

Social Contract Theory as Moral Foundation of the State
A Philosophical Perspective

By

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Abstract

The paper takes holistic view of the political state and traces its origin, importance and imperative to man's rationality and existential milieu. It is a philosophical discourse on the moral foundation of the state premised on second data plank with critical discourse analysis. There are contentions on the origin of the state as pontificated by intellectuals. However, the paper aligns with the social contract perspective of Thomas Hobbes, John Locke, and Jean-Jacques Rousseau on the origin of the state. It contends the moral foundation as the justification of the state. The state of nature was not moral enough to arrest the constant drift to anarchy and disharmony, hence the recourse to a rational solution leading to tacit, but rational contract of men whose social and political nature of founding commonwealth needed to be given vent. The state of nature was not a rational and moral arrangement by sentient beings. It must be reengineered and rethickered for the good of man in the political landscape. The paper contends that the organized state, as presently construed, is unarguably that quintessence, summum bonum, of all human institutions. A social agreement is needed to bring people together in a civilized arrangement. That arrangement is the state. The paper is a clarion call for moral reorientation in the operation of the activities of the state. It contends that any effort to get the statesmen to do their duty must take into consideration the moral and rational foundation of the state. The paper recommends compulsory moral education to all citizens. It also contends that statesmen and those intending to run the affairs of the state must have special moral training leading to personality of the Philosopher King.

Key words: *Social contract, State, State of nature, Society, Moral Justification, Social Justice.*

Introduction

The political State, from inception through growth to its matured and present showing, it is argued, is a product of human reason in the quest to address various challenges hitherto experienced. The contention that the State is a creation of human reason has been defended by Social Contract school of thought. Prominent among them are Thomas Hobbes, John Locke and Jean-Jacques Rousseau. Of course, the works of Plato and Aristotle were foundation and the soil from which the Contractarians germinated their ideas which supported the logic of their arguments. The contractarians, as the Social Contract philosophers are referred to, noted the power of human reason to rise to the occasion of their existential challenges. The birth of the State, they argued, was in response to men's quest for security of life and property and for enjoyment of life that has been secured. Men also needed a peaceful, harmonious, and development-supporting atmosphere to pursue other existential demands be life is ended in death. Rousseau argues that the State do not appear by "nature" and impose themselves upon us. According to Hobbes (1966; 19) it was men that created that great Leviathan called a Commonwealth or State, in Latin *Civitas*, which is but an artificial man; though of greater stature and strength than the natural, for whose protection and defence it was intended. Although shortness of life was recognized; but there must be activities that should at least distract man for a moment from the theme of disease, death and decay which the cycle of human existence has come to confirm and give him a moment rest. This is what the State would accomplish. For Hobbes, enormity of power in this human arrangement is what the State is. Therefore the State is the conglomeration of the greatest of human powers, it is that which is compounded of human powers of most men, united by consent, in one person, natural, or civil, that has the use of all their powers depending on his will; such as is the power of a commonwealth.

The capacity of man to create systems for his survival and continued existence has also been supported by Louis Halle. According to Halle (1977; 67) all man's basic science, all his artistic creation, even his social and political philosophy, have in their development been directed at the progressive realization, through comprehension, of a single logical order conceived as representing one universal realm of being in its ultimate reality. According to (Bell, 1988) the state is a contrivance of human wisdom to satisfy human wants. The State should therefore be secured for men's various activities even as they have proved to mean rehearsal unto death. That demonstrates one important nature of rational man, (*homo sapiens*): *homo faber*- man the creator. Any organized society is an aesthetic work of art that takes the initial form of a concept in the mind. Social

construction, no less than music or landscape painting, represents the replacement by mind of a blind process for bringing order out of chaos.

Meaning of State

For the purpose of this work, we take the following definitions, believing they represent the definition of our concept. According to Omilusi (2021), the state is a geographically delimited segment of human society united by common obedience to a single sovereign. A state must be independent, have citizens, territory, laws, and most especially, government. As for Dibia (2012), a state is a politically organized body of people inhabiting a defined geographical entity with an organized legitimate government. It is free from external control. For Odanye (2011), a state is a sovereign association of people who live within a defined territory and is administered by a government that is competent to secure habitual obedience from the people within it. It is a politically organized body of people occupying a definite geographical territory with an organized government that is entirely free from external control and which possess coercive power to secure obedience from its people. A state therefore must possess: Population and People, Defined territory, Government, Sovereignty, Recognition, Permanence or Continuity, among other characteristics. The definitions above serve as working definition for this study. A state therefore is a highly and well organized political arrangement, a product of rational thinking, and the outcome of human contraption that replaces state of nature. The state can be said to be a product of civility, rationality and contract in favour of man and in keeping with nature. The state is founded to ameliorate the deficiencies in the pre-state and the state of nature

