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## **SOCIAL CONTRACT**

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### **ABSTRACT:**

The basic concern of contractualist philosophers of civil society has been to provide a plausible basis for the necessity and emergence of civil society from the state of nature. They are characteristically engaged in the eighteenth-century search into the nature of man and the origin of society. Had the conditions of human survival and harmonious living been unproblematic in the state of nature, there would have been no need of entering into a contract to form or constitute a civil society. Rousseau was of the view that conflict of interests makes society necessary and shared interest make it possible".

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### **INTRODUCTION:**

It would be relevant to consider the views of Rousseau and others as to why men felt the need of transforming themselves from the state of nature to the civil society. There are two different accounts available in the writings of Rousseau. According to one, inequality is established among men when they came to know about the differences among their capabilities. When it became certain that some men are strong and some are weak then the basis of inequality is found and along it the very possibility of exploitation and knowledge is also established. However, in his second account, Rousseau views the rise of civilisation in a different manner and believed that geography and accident are the causes of man's fall from nature. According to Rousseau some men began to live by the side of the river and started fishing for their livelihood while others maintained their old method for their livelihood.

### **CHARACTERSTICS:**

- (i) First change came when the state of nature was destroyed, with the establishment and distinction of families and the introduction of some sort of property.
- (ii) Second change came when man invented the arts of metallurgy and agriculture, which civilised men and ruined the human race by creating labour, claims to property, and ultimately a war of all.
- (iii) Third change came when there was origin of society and laws which destroyed natural freedom for all times and established the law of property and inequality for every,

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- (iv) Fourth change came when institution of magistracy was established with which the people gave private persons the dangerous trust of public authority.
- (v) Fifth change came when legitimate authority was changed into arbitrary power which resulted in corruption and extreme limit of political evolution.

The progress of inequality in these various stages are seen first of all when the laws and rights of property are established and with it the conditions of rich and poor were authorised. In the second place it can be seen in the institution of magistracy by which the relationship was established. And this was the "Last degree of inequality, and the term at which all the rest remain, when they have got so far, till the government is either entirely dissolved by new revolutions, or brought back again to legitimacy".

Hobbes has presented a very gloomy picture of the state of nature. Hobbes started his arguments with the premise that men are born naturally equal, mentally as well as physically. Many persons think that they have more wisdom than other beings, but, for Hobbes, this is in itself a proof that men are equal.

Locke did not agree to Hobbes' view that state of nature is the state of war. According to Locke, all princes and rulers of independent governments are in the state of nature. In Locke's own words, "Want of a common judge with authority puts all men in a state of nature".

According to Locke in the state of nature there is the law of nature which governs. The law of nature defines that is right or wrong through reason. In Locke's own words, "Man living together according to reason, without a common superior on earth, with authority to judge between them, is properly, the state of nature. And if anybody violates the law then he is punished for it. According to Locke there can be no law without some agency to enforce it. So, in the law of nature the injured party has a right to be the judge himself and passes Judgement against the culprit.

According to Locke there are three things lacking in the state of nature (or law of nature). Firstly, there is no established, settled, known law. Secondly, there is no definite and impartial judge. And thirdly, there is no power to back and support the sentence when right, and to give it due execution. To overcome these deficiencies men, abandon the state of nature and enter into a civil society by means of a contract. According to Locke civil society is found by the act of agreeing to supply what the state of nature lacks - a common judge with the authority to settle controversies and punish violators of law of that state. The state of nature and civil society are thus perfect opposites; each defined by absence or presence of a judge with authority. Locke believes that the transition from family to political society is neither abrupt nor peaceful. Families insensibly become and remained monarchies until unhappy rulership required self-consciousness among subjects about conditions of obedience. War and conquest, magistration and colonisation intruded in the evolution of family into commonwealth by inducing a self-consciousness about government. However,



Locke also recognised that conquest, magistracy and colonisation did not uniformly incline human beings to form political society; in some places family rules continued while political society was introduced in other regions. But political society, where it appeared, did so because population growth heightens acquisitive opportunities, international contact, and greater wealth led the mass of men to be generated and led rulers to affirm their separate interests. The state of nature which Locke describes is of 'Peace, goodwill, mutual assistance and preservation'. But such a state of nature was in no way a civil society because there was no common superior to enforce the law of nature. Each man protects his own interests as best as he could, and his rights to his own and his duties to respect what was others were as complete as ever they could become under government. But because the intelligences of men worked differently in the absence of common standard of justice, there was bound to be an inconvenient variety in the conception of justice. The result was uncertainty and chaos. It was here that the social contract emerged.

