

Social Contract

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The social contract is an intellectual device intended to explain the appropriate relationship between individuals and their governments. Social contract arguments assert that individuals unite into political societies by a process of mutual consent, agreeing to abide by common rules and accept corresponding duties to protect themselves and one another from violence and other kinds of harm.

Social contract theory played an important historical role in the emergence of the idea that political authority must be derived from the consent of the governed. The starting point for most social contract theories is a heuristic examination of the human condition absent from any political order, usually termed the "state of nature". In this condition, individuals' actions are bound only by their personal power and conscience. From this shared starting point, social contract theorists seek to demonstrate, in different ways, why a rational individual would voluntarily give up his or her natural freedom to obtain the benefits of political order.

Thomas Hobbes (1651), John Locke (1689), and Jean-Jacques Rousseau (1762) are the most famous social contract thinkers. Each drew quite different conclusions about the nature of political authority. Hobbes advocated absolute monarchy, Locke advocated natural rights, and Rousseau advocated collective sovereignty in the name of "the general will.". The Lockean concept of the social contract was invoked in the United States Declaration of Independence, and social contract notions have recently been invoked, in a quite different sense, by thinkers such as John Rawls.

Although developed for understanding human societies, sociobiologists have found the notion illuminating for understanding societies of other social species and even interspecies symbiotic relationships.

Overview

According to Thomas Hobbes, human life would be "solitary, poor, nasty, brutish, and short" in the absence of political order and law. In its absence, we would live in a state of nature, where each person has unlimited natural freedoms, including the "right to all things" and thus the freedom to plunder, rape, and murder; there would be an endless "war of all against all" (*bellum omnium contra omnes*). To avoid this, free men establish political community i.e. civil society through a social contract in which each gains security in return for subjecting himself absolutely to an absolute Sovereign, preferably (for Hobbes) a monarch. Though the Sovereign's edicts may well be arbitrary and tyrannical, Hobbes saw the only alternative as the terrifying anarchy of the state of nature.

Alternatively, some, including Jean-Jacques Rousseau, have argued that we gain civil rights in return for accepting the obligation to respect and defend the rights of others, giving up some freedoms to do so; this alternative formulation of the duty arising from the social contract is often

identified with arguments about military service.

The central assertion of social contract approaches is that law and political order are not natural, but are instead human creations. The social contract and the political order it creates are simply the means towards an end -- the benefit of the individuals involved -- and (according to some philosophers such as Rousseau), legitimate only to the extent that they meet the general interest ("general will" in Rousseau). For many social contract theorists, this implies that failings discovered in laws or political structures can be changed by the citizens through elections or other means, including, if necessary, violence.

History

Classical thought

Plato's dialog Crito expresses a Greek version of social contract theory. In this dialogue, Socrates refuses to escape from jail to avoid being put to death. He argues that since he has willingly remained in Athens all of his life despite opportunities to go elsewhere, he has accepted the social contract i.e. the burden of the local laws, and he cannot violate these laws even when he has been unjustly convicted.

Epicurus seems to have had a strong sense of social contract, with justice and law being rooted in mutual agreement and advantage, as evidenced by these lines, among others, from his Principal Doctrines:

31. Natural justice is a pledge of reciprocal benefit, to prevent one man from harming or being harmed by another.
32. Those animals which are incapable of making binding agreements with one another not to inflict nor suffer harm are without either justice or injustice; and likewise for those peoples who either could not or would not form binding agreements not to inflict nor suffer harm.
33. There never was such a thing as absolute justice, but only agreements made in mutual dealings among men in whatever places at various times providing against the infliction or suffering of harm.
34. Injustice is not an evil in itself, but only in consequence of the fear which is associated with the apprehension of being discovered by those appointed to punish such actions.

Renaissance developments

Quentin Skinner has argued that several critical modern innovations in contract theory are found in the writings from French Calvinists and Huguenots, whose work in turn was invoked by writers in the Low Countries who objected to their subjection to Spain and, later still, by Catholics in England. Among these, Francisco Suárez (1548-1617), from the School of Salamanca, might be considered

as an early theorist of the social contract, theorizing natural law in an attempt to limit the divine right of absolute monarchy. All of these groups were led to articulate notions of popular sovereignty by means of a social covenant or contract: all of these arguments began with proto-"state of nature" arguments, to the effect that the basis of politics is that everyone is by nature free of subjection to any government.

