

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 3

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

An Analysis on Social Contract Theory

BHUMIKA BAKSHI¹

ABSTRACT

The social contract hypothesis is the main topic of this paper. It goes into great length about the arguments advanced by Thomas Hobbes, John Locke, and Jean Jacques Rousseau, who saw the social contract as a tool to contrast the behaviour of individuals in society with their 'natural' state. It examines the state of nature that each theorist has portrayed as well as the divergent viewpoints that each theorist has. This paper also looks at the objections raised against Hobbes, Locke, and Rousseau's respective social contract ideas.

I. INTRODUCTION

A "social contract" is a fictitious pact that is used to describe how society and the state first came into being. Man used to live in a state of nature prior to the establishment of states and governments. The proponents of the social contract theory argued that people should submit to the government freely by contrasting its benefits with those found in a state of nature. A social contract outlining the rights and obligations of citizens toward the State was created as a result of the exercise's findings. Although the concept of a social contract has been debated before, it is most commonly linked to the French philosopher Jean Jacques Rousseau, and the English philosophers Thomas Hobbes and John Locke.

Theories of the social contract varied depending on their goals; some sought to defend the sovereign's authority, while others sought to protect the individual from being oppressed by an all-powerful sovereign.

II. WHAT IS THE MEANING OF SOCIAL CONTRACT?

A social contract is a real or imagined agreement outlining each party's obligations and rights between the ruled and the ruler. By using their collective will and reason, people who were born in a state of nature came to an agreement to build a society and a government. Another way to think of a social contract is as a way out of the state of nature. Consequently, there are two types of social contracts:

- i. To initiate, a deal that helped create the State: This agreement just demonstrates the people's readiness to recognise the State as their sovereign.

¹ Author is a student at IILM. University, Gurugram, India.

- ii. A government contract or a submission contract: This agreement covers what happens after a State or society is established. It outlines the rules of government and involves pledges and duties made by both the ruler and the ruled. The pledge of obedience made by citizens and the reciprocal promise of citizen safety and sound government made by the King/Ruler/State are the two most significant of them.

The "state of nature" refers to life prior to the creation of organised institutions or governments. Different political thinkers have various ways of describing how man is and lives in the natural world. Some people think life in nature is delightful, while others think it's uncivilized and harsh. The following two agreements were created in order to deal with the difficulties caused by the state of nature:

1. **Pactum Unionis:** People sought security for their lives and possessions through this agreement. As a result, a society was created in which everyone was to live peacefully and together.
2. **Pactum Subjectionis:** The purpose of this agreement was to enforce the original contract. Through this agreement, individuals collectively gave up their liberties and rights that were previously in conflict with one another in favour of a government that also pledged to uphold their rights to life, property, and liberty.

III. THEORY GIVEN BY THOMAS HOBBS

English philosopher Thomas Hobbes is credited with helping to establish modern political philosophy. Hobbes is well known for his work *Leviathan* from 1651, in which he presents a significant exposition of the social contract idea. According to Hobbes' philosophy, man is inherently egoistic and selfish. He believed that people were solitary creatures with unquenchable needs who constantly sought pleasure and shunned suffering.

The state of nature was one where there are no binding standards of what is right and wrong. Human life was "solitary, poor, nasty, brutish, and short," and people took whatever they could for themselves. Therefore, nature was in a constant state of war, which could only be halted if people decided (via a social contract) to cede their freedom into the hands of a sovereign, provided that sovereign authority also guaranteed their safety. The agreement to create a State was the only way to meet the goals of achieving peace, self-preservation, and self-protection. Through a contract, individuals relinquish their authority to a third party that was not a party to the contract.

Therefore, common will was not the foundation of the Hobbesian contract. It was an agreement

between each party whereby that the other would cede their rights to a third party in exchange for the other party ceding their rights in a similar way. The deal resulted in the creation of a third party (Sovereign). The third party was a manufactured person, not a real person.

IV. THEORY GIVEN BY JOHN LOCKE

English philosopher and physician John Locke is referred to as "The Father of Liberalism" and is recognised as one of the most important intellectuals of the Enlightenment. According to Locke's social contract theory, legitimate political authority derives from people's consent, which can be revoked if an individual's freedom is infringed.

