have not been attended to with much seriousness and fundamental interpretation and investigation which can provide foundation required for good governance and a prosperous society. This thesis is an effort to resolve these questions using hermeneutic method of philosophical inquiry by considering whether John Locke's view on liberty could serve as a panacea to this plethora of problem.

Apart from rediscovering the relevance of the political theories of John Locke especially as it concerns liberty, there shall be plausible philosophical exposition of complexities in John Locke's concepts of liberty and imposing challenges of contemporary traditions of liberty, liberalism and statism. Lockean theory is not without much attack by other philosophers. The avalanche of criticism that has been leveled against his liberty tradition are indications of imperfection in any political theory. This work shall plausibly appraise Lockean theories of Public good and liberty and to ascertain whether his positions are seminal to our current society. But because of the individualistic tendencies inherent in man and the egoistic nature of man, Locke's theory concerning liberty should be vehemently criticized by contemporary political thinkers. When it is subjected to analysis the local complexities are bound to be revealed. But the theory appears to be very simplistic at face value. The central concern of the theory is the individual and his rights especially right to liberty and property. This may be seen as the most fundamental aspect of his political theory. And this makes it to be primarily concerned with protecting the individual liberty or freedom against any form of encroachment by a higher authority. For a proper critical evaluation of his theory, one must not fail to put into consideration the idea that men are members of a community. He regarded the community as a

definite unit and consequently, advanced the view that the community is the custodian of the individual rights. Locke was unable to show how the actual powers of institutions are derived from the equal and inalienable rights of individuals. Hence its simplicity prevents one from having a complete grasp of its complexity. And it also proves to be difficult if one tries to relate it to subsequent theories concerning the concept of liberty. Locke's theory flourished in the early part of the eighteenth century not because of its soundness but because of the deceptive simplicity of his political thought. As a result of this his theory was attributed to common sense. It somehow shows apparent lack of altruistic views by face value. And consequent his vested interest in the individuals might be at the detriment of the good of all. Enlightened self-interest is a *sin qua non* for the good of all because of the harmony in nature. From the foregoing it is evident that governments exist with the sole aim of strengthening, preserving and furthering the liberty of its people. And this will in practical terms make for the enjoyment of property and other social goods.

In short, the aim of any government should be to create a society in which one's ability, potentials and capacity are necessary and sufficient conditions for the attainment of power and wealth. Any government that is worth its salt should have as one of its major programs the ways and means open to the government to stamp out or obliterate monopoly, abuses and acts of tyranny since these factors will undoubtedly limit the individual's as well as the community's rights and privileges. Though some thinkers argue that Locke's inability to include in his theory the interest of the community seem to undermine his political work especially his concept of liberty. Thus, Locke's individualism was not embraced by some libertarian philosophers like Rousseau, Hegel and J. S. Mill. Rousseau stated "the value of any social group consists in the happiness or self-satisfaction which it produces for its members and especially in the protection

of their inherent right to liberty and property” Group harmony or cooperation is brought about by enlightened self-interest. For example the state of war that emerged in the state of nature is a pointer to the fact that group interest is important in any society. In this same line, Aristotle posits that man is by nature a political animal and also a gregarious being. Hence, man likes forming groups for the betterment of their condition of living. Men war as citizens not as detached individuals. Our ability to communicate with other men to enter into any form of agreement with them will make for good neighbourlines and the good of the community. There is palpable misunderstanding of Lockean scholarship on liberty as evidenced in the critique of some thinkers that arose after him. Locke in his work was not against the interest of the community nor did he posit that the individual interest is to be so underlined against the collective good. It is on this note that Locke stressed that men only go into contract to enter into society for the sole aim of the public good which for him is the end of government or civil society. It is generally accepted that outside society man behaves irrationally and that society creates a congenial atmosphere in order to enable the individual achieve his aims, goals and aspirations. To this end Aristotle reiterated ‘the man who can live without the state is either a beast or a god’¹³. And therefore any individual who thinks that with the natural rights vested in him can live outside the society or community is either a god or a demon. This assertion also reveals the importance of living within a community and sharing ideas for the good of all its members. Hence, the utilitarian’s believe in the greatest good for the greatest number. Society makes for respect for conventions, freedom and other moral virtues necessary for vitreous living. Owing to this, the mental and moral faculties of the citizens of the community are being transformed and by it they become human.

