



COMPARATIVE ANALYSIS OF THE CONSERVATIVE AND DEMOCRAT APPROACHES TO SOCIAL CONTRACT VIS-À-VIS HUMAN RIGHTS

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Abstract-- A human was born in a state of nature and was endowed with abundant rights and freedoms. However, the availability of such absolute freedoms had to withstand the human emotions of greed, fear, discontentment, insecurity and the like. Thus, various philosophers belonging to different eras proposed varying social contract theories in order to provide protection to the human rights and freedoms. The Conservative approach favoured a Monarchian government as the best protector of human rights and liberties whereas the Democrat approach was supportive of a Democratic Government.

Thus, in this research, we would be understanding the Conservative and Democrat approaches to the Social Contract for the protection of inherent human rights and liberties and will also be conducting a comparative analysis of the two approaches to understand the most appropriate and suitable approach for human rights' protection in the present-day scenario.

Key Words: Social Contract, Thomas Hobbes, Jean Jacques Rousseau, Conservative, Democrat, State of Nature, Protection of Human Rights and Freedoms.

INTRODUCTION: HUMAN RIGHTS AND THE CONCEPT OF SOCIAL CONTRACT

Human Rights are the inalienable and universal rights which are inevitable for our survival as human beings. "They are essential for the protection and maintenance of dignity of individuals and creation of conditions in which every human being can develop his/her personality to the fullest extent".¹ These rights are possessed by each and every human regardless of his/her caste, creed, religion, sex, race, nationality, etc. For the preservation and protection of these rights, a 'social contract theory' was propounded by various philosophers in different timeframes.

If we move back in the history, we would find that the man was born free in the state of nature with all the rights and liberties. However, with the beginning of socialisation and civilisation, a need was felt amongst the people to surrender their rights and liberties in the state of nature in order to provide for the protection of their other rights and liberties. Thus, people wanted to move from the state of nature to a civilised society. This phenomenon was referred to as a "social contract" by some eminent philosophers. "Social Contract thus refers to an agreement wherein the people agree to give up some of their natural freedoms in order to reap the benefit of being in a society".² They agree to surrender some of their rights and liberties to an authority or government which in turn is designated with the task of protection of people's rights and liberties. Thus, people agree to establish a society by giving up the freedoms they had against one another in the state of nature and designate a sovereign authority or government with the task of protection and enforcement of the social contract.

¹ Dr. H.O. AGARWAL, INTERNATIONAL LAW AND HUMAN RIGHTS 369 (4th ed.(rep.) 2017)

² Social Contract Theory, ALLEYDOG.COM, (Sept. 3, 2021, 5:20 PM),

<https://alleydog.com/glossary/definition.php?term=social%20contract%20theory>



This Social Contract Theory has three main proponents namely Thomas Hobbes, John Locke and Jean Jacques Rousseau. Thomas Hobbes was the first to describe the social contract theory and while doing so, he adopted a conservative approach. On the other hand, John Locke adopted a more liberal approach than Hobbes whereas Jean Jacques Rousseau adopted a completely democrat approach.

THOMAS HOBBS (CONSERVATIVE) (1588-1679)

Thomas Hobbes was an English philosopher who lived during the period of English civil war which depicted a clash between the Monarchists and Parliamentarians. He explained the social contract theory in his work 'The Leviathan'. "Being under the disheartening influence of the English civil war, his main concern was as to how human beings could live together in peace and avoid the danger and fear of civil conflict".³ For him, the state of nature was the situation of a civil war wherein all the men were self-interested⁴ animals who fought against each other for self-gain and combating their fears. Words like right and wrong were non-existent and each man could hamper the freedoms of others for his interests. Thus, the state of nature depicted a civil war arising on account of selfish nature of humans and their need of countering their insecurities. According to Hobbes, the only way to fight this situation of civil war was to move from this state of nature to a social contract by establishing a monarchical government in the society. Thus, Hobbes' concept of government was that of a Monarchy wherein all men would surrender their freedoms and liberty to a sovereign monarch in return for having the benefit of living in a civil society. If we would relate the Hobbes' conception of a monarchical government with the conception of Human rights then we would find that through a sovereign monarch, Hobbes intended the protection of human rights of all the members of the civil society wherein they would be surrendering their freedoms which they had against one another in the state of nature to the monarch and in return would be obtaining security and maintenance of law and order. As per Hobbes, this kind of government could only prevent the state of nature i.e. a civil war by enforcing the social contract in the society. Hobbes stated that by surrendering the individual sovereignty of every man to a sovereign monarch, stability can be ensured and thus whatsoever the monarch does must always be abided by the subjects as without this system of governance, the state of nature would revive and the protection of rights and liberties of humans would become impossible.