In the second of the *Two Treatises of Government*, published in 1690, Locke distinguished himself from Hobbes in that he viewed the natural state differently from Hobbes, viewing it as a situation in which people are free, equal, and independent but are required by the law of nature to respect one another's rights to life, liberty, and property. Locke refers to a pre-political order in his state of nature rather than a pre-social order. Man is subject to the natural law in the state of nature. Everything was created by God to be useful rather than wasteful.

Locke argued that the protection of each person's inherent rights, including their right to private property, was a requirement for the social contract's commitment to follow civil authority. The overthrow of sovereigns who disobeyed these conditions would be justified.

V. THEORY GIVEN BY JEAN JACQUES ROUSSEAU

The philosopher, author, and composer Jean Jacques Rousseau was from Geneva. Aspects of the French Revolution, modern political, economic, and educational thought, as well as his political philosophy, all had an impact on the development of the Age of Enlightenment in Europe.

Man was alone yet content, healthy, and free in nature, according to Rousseau. Self-preservation and compassion instincts were the guiding principles for humans. The formation of what Rousseau referred to as "nascent societies" occurred when people started interacting as families and neighbours; this growth, however, gave rise to negative and destructive feelings like pride and jealousy, which in turn encouraged social inequality and vice.

Differences in wealth, power, and position were brought about by the creation of private property and the division of labour. owing to interdependence, inequalities resulted. The loss of independence resulted in a man who was intended to become more free ending up in chains. Rosseau referred to the development of society and the separation from the natural world as a deadly accident because of this. The goal of civil society was to safeguard the wealth of the

affluent few. It was established to uphold the rule of law and to defend the right of individuals who were fortunate enough to own property to do so.

Every person must cede all of his rights to the entire community in order to achieve freedom, hence achieving equality and the same conditions for everyone. In place of a first society, Rousseau advocated for the construction of a just society. He claims that mankind is subject to the "general will," which exists for the benefit of society. The foundation of political authority is consent. Political authority can never be established via the use of force.

VI. CRITICISMS OF THE SOCIAL CONTRACT THEORY

- Critics held that the state of nature provided by Hobbes in his theorem is false, keeping in mind that if humans had the inability to be social, they'd have never come together to form a society in the first place. Hobbes' state of nature is typically viewed as exaggerated, fictitious and deceptive.
- According to Locke, a minority would always agree to be ruled by the majority. Additionally, he makes it clear that people cannot be given the option to break the law. Like Hobbes, he likewise seems to have an equivocal and unrealistic state of nature.
- Critics defined Rousseau's idea of the general will as "too vague". They also point out Rousseau's inability to give a feasible example of social contract.

VII. COMPARATIVE STUDY

The social contract theories of Hobbes, Locke, and Rousseau are distinct from one another. All three of them begin by outlining the current state of nature and how man evolved into "civil" civilization. All philosophers concur that before humanity learned to govern themselves, they were all in their natural state. However, each author has a different theory as to why man is forced into such a civilization.

Hobbes saw the State of Nature as a state of conflict, whereas Locke and Rousseau saw it as a mostly peaceful, egalitarian, and independent state. The three thinkers considered the preservation of life, property, and individual prosperity to be the main causes that compelled people to sign the contract. Locke contends that the state's primary duty is to ensure that justice is secured, while Rousseau contends that the state must always ensure the freedom and liberty of its citizens. Hobbes, on the other hand, claims that whatever the state does is right and just for its citizens and supports absolute authority without attributing any value to individuals. Therefore, unlike Hobbes, Rousseau and Locke value and support people more than the government.

Despite the variations in their views, they all share the belief that The Social Contract is the most effective means of preserving peace and order.

VIII. CONCLUSION

In conclusion, it is evident that the social contract theories of the different theorists varied from one another. The conclusion that law and political order are not natural but rather the consequence of human creation is a significant one, that can be derived from the social contract ideas. A social contract is only a means for achieving the goal of maximizing everyone's good and benefit through the preservation of civil freedoms, the maintenance of law and order, and the maintaining of peace. People have sort of come to an understanding about the laws and regulations by which they will be ruled.