In a well-organized society the individual enjoys certain social infrastructures and virtues like, the removal of gross inequality in the distribution of wealth, the provision of qualitative education and its members and the strengthening of the individual rights and privileges. In the community, individual members are being inculcated the habit of loving one's neighbor as one's self and this is not diametrically opposed to Locke's to the rights, privileges and activities of the individual if choice and action are not in any way limited by social well beings based on the general will of the people. It is pertinent at this point in time to stress that some liberties are not good and that loss of liberty in one direction may entail loss of liberty in another. There are some political values which enjoy more recognition than liberty. For example any citizen whose moral convictions are completely opposed to those commonly held in his society is regarded as being capricious and should be suppressed. There is no saying that the general will is right because it acts as a standard by which activities of the citizens of any state are measured. Hence, the notion that what is not right is not the public good. It deals or is concerned with general questions and not with particular actions or persons, thus leaving its application to private judgment. Public good eliminates various social ills in the society such as, differences of opinion, inequality in the distribution of social good and suppression. In short, it is the responsibility of members of the civil society to provide for their well-being and destiny. The latter is achieved through common authority of the state. This apparent community interest is the major linkage between the social philosophy of Locke and other libertarian philosophers like Rousseau and J.S. Mill. Rousseau's philosophy placed much emphasis on the idea of community interest. Extreme selfishness does not make for progress in any society no matter the way one tries to present it.

Often individualism of Locke is misunderstood to be selfish and often likened to Hegelian individualism, Hegel for example posited ‘individualism with the provincialism and particularism.... had prevented Germany from achieving modern national statehood’¹⁴. Individualism of Locke could be associated with or attributed to philosophical rationalism. The point in this theory is that the individual as a social being has certain roles to play in an organized society. And so it is not in the best interest of the individual to be detached from his position in and the independence upon the society in which he has a part to play and duties to perform. Locke does not post that the individual shall become a mere animal restricted by monstrous instinct. The individual only part some of his rights to make way for a larger liberty. The subjectivity inherent in the state of nature is dimmed by the principles of civil society which are hinged on public good because prior to civil society or organized government incubated in selfish tendencies inherent in human nature, the individual will only act according to his own appetites, impulses and inclinations regardless of those of others. He lacks any rule of action. Hence, his conduct would be aimed at satisfying his personal aggrandizement. For Lock, the individual’s identification with other members of the society will not only enhance his personality but also his rationality which are outcrops of a social life because individualism also negates the nature, structure and functions of social institutions. Some argue that government is instruments or organs designed to satisfy the irrational desires of a people. This argument lacks standing because social organizations are historical products. That is to say that they grow and in the process new elements are being introduced into them. And consequently the burden imposed upon man by custom, law and government are reduced to the barest minimum by these social institutions. And thus the exercise of liberty is enhanced.

Liberty is a social phenomenon which arises through the moral development of the society. And its validity can only be maintained through legal and ethical institutions recognized and sanctioned by the society. However, it cannot be assessed on the same platform with the individuals' self-will to act according to his personal motives, desires and inclinations. Liberty according to Locke has something to do with the abandonment of private desires and inclinations for public good. And this conception is what exactly accords private inclination and desires a moral character. For Locke, Liberty is meaningless when it is not for the public good. And on that position liberty is said to be moral. In fact, any act being performed by an individual which fails to conform to the public good is an unworthy act. Social status and social consciousness to a large extent influence individual or private joy. Self-consciousness per se has devastating consequences and it depicts a mark of frustration and futility. Man by nature is gregarious and as a result he likes coming together and forming social groups and interpersonal relations may arise in the process. In line with Locke, Hegel asserts that 'the development of morals and of citizenship in the modern state made possible a more complete synthesis of personal right and public duty than had been possible in society that depended on slavery. In the modern state all are free and in their service to it they can find ideally the highest form of self-realization'.⁴¹ In modern states individualism and the craving to gratify private drive and desires are trivial in their chart of policies. The judiciary and other law enforcement agencies in civil societies fight relentlessly to see that these desires and drives which are private to the individual are brought under control. Individualism brings out those irrational desires and motives in man. A properly constituted authority must have as one of its aims and objectives the protection of the private liberty of those under him if not the aim of having a constituted authority would be defeated. Thus, modern constitutional government places much emphasis on the individuals independence

and right of self-determination than any form of government. The concept of natural rights expounded by Locke and other philosophers like Hobbes are completely intuitional. Locke's defence for his theory or concept of natural rights or individuals rights is that such rights are evident. But science and social thought have gravely now tend towards empiricism which emerged as a result of scientific method in solving social, economic and even political phenomena.