According to Hobbes the contract is not enough to bind men and prohibit them from doing to others whatever they did not 'wish to have done to themselves. Because men have the capacity to learn prudence and moderation from their fear of death, and their desire for power and glory can make them to break the contract. It is this characterisation of human nature which required Hobbes to postulate the necessity of a power strong enough to force men to follow the restrictions imposed by the contract. Such an absolute power was characterised as the sovereign authority, i.e., one man or an assembly of men to whom all the powers are transferred by individuals as a part of the contract.

For Hobbes the social contract is made between subjects and subjects and is not between subjects and sovereign. The subjects, participating in the creation of the sovereign, know all about what the ruler would do and so they should not subsequently complain against the actions of the ruler. In creating a sovereign, they are doing injuries to themselves in the sense that they are surrendering their natural rights. According to Hobbes sovereign cannot do injustice or injury in the appropriate sense because by definition he cannot act illegally, he determines what is just or unjust and his action is a law. According to Hobbes sovereign power cannot be delegated and cannot be separated from the sovereign.

Rousseau's sovereign is the people, which are constituted through the social contract as a political community. He distinguishes between the sovereign and the government. Rousseau believed that sovereignty always resides in the people as a collective association and any government is only a temporary agent of the sovereign people. Rousseau considers the sovereignty of the people inalienable and indivisible. His conception of inalienability and indivisibility of sovereignty does not allow the people to transfer their legitimate function and the higher authority in the state. In this sense, Rousseau's account of legitimation of the state favours participatory democracy than the representational democracy which has been the hallmark of the received liberal political theory in the contractarian tradition. As far as the executive and judicial functions are concerned, Rousseau held that they should be



exercised by some special organs of the government. But in spite of all this they are under the authority of the sovereign people and there is no mention of separation of powers. According to Rousseau sovereignty lies in the general will which cannot be represented. Rousseau was of the view that different forms of governments owed their origin to the differing degree of inequality which existed amongst the individuals at the time of the institution of such governments:

The main purpose of social contract is to form a community of free men who are living in a small state in which democracy is practiced directly by the people, community of men who look to the freedom not only for their personal enjoyment and advantages but they also shared responsibility for the welfare of the whole community. The postulate of social contract has been interpreted in different ways by different scholars. While some of them are of the view that the social contract alone is responsible for the institution of civil society. There are others who view that social contract is the agreement between the rulers and their subjects, resulting in the institution of the particular government. It would be relevant to remind ourselves that while Hobbes used it to justify royal absolutism, Locke used the device to support constitutional government or limited monarchy: in contrast to Hobbes and Locke, Rousseau used it for the doctrine of popular sovereignty. Despite the variations, on the whole, social contract theory is used to justify the conception that governmental authority, if it to be legitimate, must rest ultimately on the consent of the governed. One of the purposes of the social contract theory is to safeguard the rights and liberty of the people and check the arbitrariness of the rulers.

According to Rousseau the social contract is between the individuals in their personal capacity and the individuals in their corporate capacity. For example, A, B, C, D, etc. surrender all their natural rights to the collective whole i.e. A+B+C+D etc. In this way no one is loser but everybody gains, because if anybody is attacked then the whole society comes to his rescue. And every member of the state possesses an equal and inalienable part of the sovereignty as a whole. According to Rousseau every man by giving himself to all, gives himself to none, and remained as free as before:

According to Locke society is set up and people get a government by entering in to contract. First contract is between the people themselves and the second is between people in their corporate capacity on the one hand and rulers on the other. For Hobbes it is the setting up of the government that brings civil society into existence. But for Locke setting up of a government is a secondary transaction and the dissolution of the government does not mean dissolution of civil society. This means that society will have to set up another government in its place. According to Locke, the surrender of natural rights is not total. People give up certain of their natural rights to a common authority in order that the remaining rights may be kept intact. when the rulers failed to maintain these rights people are justified in overthrowing him and setting up a new government. In this way Locke makes his theory the basis of limited monarchy.



Rousseau's total surrender of individual to the sovereign community is completely contrary to Locke and it reminds of Hobbes' view of social contract, in which individuals surrender themselves completely to the sovereign. While Hobbes' subjects are completely submissive to their sovereign, Rousseau rejects this kind of social peace without liberty. According to Rousseau to renounce liberty is to renounce being a man because there can be no obligation which is not to some extent at least natural. Because Rousseau was in disagreement with Hobbes on all important points. According to Hobbes the community which is unable to act himself, is supposed to transfer its supreme absolute power to a small group of individuals or to a single individual. But for Rousseau the community or the state itself must always remain sovereign and it cannot, even if it wished to delegate or transfer to any one else its sovereign authority. Rousseau advocated the conception of popular sovereignty whereas Hobbes preached royal absolutism and power arbitrary and despotic.