However, these arguments relied on a corporatist theory found in Roman Law, according to which "a populus" can exist as a distinct legal entity. Therefore these arguments held that a group of people can join a government because it has the capacity to exercise a single will and make decisions with a single voice in the absence of sovereign authority -- a notion rejected by Hobbes and later contract theorists.

Philosophers

Hugo Grotius (1625)

In the early 17th century, Grotius (1583-1645) introduced the modern idea of natural rights of individuals. Grotius postulates that each individual has natural rights that enable self-preservation and employs this idea as a basis for moral consensus in the face of religious diversity and the rise of natural science. He seeks to find a parsimonious basis for a moral beginning for society, a kind of natural law that everyone could accept. He goes so far as to say in his *On the Law of War and Peace* that even if we were to concede what we cannot concede without the utmost wickedness, that there is no God, these laws would still hold. The idea was considered incendiary since it suggested that power can ultimately go back to the individuals if the political society that they have set up forfeits the purpose for which it was originally established, which is to preserve themselves. In other words, the individual people, are sovereign. Grotius says that the people are *sui juris* (under their own jurisdiction). People have rights as human beings but there is a delineation of those rights because of what is possible for everyone to accept morally; everyone has to accept that people as individuals are entitled to try to preserve themselves. We should, therefore, avoid doing harm to or interfere with one another. Any breach of these rights should be punished.

Thomas Hobbes' Leviathan (1651)

The first modern philosopher to articulate a detailed contract theory was Thomas Hobbes (1588-1679). According to Hobbes, the lives of individuals in the state of nature were "solitary, poor, nasty, brutish and short", a state in which self-interest and the absence of rights and contracts prevented the 'social', or society. Life was 'anarchic' (without leadership/ the concept of sovereignty). Individuals in the state of nature were apolitical and asocial. This state of nature is followed by the social contract.

The social contract was an 'occurrence' during which individuals came together and ceded some of their individual rights so that others would cede theirs (e.g. person A gives up his/her right to kill person B if person B does the same). This resulted in the establishment of society, and by extension, the state, a sovereign entity (like the individuals, now under its rule, used to be) which was to protect these new rights which were now to regulate societal interactions. Society was thus no longer anarchic.

But the state system, which grew out of the social contract, was anarchic (without leadership). Just as the individuals in the state of nature had been sovereigns and thus guided by self-interest and the absence of rights, so states now acted in their self-interest in competition with each other. Just like the state of nature, states were thus bound to be in conflict because there was no sovereign over and above the state (i.e. more powerful) capable of imposing social-contract laws. Indeed, Hobbes' work helped to serve as a basis for the realism theories of international relations, advanced by E.H. Carr and Hans Morgenthau.

John Locke's Second Treatise of Government (1689)

John Locke's conception of the social contract differed from Hobbes' in several fundamental ways, retaining only the central notion that persons in a state of nature would willingly come together to form a state. Locke believed that individuals in a state of nature would be bound morally, by "The Law of Nature, not to harm each other in their lives or possession, but he recognized that, without government to defend them against those seeking to injure or enslave them, people would have no security in their rights and would live in fear. Locke argued that individuals would agree to form a state that would provide a "neutral judge", acting to protect the lives, liberty, and property of those who lived within it. While Hobbes argued for near-absolute authority, Locke argued for inviolate freedom under law in his Second Treatise of Government. Locke argued that government's legitimacy comes from the citizens' delegation to the government of their right of self-defense (of "self-preservation"). The government thus acts as an impartial, objective agent of that self-defence, rather than each man acting as his own judge, jury, and executioner-the condition in the state of nature. In this view, government derives its "just powers from the consent of the governed," in the language of the Declaration. For Jefferson, as for many of the American Founding Fathers, Locke was the most important and most esteemed author on political philosophy.

Jean-Jacques Rousseau's Du contrat social (1762)

Jean-Jacques Rousseau (1712-1778), in his influential 1762 treatise The Social Contract, outlined a different version of social contract theory, based on unlimited popular sovereignty. Although Rousseau wrote that the British were perhaps at the time the freest people on earth, he did not approve of their representative government. Rousseau believed that liberty was possible only

where there was direct rule by the people as a whole in lawmaking, where popular sovereignty was indivisible and inalienable. But he also maintained that the people often did not know their "real will," and that a proper society would not occur until a great leader ("the Legislator") arose to change the values and customs of the people, likely through the strategic use of religion.