JEAN JACQUES ROUSSEAU (DEMOCRAT) (1712-1778)

Jean Jacques Rousseau was a French philosopher who lived during the age of enlightenment in Europe. Rousseau explained two distinct social contract theories. "His first theory was explained in his essay 'Second Discourse' that talked about the historical process by which man progressed from the state of nature to the modern society and the second theory was explained in his work 'The Social Contract (1762)' that dealt with the remedy to the social and

³ Garrath Williams, *Thomas Hobbes: Moral and Political Philosophy*, THE INTERNET ENCYCLOPEDIA OF PHILOSOPHY (Sept. 3, 2021, 5:09 PM), <https://www.iep.utm.edu/hobmoral/>

⁴ *Social Contract Theory by Hobbes, Locke and Rousseau*, ACADEMIA.EDU (Sept. 3, 2021, 5:20 PM), http://www.academia.edu/3138759/Social_Contract_Theory_by_Hobbes_Locke_and_Rousseau



moral ills that were produced by the development of society”.⁵ His views and approach to social contract theory were opposite from Hobbes as he favoured a democrat view unlike the conservative view of Hobbes.

According to Rousseau, the state of nature was not a civil war rather according to him, the state of nature was one where men were free, happy, peaceful and had equality amongst each other. Rousseau stated that the nature was abundant enough to satisfy the needs of the small population at that time but as the population increased, technology advanced and the concept of private property evolved, the emotions of greed, envy, fear, competition, inequality, insecurity and the like cropped up and this according to Rousseau was a humanity’s fall from grace out of the State of Nature⁶ and thus arose the need for establishing a government which could safeguard the private properties of people and act as a law enforcing machinery ensuring equality and protection for all. Rousseau states that “we are endowed with freedom and equality by nature, but our nature has been corrupted by our contingent social history and the only way to overcome this corruption is by invoking our free will to reconstitute ourselves politically, along strongly democratic principles, which is good for us, both individually and collectively”.⁷ For achieving this state of democracy, he suggests “the formation of a government by a social contract through the collective renunciation of the individual rights and freedom that one has in the State of Nature and the transfer of these rights to a collective body (government)”.⁸ The government will not be a sovereign monarch like Hobbes rather it would be an indication of the collective will of all men in the society. All the people will have to collectively ensure the protection of their rights and freedoms and determine what laws they are to follow. Rousseau states that only this concept of governance can ensure the protection of human freedom and rights wherein people would regain the similar freedom and rights that they had in the state of nature which was snatched away by the civilisation process.

ANALYSIS [CONSERVATIVE (THOMAS HOBBS) VIS-A-VIS DEMOCRAT (JEAN JACQUES ROUSSEAU)]

After analysing the conservative as well as democrat aspects of the social contract theory propounded by Thomas Hobbes and Jean Jacques Rousseau, it can be stated that both the approaches despite being focused towards the common end of protecting the freedom and rights of humans by a Social Contract considerably differ from each other in the approach to achieve this end:-

- *Approach:* Thomas Hobbes belonged to the period of English Civil War and thus adopted a conservative approach to social contract emphasising the need for stability of government. Jean Jacques Rousseau on the other hand belonged to the age of

⁵ Celeste Friend, *Social Contract Theory*, THE INTERNET ENCYCLOPEDIA OF PHILOSOPHY (Sept. 3, 2021, 5:17 PM), <https://www.iep.utm.edu/soc-cont/>

⁶ *Social Contract Theory by Hobbes, Locke and Rousseau*, ACADEMIA.EDU (Sept. 3, 2021, 5:20 PM), http://www.academia.edu/3138759/Social_Contract_Theory_by_Hobbes_Locke_and_Rousseau

⁷ Celeste Friend, *Social Contract Theory*, THE INTERNET ENCYCLOPEDIA OF PHILOSOPHY (Sept. 3, 2021, 5:23 PM), <https://www.iep.utm.edu/soc-cont/>

⁸ Celeste Friend, *Social Contract Theory*, THE INTERNET ENCYCLOPEDIA OF PHILOSOPHY (Sept. 3, 2021, 5:17 PM), <https://www.iep.utm.edu/soc-cont/>



enlightenment and thus favoured a democratic and liberal approach to social contract emphasising the need for protection and preservation of natural freedoms of humans.