Nature of the State

The State is unarguably the *summum bonum* of all human institutions. It is the epitome of human civilization and creativity. In the state of nature there was no state and logically, no politics. The state is that political community or association that has provided succour to hitherto haunted mankind. This association is men's Commonwealth. In the State, men have become co-founders and co-owners; proving the argument of Social Contract valid. However, the State is not natural, not a creation of some supernatural forces, or of unseen, unfathomable, unimaginable, forces from elsewhere. The State is a contrivance of man qua man to address his numerous challenges experienced before and in the absence of that arrangement. The State becomes an efficient arrangement to make up for the deficiencies of earlier arrangements such as the family, church,

club, guild, and tribe. The State become an arrangement for plural accommodation; where thriving entities are allowed to interface, intermingle, interact, and interpenetrate. The State accommodates inter-subjectivity, pluralism, and diversity. Of more importance is the institution of government in the State, causing the State to be better organized for the purposes of protecting the citizens, and for the provision of common good. The State has come to occupy an enviable place in human sociopolitical existence which may never be discarded or replaced in a hurry. It therefore tasks men to keep organizing and reorganizing the State along the demands of reason for a better, peaceful and harmonious community for the benefit of human species.

In the words of Karl Popper, the state has come to represent an 'open society' It has become a human arrangement which sets free the critical powers of man; the society in which individuals are confronted with personal decisions (Popper, 1963; 1.) Popper argues that in the state, human capacity and potential for thought and ideas is kindled. Men become social engineers and work to improve their world. According to popper, as social engineers, men believe that they are masters of their destiny, and in accordance with their aims, they can influence or change their history just as they have the capacity to change the face of the earth. Men come to the realization that their ends are not imposed on them by historical background or by the trends of history, but rather by what they are chosen, or even created, by ourselves just as we create new thoughts or new works of art or new houses or new machinery (Popper, 1963; 22).

Social Contract origin of the State

The definitions above only tell us what the State is. They did not tell us the origin of the State. We have said elsewhere that the State is human device. It is the outcome of human creativity and the epitome of human maturity and civilization. It is therefore existential in origin. It is an idea that must be realized. However, the Contractarians have the answer to the question of its origin. The answer lies in the argument that society, political community or political association is a product of Social Contract or social agreement rationally and tacitly entered into by rational minds whose purpose it will serve. Society is the outcome of a general social agreement. Before the birth of the State, it is logically true that there was no State. Now how did the State come to be? Whence did it come? To be convinced by the Contractarians, we first listen to Great Aristotle. The underlining argument, however, is that the state is the outcome of a covenant or agreement among men. The purpose of the state is the protection of those people to which it owed its being.

According to Aristotle, human beings have the nature of doing things that benefit them. To be a human is also to do things which benefits one. One of the things that is of immense benefit to man is to associate with others. One's humanness will be questioned, according to Aristotle, if he refuses to join others in society. This is because every association has ends that are great importance to man. In his (*Politics*, 1979 :1) Aristotle argues that all association have ends: the political association has the highest; but the principle of association expresses itself in different forms, and through different modes of government....that all associations are instituted for the purpose of attaining some good-for all men do all their acts with a view to achieving something which is, in their view, a good.....that all associations aim at some good; and we may also hold that the particular association which is the most sovereign of all, and includes all the rest, will pursue this aim most, and will thus be directed to the most sovereign of all goods. Further, he writes that “from these considerations, it is evident that the polis belongs to the class of things that exist by nature, and that man is by nature an animal intended to live in a polis. He who is without a polis, by reason of his own nature and not of some accident, is either a poor sort of being, or a being higher than man: he is like the man of whom Homer wrote in denunciation: ‘clanless and lawless and heartless is he’. The man who is such by nature [i.e. unable to join in the society of a polis] at once plunges into a passion of war; he is in the position of a solitary advanced piece in a game of draughts” (Aristotle, 1979; 5)

Thomas Hobbes (1966; 100) makes Aristotle clear and understandable. The *summum bonum* of Aristotle is made intelligible by Hobbes in the following argument: “Hereby it is manifest, that during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war, as is of every man , against every man....In such condition, there is no place for industry; because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; ...no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short”.

A reading of the quotation may subtly refer to government. However, government is what happens in the State. The State precedes the government. Government is the chief agent of the State. According to Hobbes, the absence of the State will mean the absence of peace, tranquility and

harmony. Government is also human contrivance. In the *Discours sur L'inegalite* (Discourses on the Causes of Inequality) Rousseau (p. 20) depicts the state of nature as one of innocence. What distinguishes men from beasts is first their faculty of self-improvement and secondly man's only natural moral quality, which is compassion or sympathy. In the state of nature, man lives alone. It is when he becomes sociable that he becomes wicked. Living alone is however, against the social and political nature of man which Aristotle has made a central theme in his *Politics*. The state of nature had obvious deficiencies.