Rousseau's political theory differs in important ways from that of Locke and Hobbes. Rousseau's collectivism is most evident in his development of the "luminous conception" (which he credited to Diderot) of the general will. Rousseau argues a citizen cannot pursue his true interest by being an egoist but must instead subordinate himself to the law created by the citizenry acting as a collective.

can be reduced to the following terms: Each of us puts his person and all his power in common under the supreme direction of the general will; and in a body we receive each member as an indivisible part of the whole.

Rousseau's striking phrase that man must "be forced to be free" should be understood this way: since the indivisible and inalienable popular sovereignty decides what is good for the whole, then if an individual lapses back into his ordinary egoism and disobeys the leadership, he will be forced to listen to what they decided as a member of the collectivity (i.e. as citizens). Thus, the law, inasmuch as it is created by the people acting as a body, is not a limitation of individual freedom, but its expression. Thus, enforcement of law, including criminal law, is not a restriction on individual liberty, as the individual, as a citizen, explicitly agreed to be constrained if, as a private individual, he did not respect his own will as formulated in the general will. Because laws represent the restraints of civil freedom, they represent the leap made from humans in the state of nature into civil society. In this sense, the law is a civilizing force, and therefore Rousseau believed that the laws that govern a people helped to mold their character.

Pierre-Joseph Proudhon's individualist social contract (1851)

While Rousseau's social contract is based on popular sovereignty and not on individual sovereignty, there are other theories espoused by individualists, libertarians and anarchists, which do not involve agreeing to anything more than negative rights and creates only a limited state, if any.

Pierre-Joseph Proudhon (1809-1865) advocated a conception of social contract which didn't involve an individual surrendering sovereignty to others. According to him, the social contract was not between individuals and the state, but rather between individuals themselves refraining from coercing or governing each other, each one maintaining complete sovereignty upon oneself:

What really is the Social Contract? An agreement of the citizen with the government? No, that would mean but the continuation of idea. The social contract is an agreement of man with man; an

agreement from which must result what we call society. In this, the notion of commutative justice, first brought forward by the primitive fact of exchange, ...is substituted for that of distributive justice ... Translating these words, contract, commutative justice, which are the language of the law, into the language of business, and you have commerce, that is to say, in its highest significance, the act by which man and man declare themselves essentially producers, and abdicate all pretension to govern each other.

--Pierre-Joseph Proudhon, General Idea of the Revolution in the Nineteenth Century (1851)

John Rawls' Theory of Justice (1971)

John Rawls (1921-2002) proposed a contractarian approach that has a decidedly Kantian flavour, in A Theory of Justice (1971), whereby rational people in a hypothetical "original position", setting aside their individual preferences and capacities under a "veil of ignorance", would agree to certain general principles of justice and legal organization. This idea is also used as a game-theoretical formalization of the notion of fairness.

David Gauthier's Morals By Agreement (1986)

David Gauthier "neo-Hobbesian" theory argues that cooperation between two independent and self interested parties is indeed possible; especially when it comes to understanding morality and politics. Gauthier notably points out the advantages of cooperation between two parties when it comes to the challenge of the prisoner's dilemma. He proposes that if both parties were to stick by the original agreed-upon arrangement and morals outlined by the contract that they both would experience an optimal result. In his model for the social contract, trust, rationality and self interest are all factors that keep each party honest and dissuade them from breaking the rules.

Philip Pettit's Republicanism (1997)

Philip Pettit (b. 1945) has argued, in Republicanism: A Theory of Freedom and Government (1997), that the theory of social contract, classically based on the consent of the governed, should be modified. Instead of arguing for explicit consent, which can always be manufactured, Pettit argues that the absence of an effective rebellion against the contract is the only legitimacy of it.

Criticism

David Hume

An early critic of social contract theory was Rousseau's friend, the philosopher David Hume, who in 1742 published an essay "Of Civil Liberty", in whose second part, entitled, "Of the Original Contract

", he stressed that the concept of a "social contract" was a convenient fiction:

AS no party, in the present age can well support itself without a philosophical or speculative system of principles annexed to its political or practical one; we accordingly find that each of the factions into which this nation is divided has reared up a fabric of the former kind, in order to protect and cover that scheme of actions which it pursues. . . . The one party , by tracing up government to the DEITY, endeavor to render it so sacred and inviolate that it must be little less than sacrilege, however tyrannical it may become, to touch or invade it in the smallest article. The other party , by founding government altogether on the consent of the PEOPLE suppose that there is a kind of original contract by which the subjects have tacitly reserved the power of resisting their sovereign, whenever they find themselves aggrieved by that authority with which they have for certain purposes voluntarily entrusted him. -David Hume, "On Civil Liberty"

However, Hume did agree that the consent of the governed was the ideal foundation on which a government could rest.