- *State of Nature:* Thomas Hobbes considered the state of nature as a civil war where all men were self-interested animals who fought against each other for self-gain. On the other hand, Rousseau considered the state of nature as one where a man was free, happy and peaceful and where there was equality amongst them.
- *Concept of Government:* While Thomas Hobbes prefers a monarchical government (absolute sovereignty) for the enforcement of social contract, Jean Rousseau prefers a democratic government based on the collective will of people for the enforcement of social contract.
- *Relation of Concept of Governance with Concept of Human Rights:* According to Thomas Hobbes, it is only through a monarchical government that human rights and freedom can be protected as the same would bring stability in the society and prevent the warlike state of nature of humans. Rousseau on the other hand states that a democratic government based upon the collective will of all men can only ensure protection of freedoms and liberties of humans as it would help them regain the natural freedoms that they possessed but were subsequently lost in the process of extreme civilisation.
- *Overthrowing of Government:* Thomas Hobbes believes that the government must have absolute sovereignty and whatever it does must be obeyed by the subjects though unjust as according to him, a bad ruler is better than an unstable society. Rousseau on the other hand states that when government fails to perform its task of enforcing the social contract and protecting the natural rights of its citizens, they have the right to withdraw their support and thus can overthrow the government.
- *Loophole in the theory:* The major loophole in the social contract theory of Thomas Hobbes is that “he emphasises on absolute sovereignty of the government which is against the rule of law”.⁹ Further, absolutism is a vague concept and is not relevant in today’s societal scenario. On the other hand, the major loophole in the theory of Jean Jacques Rousseau is that it can only be applicable in case of small societies and thus will be inapplicable and not hold good in case of large nations as collective general will be no more than a fiction in case of large nations.

JOHN LOCKE’S SOCIAL CONTRACT THEORY

As far as social contract theory is concerned, the discussion would remain incomplete if we will not talk about the contribution of John Locke. The social contract theory of John Locke can neither be categorised as conservative nor can it be categorised as democratic. John Locke explained the social contract theory in his work ‘Two Treatises on Civil Government’. According to Locke, “the state of nature was one where the man was free, independent and had all the natural rights but he was bound by the law of morals”.¹⁰ People agreed to enter into a social contract with an authority not only for the protection of their lives but also for their

⁹ *Social Contract Theory by Hobbes, Locke and Rousseau*, ACADEMIA.EDU (Sept. 3, 2021, 5:20 PM), http://www.academia.edu/3138759/Social_Contract_Theory_by_Hobbes_Locke_and_Rousseau

¹⁰ *Social Contract Theory by Hobbes, Locke and Rousseau*, ACADEMIA.EDU (Sept. 3, 2021, 5:20 PM), http://www.academia.edu/3138759/Social_Contract_Theory_by_Hobbes_Locke_and_Rousseau



private properties. If that government failed to enforce the contract, it could be overthrown. Thus, Locke showed a departure from the Hobbes conservative theory of treating man as a moral less animal and also from Rousseau's theory of governance based on collective will of the members. As per Locke's theory, the government had to protect the natural rights of men failing which it could be overthrown.

CONCLUSION

It can be concluded that both the conservative and democrat views of social contract though different in their approaches and developed in different timeframes talk about an agreement amongst the subjects and the authority which will ensure the protection and preservation of human rights and freedoms in return of the surrender of their individual rights and freedoms in the state of nature. Thomas Hobbes and Jean Jacques Rousseau have beautifully described their respective conservative and democrat approaches to social contract in the society though in today's scenario, neither of the approaches can be completely appropriate due to their respective limitations mentioned in the Analysis section by us, that is to say, the former goes against the rule of law and supports a vague concept and the latter fails in its application in large societies.