

COMPARING THE SOCIAL CONTRACTS OF HOBBS AND LOCKE

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Abstract

Locke and Hobbes both share a vision of the social contract as instrumental in a state's political stability. However, their respective philosophies were informed by a starkly contrasting vision of human nature. This essay explores the historical context of each philosopher and considers the differences in the social contractual theory that emerged from their distinct perspectives on the state of nature.

I THE STATE OF NATURE AND THE SOCIAL CONTRACT

The notion of the social contract has been, quite simply, one of the most important paradigms of Western philosophical and legal theory in helping to shape our understanding of justice and social structure.¹ Sharing some elements of thought, though differing in many more, 17th century Englishmen Thomas Hobbes and John Locke stand out as amongst the most significant proponents of social contract theory. Held up against the light of contemporary scrutiny, analysis may expose flaws and weaknesses in their arguments. However, even more so it reveals that the sophisticated methods they employed, the scope and structure in their observations of complex, ubiquitous principles, and the depth of their impact in modern thinking ascribes them undeniable stature and demonstrates the enduring value we can still gain from reviewing and comparing their work on social contract theory.

Hobbes and Locke were not the first to use the social contract model as a tool to explain the foundations of human society; earlier exponents of the theory can be traced much further back in history. Arguably, elements of the social contract have existed as long as ethical theories have been publicly espoused and recorded in writing.² For example, in Ancient Greece we find Plato's *Republic* describing a friendly communal debate about the meaning of justice in which Thrasymachus and Glaucon introduce principles of social contract theory,³ and conceptions of human nature,⁴ that have been elaborated upon by countless thinkers since, not least among them Hobbes and Locke. While the

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¹ Robert C Solomon, *Introducing Philosophy: A Text with Integrated Readings* (Oxford University Press, 9th ed, 2008) 566.

² Montague Brown, *The Quest for Moral Foundations: An Introduction to Ethics* (Georgetown University Press, 1996) 36.

³ Plato, *Plato's Republic* (Dent, 1969) 12-46.

⁴ J W Gough, *The Social Contract Theory: A Critical Study of its Development* (Oxford University Press, 1936) 100.

‘mechanical principles of materialism’⁵ are generally emphasised as the shaping foundations of both humanity’s social contracts, it also has to be recognised that Hobbes and Locke shared a grounding in the classics that was similarly influential in forming their views on political philosophy and human behaviour.⁶

The links between the pair, both regarded for their social contract theory and with a common debt to classical philosophy and to the influence of materialist thought, begin to wane when the substance of their work is analysed more closely. Vastly different individual circumstances helped define striking distinctions in personal outlook. Hobbes’ notably grim social contract theory, at its core reflecting what he believed was the brutal, nefarious reality of instinctive human behaviour, was surely a product of a worldview that could not overlook the troubled time he lived in. For much of his life, Hobbes’ world was one of political upheaval and war; the Thirty Years War was taking place in Europe, and a Civil War drastically transformed political dimensions in England. These extended periods of tumult fashioned a pessimistic outlook on human nature, and instilled in Hobbes a strong conviction for an absolute monarchy, believing that ultimately the only capable form of social governance was a sovereign with ‘unrestricted ruling power’.⁷

Locke reached his intellectual maturity in the more settled years after the English Civil War, and was politically associated with the Whigs, who pushed for a limited monarchy.⁸ He felt that an effective sovereign did not require absolute rule and, rather, pushed for more individual freedoms. In fact, if we accept that the aim of Hobbes’ social contract was to establish the necessary conditions for an all-powerful sovereign, we find in turn that Locke’s social contract had an altogether antipodean argument. Partly as a result of his involvement in an attempt to prevent Charles II’s royal absolutist younger brother James from succeeding the throne, Locke’s intention was to justify the peoples’ ability to resist absolute monarchy through rights granted in a mixed constitution.⁹

Aware of the moulding contexts from which Hobbes and Locke arose, and the ultimate conclusions that they were trying to reach and justify with their respective versions of the social contract, we may then retreat to the essence of their theory and observe the different ways in which they developed their arguments to achieve their goals, which in turn provides ample opportunity for critical analysis.

One of Hobbes’ defining features is the method in which he chooses to relate his social contract. Hobbes was adamant that a rigorous, rational argument was necessary to cure the ills of an ailing state political structure based on ‘bad reasoning’.¹⁰ As a materialist

⁵ John Rawls, *Lectures on the History of Political Philosophy* (Harvard University Press, 2007) 29.

⁶ Rawls, above n 5, 29.

⁷ Dora Kostakopoulou, ‘Floating Sovereignty: A Pathology or a Necessary Means of State Evolution?’ (2002) 22(1) *Oxford Journal of Legal Studies* 135, 141.

⁸ Gough, above n 4, 127.

⁹ Rawls, above n 5, 105.

¹⁰ Jean Hampton, *Hobbes and the Social Contract Theory* (Cambridge University Press, 1988) 1.

he was convinced that sound reason must possess geometric precision,¹¹ and therefore opted to enhance the scientific certainty of his thesis with the formal legality of contract theory.¹² While the integration of legal theory into his political philosophy lent support to Hobbes' 'individualistic metaphysics',¹³ ultimately the contractual premise that Hobbes sets forth has come to be questioned in its final conclusion as unconvincing in a strict legal sense.