The theory of natural rights is an offshoot of philosophical rationalism. Political, economic, social and intellectual freedom is collectively to the benefit of not only the society but also to the individual that experiences them. And consequently, modern states establish institutions with a view to enlarging and protecting the rights and privileges of the individual. In other words civil societies see social institutions as essential to the well-being of its subjects. They are normally regarded as a greater social achievement than merely saying that the individual has been given liberty without making adequate arrangement to see that those rights which are necessary for the proper exercise of liberty are protected. Political liberty produces and gives scope to a high types of formal character. There are various ways of producing reasonable human beings and they include allowing them take active part in the political affairs of the community or state, having moral conviction and equally see that they are being implemented. These are some of the fundamental characteristics of a civil society and they bring about better condition of living than that of primitive societies. And it is noteworthy that at the base of a liberal government there must be a liberal society. The state plays a leading role in moulding the character and personality of its citizens.

In spite of the long list of disparagement advanced by some eminent philosophers like Rousseau and J.S. Mill and their deliberations on the importance of civil society Locke's theory

had a profound effect on the political and social advancement of modern societies. The greatest importance of Locke's social and political thought, therefore, lay beyond the contemporary English and France which culminated in the great revolutions at the end of the eighteenth century. Locke's defense of resistance in the name of inalienable rights of personal liberty, consent and freedom to acquire and enjoy property had their full effect. It is impossible to attribute their existence in America and France to him alone, but he was known to everyone who gave attention to political philosophy. His thoughtful moral conviction, his unadulterated belief in liberty, in human rights, united with his restraint and good sense made him the most outspoken proponent of libertarian philosophy. Locke's theory formed the basis for the establishment of universal Declaration for Human Rights, of the Helsinki accord. Accords of many other international machinery like the United States charter on fundamental Human rights has Lockean imprimatur. He valued liberty both as an end and as a means. He also believed that freedom to think and act according to one's volition are indispensable in the attainment of human personality. At the same time, it is plain that American institutions have been strengthened in their capacity to resist encroachments on individual liberty. He believed liberty to be the secret of happiness. In other words the individual should be protected from the arbitrary power of government and he shall be deprived neither of life, liberty nor property except when the individual's action is opposed to public good, because at such point the individual wages war against others. As a force in propagating the ideal of liberal but nonviolent reform Locke probably stands before all other libertarian philosophers what so ever, Locke's spirit of cautious but radical reform and its program continued the same idealization of individual rights. He has the same belief in liberalism as a panacea for political ills, the same tenderness for the right of property, and the same conviction that public interest must be conceived in relation to private

well-being. Despite all these eulogies regarding the soundness of Locke's theory, it is important to note that the right to liberty would be more realizable in a civil society. However, there are rights which are useless to surrender to the government and which governments have always been found to evade. These are the rights to life, freedom of expression (not slanderous).

Despite all the limitations of his political theories which is geared towards enlarging liberty- Locke theories has tremendous positive influence on good governance and a "true state" against a "perverted" one. The natural rights of man to Locke are to life, liberty and property. Liberty here means an exemption from all rules save the law of nature which is a means to the realisation of man's freedom. It means the liberty of men to dispose of their persons or goods as they like within the allowance of those laws under which they are; therein not to be, subject to the arbitrary will of another but freely follow their own. Hence, by equality Locke means not mental or physical equality but the "equal right" every man hath to his natural freedom without being subjected to the will or authority or any other". For Locke, property comes when an individual changes the primitive community of ownership into individual possession by mingling his labour with some object. In the state of nature, individuals are conscious of and respect these, natural rights for they are independent; no one ought to harm another in his life, health, liberty or possession." Thus, the state of nature is to be distinguished from civil state by the absence in it of a common organ for the interpretation and execution of the law of nature. On his idea of rights, according to Locke, it is a gift of society and can be achieved only through the medium of civil society. Rights according to Locke are born of human reason and human needs. They are social rights. Locks insistence that the end of government is public good and as such a mechanism that enlarges liberty led him to uphold the principles of popular sovereignty, supremacy of parliament, constitutional government and rule of law. The doctrine of his political philosophy

indicates laissez faire and economic capitalism. Lockean concept of civil government is not only of topical but of abiding interest because it has thrown up concepts which are current coin in politics today, individual and proper relationship between the state and the individual. The desire for good governance is hinged on public good and the desire for a representative government is also hinged on enlarging liberty.