My intention here is not to exclude the consent of the people from being one just foundation of government where it has place. It is surely the best and most sacred of any. I only contend that it has very seldom had place in any degree and never almost in its full extent. And that therefore some other foundation of government must also be admitted. -Ibid II.XII.20

Logic of contracting

According to the will theory of contract, which was dominant in the 19th century and still exerts a strong influence, a contract is not presumed valid unless all parties agree to it voluntarily, either tacitly or explicitly, without coercion. Lysander Spooner, a 19th century lawyer and staunch supporter of a right of contract between individuals, in his essay No Treason, argues that a supposed social contract cannot be used to justify governmental actions such as taxation, because government will initiate force against anyone who does not wish to enter into such a contract. As a result, he maintains that such an agreement is not voluntary and therefore cannot be considered a legitimate contract at all.

Modern Anglo-American law, like European civil law, is based on a will theory of contract, according to which all terms of a contract are binding on the parties because they chose those terms for themselves. This was less true when Hobbes wrote Leviathan; then, more importance was attached to consideration, meaning a mutual exchange of benefits necessary to the formation of a valid contract, and most contracts had implicit terms that arose from the nature of the contractual relationship rather than from the choices made by the parties. Accordingly, it has been argued that social contract theory is more consistent with the contract law of the time of Hobbes and Locke than with the contract law of our time, and that features in the social contract which

seem anomalous to us, such as the belief that we are bound by a contract formulated by our distant ancestors, would not have seemed as strange to Hobbes' contemporaries as they do to us.

Multiple contracts

Legal scholar Randy Barnett has argued, that, while presence in the territory of a society may be necessary for consent, it is not consent to any rules the society might make regardless of their content. A second condition of consent is that the rules be consistent with underlying principles of justice and the protection of natural and social rights, and have procedures for effective protection of those rights (or liberties). This has also been discussed by O.A. Brownson, who argued that there are, in a sense, three "constitutions" involved: The first the constitution of nature that includes all of what the Founders called "natural law". The second would be the constitution of society, an unwritten and commonly understood set of rules for the society formed by a social contract before it establishes a government, by which it does establish the third, a constitution of government. To consent, a necessary condition is that the rules be constitutional in that sense.

Tacit consent

The theory of an implicit social contract holds that by remaining in the territory controlled by some society, which usually has a government, people give consent to join that society and be governed by its government, if any. This consent is what gives legitimacy to such government. Philosopher Roderick Long argues that this is a case of question begging, because the argument has to presuppose its conclusion:

I think that the person who makes this argument is already assuming that the government has some legitimate jurisdiction over this territory. And then they say, well, now, anyone who is in the territory is therefore agreeing to the prevailing rules. But they're assuming the very thing they're trying to prove - namely that this jurisdiction over the territory is legitimate. If it's not, then the government is just one more group of people living in this broad general geographical territory. But I've got my property, and exactly what their arrangements are I don't know, but here I am in my property and they don't own it - at least they haven't given me any argument that they do - and so, the fact that I am living in "this country" means I am living in a certain geographical region that they have certain pretensions over - but the question is whether those pretensions are legitimate. You can't assume it as a means to proving it.

However, other writers have argued that consent to join the society is not necessarily consent to its government. For that, the government must be according to a constitution of government that is consistent with the superior unwritten constitutions of nature and society.

Criticisms of natural rights

Contractualism is based on the notion that rights are agreed upon in order to further one's interests: each individual subject is accorded individual rights, which may or may not be inalienable, and form the basis of civil rights, as in the 1789 Declaration of the Rights of Man and of the Citizen. It must be underlined, however, as Hannah Arendt did on her book on imperialism, that the 1789 Declarations, in this agreeing with the social contract theory, bases the natural rights of the human-being on the civil rights of the citizen, instead of the reverse as the contractualist theory does. This criticism derives from a long tradition going back to St. Augustine of Hippo, who in *The City of God* envisioned a unified Christian society presided over by a king who was responsible for the welfare of his subjects. Political Augustinianism with its insistence on divine sovereignty and on the two separate spheres of a heavenly and an earthly community, has indeed been regarded as incompatible with social contract theories. This raises the question of whether social contractarianism, as a central plank of liberal thought, is reconcilable with the Christian religion, and particularly with Catholicism and Catholic social teaching. The individualist and liberal approach has also been criticized since the 19th century by thinkers such as Marx, Nietzsche & Freud, and afterward by structuralist and post-structuralist thinkers, such as Lacan, Althusser, Foucault, Deleuze or Derrida.

