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Social Contract and Justice Notes

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Review Questions

1) can utilitarians defend the idea of human rights?

- yes - human rights promote pleasure
 - or no - human rights $\neq$ maximal utility, so they couldn't be a central feature of utilitarianism
- ↳ i.e. utilitarianism wouldn't view human rights as **unalienable** - Neta

2) why is it wrong to lie, according to Kant?

- lying violates Kant's **principle** about willing your maxim to be a universal law
- also treats someone as "mere means"

refer to categorical imperative, the ultimate law described in different ways by these different formulations

- lying could be incompatible with the ultimate good, a "good will"
- for Kant, though, the consequences of lying could be undesirable, but what actually **matters** is that everyone lying **wouldn't work**. Moral imperatives are essential to a **logical** working of the world, and they're imperatives because they're logical, not because of their consequences.

Locke on Natural Rights & State of Nature

↳ "HUGE can of worms" that this is a natural not societal right - Dr. J

- Locke says people have **natural rights**: life, liberty & property
- **legitimate gov't** = result of a **social contract**
 - **social contract**: ppl conditionally confer some rights $\rightarrow$ gov't to better ensure enjoyment of life, liberty, property
- natural rights stem from **inherent liberty & equality** amongst ppl
- these theories = **polemic** vs. idea of divine right & monarchy
- Locke thinks in terms of (hypothetical or actual) **state of nature** where people live **without gov't**
- in state of nature, ppl are **free & equal** & have **natural rights**
- **law of nature** governing SoN is **universal**, not dependent on society
 - "law" b/c of universality
 - law: you **cannot give away** your natural rights or **take away** someone else's rights (Locke calls this **reason**)
 - law depends on **Christianity** - God gave us these rights, so they're not ours to give/ take away
 - Locke also thinks law is **logical** / could be derived from logic

*Locke seems to think it actually did exist @ some point

Locke: Legitimate government

- **political power**: "right of making laws" w/ penalties of death" & therefore also all other laws w/ less severe penalties
- question arises: how can gov't be legitimate, given omnipresent natural rights?
- in SoN, everyone has the right to punish violation of law of nature
 - * victims = most likely to enforce/carry out that punishment, and they're unlikely to execute proportional punishment
 - * for Locke, proportional punishment is a major component of justice, so the above is problematic
 - * ppl therefore enter gov't to have a 3rd party that enforces law of nature fairly/proportionally
- goal of legitimate government: protect natural rights
 - * provides impartial judge to enforce law, which isn't part of SoN
- consent is very important to Locke - to transfer your rights to gov't is a big deal & requires consent
 - * most governments don't ask for our consent, though - does that make them illegitimate?
 - * consent: huge moral implications for whether government is just

conversation about this led to the realization that consent is difficult to revoke in the real world

- * big question: natural rights are INVOLABLE and impossible to give away. How, then, can people enter into gov't that can take away their life, liberty or property?
- ↳ Locke responds that people can consent to gov't & thus make it ok for gov't to ... govern ... those rights (?)

Philosophical roles of the idea of social contracts

- Locke: political authority is legit if it can be voluntarily contracted starting from a natural state of equal rights
 - ↳ social contract: consent = explanation of why gov't can have power over you
- Kant: social contract is a "standpoint of reason that lawmakers should adopt to determine "general will"

Rawls on original position

- Rawls: disinterested in state of nature
- wants to know what systems of gov't would arise from ppl on totally equal footing
- Justice: the principles ppl would agree to from the equal "original position"
- original position different from state of nature
- people as we are could debate about justice & not arrive at just principles/laws - we bring our own biases and preexistent power structures to the table
 - however, people in the original position don't have those biases and could, hypothetically, come up w/ just principles
- 2 principles, Rawls thinks, would arise:
 - 1). Equality: each person has the right to the same, "fully adequate" set of basic liberties such that everyone can have the same liberties
 - 2). Difference: social/economic inequalities must satisfy that
 - they're based on "offices and position" open to everyone (equally so)
 - difference principle: any inequalities must be to the greatest benefit of the least-advantaged members of society