The public good for Locke is the rule and measures of all law making because of its impact on enlargement of individual liberty. Locke's theory is secular than that of Hobbes. One of the prominent contributions of Locke to political philosophy is his insistence that the end of government is public good and that this is only realized when our liberties are expanded through the state. Also his definition of natural rights has presented the modern notion of fundamental rights. Life, liberty, and property are converted by Locke as the inalienable, concrete rights of every individual. Lockean theory of government by consent is the keystone of democracy and modern state. The Lockean view about a limited constitutional government is not by any dim of interpretation a call for diminishing the role of the state but by ensuring that the state does not overshoot its bounds and objectives. It is on this he insists that the state came into existence for the sake of enlarging individual liberty with the sole aim of the public good. Thus he underlines the sovereignty the people, the state as a trustee of the sovereign people, majority rule, government by consent, separation of powers and sacredness of property and other rights that are current political topics and civil accelerators. It is of good note that the Lockean state is not a sovereign state for the contract is not general, but limited in character. The state is limited by the end for which it has been created as also by the law of nature and can be set aside if it overrides its limitations or does not fulfill the end for which it has been created which is public good. The government therefore according to Locke is a trust, breach of would be against the public good.

This entails that the ultimate allegiance of the individual is not to the government but to the political society created by the pact, which the government deputises for and of whom the government is a trustee. The equated equality guaranteed by Lockean contract is immunity from wrongful violation of life, liberty and property and denial of the public good.

Thus, the state exists for the good of the people and not the people for the state. The state is not absolute but tolerant. It does not envelope the individual but only secures for them their life, liberty and property. This means that it sublimates selfish interests of the individuals into public good. Locke is not a reactionary. He believes in a constitutional government which would not invade the rights and liberties of the subject guaranteed to him by natural law and by entrance into civil society is enlarged. Thus to Locke, “ Law in its true notion is not so much the limitation as the direction a free and intelligent agent to his proper interest... the end of law is, not to abolish or restrain, but to preserve and enlarge freedom. In a wider sense, Locke makes consent the basis of government and authority. No man be subjected to the authority of another without his own consent. A man is a member of a civil society by his own consent. This consent may be express or tacit. For one whose consent is expressly given, the contract is binding and perpetual unless the society is dissolved. A person holding property or enjoying the amenities within a state therein gives his tacit consent. In actual practice, a government by consent does not mean government by personal consent but through a representative assembly. It means constitutional government. Locke avoids the extreme individualist or anarchist position and holds that consent to the formation of government and once given is binding till government is dissolved. The element of consent figures prominently the institution of government. The state however in Locke does not create rights but only safeguards them. The state of Locke is an individualist state with a minimum of functions but plenty of restraints. The state is created for

conveniences and it is justified by creating those conveniences, thus the law which is rooted in the public good is what sovereignty is. As a utilitarian, Locke opines that state should conform to the moral order by acting within its limits and not autocratically. The supreme power lies in the people. The power of the state is limited to the public good.

Lockean theory succeeded in freeing the individual from the shackles of monarchism and crippling hands and chains of absolutism. As such, Locke has left for mankind an everlasting legacy for the better running of government which is for the sole purpose of the public good. There is no gain saying the fact that the theory has brought to humanity awareness of the fact that individuals have the rights that are natural and inalienable to them and as well need to seek for them and defend them so as to ensure the public good and since government is for the people, made through their will, it must always ensure the public good which is the only sure way of enlarging liberty in a society. Locke's position on liberty is that man's liberty of acting according to his will is grounded on his reason and it is this reason that instructs man in the law. Man according to Locke is created with natural rights but this rights are offshoots of natural law. Hence these natural rights are not with obligations because the foundation of all laws according to Locke is dependency. It is as a result of this dependency that man is not an end himself as Norzick opined, If man is independent as Norzick and Hoobes opined, there would be no existence of obligation. Thus, the worth of one liberty depends on the specification of the other liberties. This is why Locke submits that liberty is only sustained within the confine of the law because according to Locke, unrestrained liberty leads to chaos.