Calculatedly removing any sentimental notions about humanity's inherent virtue, Hobbes' theory began with a belief that people in an original state of nature are primarily interested in preserving their own lives, even if that meant destroying the life of another. This proliferation of self-interested individuals creates a state of perpetual conflict with each other, or universal war.¹⁴ Humanity's self-interest in turn obliges him to seek a path out of this violent state towards peace and freedom from pain and anxiety, where he can pursue pleasure.¹⁵ This leads to the first step in Hobbes' social contract. To avoid war, all individuals must enter into a covenant with every other person, agreeing not to harm one another. This agreement alone, however, is not sufficient to maintain peace.¹⁶ Compliance with this social contract requires the coercive power which Hobbes believed only a powerful sovereign could provide. Merely placing trust in an unadorned, non-binding agreement between individuals is not just imprudent, but unlawful according to Hobbes.¹⁷ The social contract's success depends on the immediate institution of a sovereign upon whom individuals have surrendered all liberty,¹⁸ and who is able to ensure obedience both to natural law and whichever commands he delivers.¹⁹ Hobbes' sovereign power is not a party to the social contract, but instead a recipient of the powers conferred upon him when all under the sovereign enter the universal compact and sacrifice their liberty in the process.²⁰

Many commentators believe that by placing all faith in the sovereign to enforce the social contract, Hobbes' theory fails to reach the standard of ultimate and convincing proof in a strictly legal sense. Hobbes' main weakness is that he is never able to explain why one should not break the social contract and disobey the sovereign, which seems to be little more than a moral responsibility.²¹ The typical legal answer to the question of enforcing a contract would be that the courts will uphold the law; in the state of nature, without an established system of jurisprudence, Hobbes has difficulty in responding to

¹¹ Thomas Hobbes, *Leviathan* (Dent, 1937) ch 5 part 1.

¹² Gough, above n 4, 107.

¹³ R A Grover, 'The Legal Origins of Thomas Hobbes' Doctrine of Contract' in Preston King (ed) *Thomas Hobbes: Critical Assessments* (Routledge, 1993) vol 3, 543.

¹⁴ Hobbes, above n 11, ch 13 part 1.

¹⁵ Brown, above n 2, 39; Hobbes, above n 11, ch 14 part 1.

¹⁶ David Gauthier, 'Hobbes's Social Contract' in G A J Rogers and Alan Ryan (eds) *Perspectives on Thomas Hobbes* (Oxford University Press, 1988) 134-137.

¹⁷ Brown, above n 2, 39.

¹⁸ Gough, above n 4, 103.

¹⁹ Gauthier, above n 16, 137.

²⁰ Gough, above n 4, 103.

²¹ Brown, above n 2, 41.

the problem of enforcing and upholding the contract.²² Further undermining the persuasion of Hobbes' argument is that his social contract is essentially hypothetical, and seems to have no obvious parallel in history. In the end, Hobbes must admit that it is fear alone that keeps humanity complying in subjection.²³

Locke's theory is similarly compromised by the "historical objections to the social contract", however, he intended to demonstrate a rational argument rather than relate a practical example.²⁴ In reality though, his more digestible argument founded on notions of equality and rights to property would find itself powerfully expressed in the constitutional foundations of the United States of America, where the Declaration of Independence is closely modelled on elements of Locke's *Second Treatise of Government*.²⁵

Locke's state of nature is free of Hobbes' 'force and fraud', with men instead 'living together according to reason' but without a guiding authority to follow. Naturally, individuals are inclined to avoid a solitary life, and inevitably start a family, which eventually leads to the formation of political society.²⁶ The social contract has a two-step progression: firstly from individuals to collective society, and secondly a 'vesting of power in the legislature as a trust.'²⁷ Contrary to Hobbes' society, where rights are sacrificed entirely in fear, the power placed in the legislature is in Locke's opinion 'a positive, voluntary grant and institution.'²⁸ The obligation is for the government to serve the people, and the right of the public to resist authority is fundamentally inherent and unable to be compromised.²⁹

Locke's strong assertion of the natural right to property further sets his doctrine apart from Hobbes. Locke expanded the conventionally accepted notion that humanity possesses a private property right over their own body, elaborating further that the property one's body cultivates is also an integral component of the basic freedom and dignity which all are equally owed.³⁰ He considered that this right existed, but was not sufficiently protected, in a state governed by natural law, and thus it was necessary to integrate the right to property as a fundamental element of his social contract.³¹

Locke's doctrine of 'government by consent of the governed',³² with its palatable and contemporarily attractive principles of limitation of government, and prevention of the

²² Grover, above n 13, 543-544.

²³ Gough, above n 4, 105.

²⁴ Ibid 128.

²⁵ John Locke, 'Second Treatise of Government' in John Locke, *Political Writings* (Penguin Books, 1993) ch 7 para 77.

²⁶ Gough, above n 4, 128.

²⁷ Donald L Doernberg, "'We the People": John Locke, Collective Constitutional Rights, and Standing to Challenge Government Action' (1985) 73 *California Law Review* 52, 62.

²⁸ Doernberg, above n 27, 62.

²⁹ Locke, above n 25, ch 7 para 88-102.

³⁰ Solomon, above n 1, 589.

³¹ Gough, above n 4, 131.

³² Doernberg, above n 27, 59.

interference of natural rights including property, has seen his writing retain relevance and manifest with material impact in politics to this day. In reality, however, his social contract is little more than a general model or structure to contain his arguments, and amounts to little more than a one-way trust between ‘a government obligated to the people, (and) not they to it.’³³ Ultimately, the social contract is not as fundamentally essential to Locke’s theory as it is for Hobbes.

³³ *Ibid* 63.