The aim of social contract is to provide security to the members of community which comes from collective associations, with the liberty or freedom which individual beings had before making this contract. It consists in it the complete separation of each member of association altogether with the right to the whole community. In Rousseau's views the social contract provides a solution to the search for:

A form of association which will defend and protect with the whole common force the power and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.<sup>21</sup>

In social contract of Rousseau man does not give himself to the sovereign ruler. But each man gives himself to all the while doing so gives himself to nobody individually and there is transformation from the state of nature to the civil society.

Man loses by the social contract is his natural liberty and an unlimited right to very thing he tries to get and succeed in getting; what he gains is civil liberty and the proprietorship of all he possesses.

Rousseau and other radical critics of Locke's account of consent to politico-economic conventions complain that the supposedly rational consent to government was a conscious fraud perpetrated by the rich, which destroyed natural freedom irrespectively, established forever the law of property and inequality, and for the profit of few ambitious men henceforth subjected to the human race to work, servitude and miseries. But Locke argued both rich and poor, and both industrious and lazy, benefit from this consent because (as Rousseau recognises) the lazy become less inactive, and (as Locke emphasizes) the poor are less poor, absolutely, after the establishment of a proper political economy than before, 'a king of large fruitful territory! in a primitive nation feeds, lodges and is clad worse than a day labourer, in a country governed in Locke's manner. The economic condition of a perfect Lockean country in one sense would return men to that happy primitive state in which they had no reasons to I 'think themselves injured' by someone else's industrious and rational appropriation, because this condition would transcend those wherein one man's gain must



be somebody else's loss.

Social contract theory has been criticised on various grounds. They may be briefly stated as follows:

- (i) First of all, it is said that there was no evidence that any such contract has taken place and there are many indications that society had quite different origins.
- (ii) Even if we are able to prove that such a contract has taken place, it would be virtually impossible to determine its contents.
- (iii) Granted that society is of some antiquity, it is difficult to see how or why the consent of my great grand-father would bind me or even be morally relevant. Basing obligation on the historical original contract, it is concluded, fails utterly, since one is unable to prove either that the contract was made or why it should be binding if it was.
- (iv) The theory assumes that the relations between the individuals and the state is a voluntary one. This is a position which will not stand careful scrutiny. Because the individual is not a member of the state through voluntary association but he is a born member of it. His obligations do not rest upon covenant or consent rather upon the general interests or necessities of society, or upon grounds of utility.
- (v) The social contract theory implies a false notion of rights. According to any sound views of rights the basis of rights is social recognition i.e., recognition on the part of the society of a common good of which individual good is an intrinsic part.
- (vi) The entire conception of the state of nature and the laws of nature is unsound. It is assumed that whatever preceded the institution of the state is natural and that whatever had followed it (including institution of state) is artificial. The theory of the social contract has been rejected as an unsustainable hypothesis because it assumes that the idea of contract could be present in the minds of men in the so-called state of nature, which, is said to be impossible since men who are not already living in society cannot have any notion of contractual relations and obligations.

If the state of nature is one in which a contract could be formed it must have been a state where there was a consciousness of common good, implying the idea of social authority and individual obligation.

## **CONCLUSION:**

As a theory explaining the origin of state or the right relation between man and man in society, social contract theory is considered as defective and it finds no support today. In spite of all the criticism which are levelled against social contract theory it has some element of truth in it. To understand this theory properly as it was elaborated in seventeenth and eighteenth centuries, we must know the practical aim which compelled its advocates to enunciate it, to give a satisfactory and human explanation of the fact of political authority and the duty of obedience rather than explanation based up on the Divine



rights of the king. In place of Divine rights theory that the subjects are to render unquestioning obedience to the powers that be, the social contract theory laid down the fundamental truth that the obedience rested upon the consent of the governed and that the sovereign had no right to act arbitrarily. By doing this, social contract theory worked as the basis of modern democracy. It emphasized the institutions by direct human efforts and the fact that ultimate political authority lies, atleast potentially, in the people. So, advocates of freedom preferred it because it suggested the ways to limit the claims of arbitrary authority. And all those who are inspired by philosophy preferred this because a contract can be discussed, criticised and can be amended. But the fate of heavens camote be. And 1f its peculiar historical context is set aside, it is still attractive, for it appeals to one's important aspect of human experience.

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