Locke's concept of liberty is not without loads of conflicts in the sense that certain point Locke seems to subscribe to negative liberty and at some other point seems to subscribe to positive liberty. The former results is placing Locke as possessive individualist and for some

absolute collectivist.. Reading Locke one does not lose sight of the fact that he has religious foundation of which makes his work interwoven with theological assumptions. This is why he maintains that the basis of the law is the decree of the Divine will. Hence, liberty is not without obligation because obligation leads one back to God. Thus, Richard Ebeling, William Turner and other thinkers that base the moral authority of Same Sex marriage, Gay rights et al on Lockean liberty is out of misreading Lockean concept of liberty. The latter fail to understand that debate over Same Sex Marriage, Gay rights, Transgender, Small Arm control raises fundamental questions about human identity, legalism and societal institutions. An individual for Locke is the person that operates within the confines of social contract and is free within this contract where the Law does not prohibit. Lockean liberty is enjoyed in political society and the society according to Locke is grounded in norms. These norms are rooted in natural law which proceeds from the Divine will whom man is His workmanship. Hence, claiming to use Lockean liberty as footstool by people that do not subscribe to tradition, government control, limitation of freedom, collectivism, legalism and society is gross misinterpretation of Lockean scholarship on liberty. The latter is why John Dunn posits that Lockean idea of liberty has come to embody large nuanced interpretations.

6.2 Conclusion

Many years before Locke, the language of natural rights gained prominence through the writings of such thinkers as Grotius, Hobbes, and Pufendorf. Whereas natural law emphasized duties, natural rights emphasize privileges or claims to which an individual was entitled. There seem to be considerable disagreement as to how these factors are to be understood in relation to each other in Locke's concept of liberty which according to him is enlarged in what he calls Public Good. Lockean treatment of the concept is generally thought to be among his most

important contributions in political thought but it is also one of the aspects of his thought that has been most heavily criticized in the light of current understanding of his teaching and his political philosophy. The contradictions in Locke's theory generate misconceptions, thus we see the double edges in some of his arguments, which in any case is likely to affect his adoption. However, we have also known from this work the actual interpretation of Locke's concept of liberty against many interpretations by many libertarians. As a force in propagating the ideal of liberal but non-violent reform and change of government, Locke stands before all other libertarian thinkers. Locke's spirit of cautious but radical reform and its program continued the individualization of individual rights, the same belief in liberalism as the antidote for ill-governance. Despite all the misreading and ambiguities in his theories, it is important to underscore that the right to liberty as enunciated by Locke is the ideal for peaceful co-existence and optimum happiness of individuals in a political society. However, there are rights which are not to be surrendered to the political authorities like right to thinking and writing of non-libelous works. Amazingly, governments have continued to evade the said rights. Living in society has a number of benefits such as more security, more comforts and sociability. However, one has to live within a set of rules defined by a governing body that is focused on greater liberty. Locke succinctly submits that "the end of law is not to abolish or restrain but to preserve and enlarge freedom...for where there is no law there is no freedom"¹⁵ Lockean civil society contrast with a government run by a tyrant or absolute Monarch whose leadership is not guided by the rule of law but on personal will. Locke's theory permeates every society and as well serves as a panacea to the problem of political society if and only if societies can re-evaluate its societal relevance and apply it effectively, for only then can the true end of political society be tenable; for to choose to live in a society is both to have more freedom and less freedom at the

same time. The civil society has the seeming paradox of both curtailing freedom and expanding liberty, at the same time for the sake of the public good. It is obvious that Locke does not by any means enthrone anarchy by saying maximum individual right and minimal state control. The maximization of individual right which Locke posited is only about preservation of individual right to life, liberty and property but this is tenable only when the individual's action does not pose a threat to public good. Thus, Locke is a great support that the individual sacrifices his individual rights for the sake of enjoying greater liberty in the society and not mere maximization of the individual right and minimization of state control as championed by some contemporary libertarians. Lockean sacrifice of individual liberty for attainment of greater liberty seems to be missing in the contemporary concepts of liberty which is anchored on zenith maximization of individual liberty at the expense of public good and total diminishing of governmental control on individuals. The consequence of the latter is enthronement of violence or anarchy which amounts to revert to state of nature. Thus, liberty according to Locke is a set of freedom within a set of restraints that are set by society for public good, Locke in his concept of liberty succeeded in harmonious unification of negative and positive liberty. The latter is manifested in public good, which is an enlarged liberty different from initial liberty in the state of nature. This study calls this harmonious union of Negative and positive liberty 'Lockean Unification'. The study thus concludes that, Locke's conception of liberty has contributed centrally to the emergence and spread of liberal ways of thinking about politics and that what determines one's enjoyment of liberty in the society, is not license or not to be unrestrained by the norms of the society, but to operate within the confines of the social contract, which is not without potential obligations

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