

Social Contract Theory

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The Origin of the State

Political thinkers have attempted to explain the origin of the state in various ways. When, where and how the state came into existence have not been recorded anywhere in history. Therefore, the political thinkers were compelled to adopt various hypotheses, many of which are now discredited in the light of modern knowledge. Among the many theories which are concerned with the origin of the state the following are explained in this chapter.

1. The Theory of Divine origin
2. Social Contract Theory.
3. Matriarchal and Patriarchal Theory.
4. Force Theory.
5. Evolutionary Theory.

SOCIAL CONTRACT THEORY

The social contract theory is not only the most ancient but also the most famous of the theories regarding the origin of the state. The substance of this theory is that state is the result of an agreement entered into by men who originally had no governmental organisation. In the first period there was no government and no law. The people lived in a state of nature. After some time they decided to set up a state. That they did by means of a contract.

The social contract theory described the original condition of men as the 'state of nature'. To escape from the condition of the state of nature man made a social contract. To some writers the contract was pre-social and to others it was pre-political.

Writers on this theory are agreed on the point that the state of nature preceded the establishment of government there was no organised life in the state of nature. Each lived

according to his own wish and fancies. No man made laws were there to control man. The law known to men living in the state of nature was the law of nature or natural law. There was none to interpret the law or adjudicate. Hence men lived under uncertain conditions.

When men felt the need to escape from this type of life he did so by common agreement or contract. As a result of this, a civil society was created. Thus creation of civil society preceded the emergence of the state.

In the sixteenth and seventeenth centuries the supporters of the social contract theory multiplied and there was more or less universal acceptance of the doctrine. Hooker was the first scientific writer who gave a logical exposition of the theory of social contract. The theory found real support in the writings of Thomas Hobbes, John Locke, Jean Jacques Rousseau who are known as contractualists.

Comparison of Social Contract Theories of Hobbes, Locke and Rousseau

1. The State of Nature:

Principal works Leviathan (1651): Man egoistic moved by fear, power glory political equality of all no question of right or wrong. Just or unjust war of all against all, life, nasty, brutish and short.

Civil government (1690): A state of good will, mutual existence and preservation state of peace not war governed by law of nature but state became necessary to have one standardized interpretation of law of nature.

Social contract (1762): Men in state of nature equal self sufficient and contended, lived life of idyllic, happiness man actuated (operated) by impulse and not reason, origin of property creates in-equality necessity of state.

2. Law of nature:

Principal works Leviathan (1651): In state of nature there was no civil law, law of nature was regulative of human action, law of nature conceived differently by Hobbes to mean different things on different occasions i.e.(a) it was dictate of right reason for preservation of life. (b) It was based on prudence which dictated that everybody should try to secure peace by sacrificing natural right by covenants and it must be respected.

Civil government (1690): Law of nature does not represent natural impulse but a moral law based upon reason to regulate human conduct.

Social contract (1762): Law of nature based on instinct sociability resulting from feeling and not from reason.

3. Natural Right:

Principal works Leviathan (1651): Natural right depends upon ones

Civil government (1690): Right inherent in man by nature; natural rights of man are to life, liberty and property.

Social contract (1762): Man is free in the state of nature and enjoys all rights incidental to his person.

4. Social Contract

Principal works Leviathan (1651) : The individual gives up all his rights except on i.e. right of defence and self preservation to a common sovereign, social contract creates a common wealth and a sovereign (one, few, or many) contract unilateral and not binding on sovereign.

Civil government (1690): Men enter into social contract that is create a state to have a common agency for interpretation and execution of the law of nature. Individuals surrender some but not all the rights. Not clear whether locke an contract creates civil society or only government. Government limited in authority and not absolute.

Social contract (1762): State results from a contract between individuals in their personal capacity and individuals in their corporate capacity. A, B, C and D etc. in their individual capacity surrender all rights to A+B+C+D etc as a corporate whole.

5. Sovereignty

Principal works Leviathan (1651): Hobbesian sovereignty is unlimited, indivisible, inalienable, absolute above law, source of law, justice, property above state and church has no right of revolution against sovereign.

Civil government (1690): Locke does not conceive of a sovereign state. His government is limited to performance of its duties. The inherent right of man to life, liberty and property,

represents a limitation on government. Locke conceives of popular and not legal sovereignty.

Social contract (1762): The corporate whole that is people as a whole are sovereign. Thus Rousseau believes in popular sovereignty. People are the legal sovereign. Sovereignty resides in the 'general will' of the people. The characteristics of this sovereignty are its unity, individuality, permanency, inalienability and its absolute and unrepresentable character. The government is dependent on the sovereign of the people. Rousseau distinguishes between the sovereign state and subordinate government.

6. Liberty:

In the state of nature liberty depends upon the state and is guaranteed by the state. It is a gift of the state and can be abrogated by the state. It cannot be quoted against the authority of the state.

A man has certain rights inherent in him i.e. rights to life, liberty and property which the state cannot deprive him of

In the civil state individual liberty is a gift of the sovereign state. It must be reconciled with the absolute authority of the state and cannot be quoted against the same.

7. Individual and the state:

Principal works Leviathan (1651): The Hobbesian individual owes everything i.e. rights peace and law to the state and is therefore best in the state. He must obey the sovereign and pay taxes. Individual has some kind of liberty even in the civil state i.e.

- (a) Liberty not to kill himself if asked to do so by the sovereign.
- (b) Liberty to life which enables him to resist the sovereign if the latter attacks his life.
- (c) Liberty to refuse allegiance to a sovereign who cannot save his life or to a deposed sovereign.

Rousseau compared with Hobbes and Locke

Rousseau had drawn something from Hobbes and something from Locke. In fact he began with the method of Locke and ended with those of Hobbes. Both Rousseau and Locke agreed

that man in the state of nature was free and happy. Formation of civil society by means of a contract was deemed the only way out. Both Locke and Rousseau made the distinction between the state and government though Rousseau maintained that the institution of government was not the results of contract. Both believed that the contract did not remove the supreme power from the people. Rousseau's voice is the voice of Locke but the hands are those of Hobbes.

Evaluation of Social Contract Theory

The social contract theory as expounded by Hobbes, Locke and Rousseau does not explain the origin of the state. There is no evidence to support this theory. The contention of these philosophers is not borne out by facts. What was contributed by Hobbes to political philosophy was absolutism. Locke gave recognition to the concept of limited government. Rousseau popularised the idea of popular sovereignty.

Theory of Social Contract

Criticism

The doctrine that the state originated in a contract was a favourite home of political speculation during the seventeenth and eighteenth centuries.

Historically the theory is a mere fiction. There is nothing in the whole range of history to show that the state has ever been deliberately created as a result of voluntary agreement. Primitive man did not possess that maturity of outlook which the making of social contract presupposes.

The social contract theory is unhistorical. It is merely a fiction.

The social contract theory is also attacked on legal grounds. It is contended that a legally sound contract implies the prior existence of some authority and its sanction before the contract implies the contract is entered into. In the case of social contract theory there was neither the authority nor the sanction before the contract was concluded. The social contract theory is also criticised on philosophical grounds. The social contract theory is criticised as bad history, bad law and bad philosophy. It is bad philosophy, because it looks upon the state as an artificial contrivance and not a natural process of growth.