Community of interest

A community of interest is a community of people who share a common interest or passion. These people exchange ideas and thoughts about the given passion, but may know (or care) little about each other outside of this area. Participation in a community of interest can be compelling, entertaining and create a 'sticky' community where people return frequently and remain for extended periods. Frequently, they cannot be easily defined by a particular geographical area.

Community of action

A community of action (CoA), unlike a community of practice (CoP), exists in a situation that is structurally more open, where actors have the possibility of bringing about change. These more open situations might, for example, correspond to collective design teams in professional environments.

CoAs possess some of the characteristics of communities, such as the development of a common language and mutual learning in the course of action. However, they also possess some of the characteristics typical of more associative social relationships, such as the "voluntary" nature of association and the importance of "common goals" in directing collective activity. Some argue that this makes CoAs more "rational" groups than CoPs.

Community of circumstance

A community of circumstance is similar to a community of practice, except that it is driven by position, circumstance or life experiences rather than a shared interest. Examples might include cancer sufferers using a support newsgroup or the members of gay/lesbian newsgroups. A Prison or other correctional facility can be thought of as a community of circumstance; passengers of the same plane form a temporary community of circumstance as well.

Community of position

A community of position is distinguished from a community of practice in that it tends to be more personally focused. Communities of Position built around life stages (such as teenage years, university/college student years, marriage, or parenthood) provide individuals with the opportunity to build relationships with others during that particular phase of their lives.

Community of purpose

A community of purpose is a community of people who are going through the same process or are trying to achieve a similar objective. Such communities serve a functional purpose, smoothing the path of the member for a limited period surrounding a given activity. For example, researching a topic on Wikipedia.org, buying a car on autobytel.com, antique collectors on icollector.com or individual investors on fool.com. Members of the community assist each other by sharing experiences, suggesting strategies and exchanging information on the process in hand.

Communities of purpose enable and empower people to get stuff done. From Amazon to eBay to Get Satisfaction, the community's purpose revolves around allowing people to accomplish something they want or need to do whether it's buying something, selling something, fixing something, dating, or the like. The design and implementation of a community of practice depends on the intended outcomes the site serves. The aspect of community that empowers a community of purpose has to do with the ways in which the people who participate nudge, assist, and inform others along the path from having an un-satiated want to achieving their goals, objectives, and tasks.

From user generated reviews or collaborative filtering on a site such as Amazon.com which help people decide what to buy to the reputation system at eBay which gives you a sense of who you're dealing with before you transact, the community fuels accomplishment. The gravity of the given community of purpose is directly proportional to how much it makes possible for the people who are there to get something done. While the size of the community matters it has a lot more to do with how effective the participants in the community are, in fact. However, the size and scale of the active community participation are important as it relates to fulfilling the needs of those who around

and are willing to engage to get what they want. Effective communities of practice are balancing act between offering the right capabilities and ensuring sufficient capacity to deliver efficiently. With the possible exception of electronic commerce, media consumption, search, and research (as in Wikipedia) communities of purpose are the most underdeveloped properties on the Internet.

Community of place

A community of place or place-based community is a community of people who are bound together because of where they reside, work, visit or otherwise spend a continuous portion of their time. Such a community can be a neighborhood, town, coffeehouse, workplace, gathering place, public space or any other geographically specific place that a number of people share, have in common or visit frequently.

Criticisms

There has been much criticism within urban planning, geography and urban design about whether concepts such as 'community', 'place' and therefore 'place-based communities' are wholly positive phenomena. Notions of community tend to require the creation of members and non-members. Place can be used in an essentialising way that stereotypes and fixes place identity, limiting change. Linking the two concepts together reinforces beliefs that certain territories and people belong together, giving the right to exclude others on the basis of age, class, sexuality, ethnicity and other perceived deviations from a given community standard. A proliferating example of these negative tendencies related to ideas about community and place, manifest through urban design, are gated communities.