For Locke, (1952; 4) state of nature is a state of perfect freedom wherein men exercised power to order their actions and dispose of their possessions and persons as they think fit, within the bounds of the law of nature, without asking leave or depending upon the will of any other man, In that arrangement, every man became a judge and an executor in his own case. According to Locke (1952; 6), "and that all men may be restrained from invading others' rights and from doing hurt to one another, and the law of nature be observed, which wills the peace and preservation of all mankind, the execution of the law of nature is, in that state, put into every man's hands, whereby everyone has a right to punish the transgressors of that law to such a degree as may hinder its violation..." The condition in the state of nature necessitated a social agreement where men will live in a civilized society.

Social contract theory is postulated on the origin of society and the justification of the state. It is a theory that has supported the primitiveness of state of nature and the social application of natural law. Every man, in the state of nature, has to be his own policeman, judge, and executioner, and this, of course, have serious practical disadvantages. So men agree to resign certain rights proper to them in the natural state 'by agreeing with other men to join or unite into a community for their comfortable, safe and peaceable living one amongst another', secure against internal and, to a lesser degree, external disorders (O'Connor, 1952; 205). In return for this security, 'every man by his consenting with others to make one body politic under one government, puts himself under an obligation to every one of that society to submit to the determination of the majority'. If men did not contract to submit to majority rule in this way, no civil society would outlast the first political disagreement among its citizens (O'Connor, 1952; 206).

Existential Challenges as the basis for Social agreement

Human beings have come to realize their deficiencies, and in their consciousness know how to make it up. Pascal (1968; 95) notes that “man is only a reed, the weakest in nature, but he is a thinking reed. There is no need for the whole universe to take up arms to crush him: a vapour, a drop of water is enough to kill him, man would still be nobler than his slayer, because he knows that he is dying and the advantage the universe has over him. The universe knows none of this. Thus all dignity consists in thought. It is on thought that we must depend for our recovery, not on space and time, which we could never fill. Let us then strive to think well...” Although man is weak, he thinks, he reasons. That is the greatest advantage man has over other creatures. That is also why he has been referred to as the ‘measure of all things’. He is the only being with the endeavor to apprehend the world, “to grasp this sorry Scheme of Things entire” (Abel, 1988; xxi)

Before the birth of the State, we have been reminded of the various challenges some of which made life nasty, brutish and short. We have been called upon to read about social and political upheavals, crass conflict, intrigues, and horse trading that never supported human life positively. According to Hobbes (1966; 80), a restless desire of power in all men... So that in the first place, the general inclination of all mankind, is a perpetual and restless desire of power after power that ceased only in death. And the cause of this, is not always that a man hopes for a more intensive delight, than he has already attained to; or that he cannot be content with a moderate power: but because he cannot assure the power and means to live well, which he hath present, without the acquisition of more. Out of civil states, there is always war of every one against everyone. . Hereby it is manifest that during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war, as is of every man, against every man.

For Rousseau (Nisbet, 1983; 39) men quested for freedom from society-society in the sense of traditional institutions of church, guild, extended family, monastery, local community, economic enterprise, and school, and the whole apparatus of traditional bureaucratic government...hypocrisy and uncertainty...ceaseless conflict. In a letter to Mirabeau Rousseau bereted the then society which major preoccupation was “to breed incessant war among its members; and the only way of combating this war is to find a form of government that will set the law above them all” .Hobbes also found himself in a country where peace and security were constantly in jeopardy because of the demands for liberty and a greater share in government by the

growing class of traders, professional men, and yeomen farmers, who rated the authority of the Bible and of their own consciences above that of the magistrates, bishops, and councilors of the king. Hobbes told premature birth because of approaching Spanish Armada in 1588, his mother went into premature labour. He also made jest of himself: "Fear and I were born twins" (Hobbes, 1966; 7).

Plato was spared this agony. In the Republic, his preoccupation was chiefly bent on the question how society could be reshaped so that man might realize the best that is in him. He narrated his ordeal: when I was young, I had the same experience that comes to so many: I thought that, as soon as I should be my own master, I should enter public life. But this enthusiasm was dampened. According to him: when I considered these things and the men who were directing public affairs, and made a closer study, as I grew older, of law and custom, the harder it seemed to me to govern a state rightly.....At the time the whole fabric of law and custom was going from bad to worse at an alarming rate.

The State was a human arrangement to secure himself from himself. For instance, Hobbes (1966; 71) argues therefore that the great and chief end, therefore, of men's uniting into commonwealths and putting themselves under government is the preservation of their property. He further notes that the great end of men's entering into society being the enjoyment of their properties in peace and safety, and the great instrument and means of that being the laws established in that society (Hobbes, 1966; 75).

The Birth of the State and Social and Political Stability

We have argued that the State is the means by which the individual can be freed of those restrictive tyrannies which compose society. The State is a perfect replacement of the *state of nature*. The Contractarians believe that the state of nature had obvious deficiencies. The State therefore became an agency of emancipation which permits the individual to develop the latent germs of goodness heretofore frustrated by a hostile society. By entering into the pure state, Rousseau declares, 'man's actions receive a moral character which was wanting to them before.' And 'from a stupid and limited animal he now for the first time becomes a reasoning being and a man in the real sense. The basis of obedience to government is the result of social contract. Locke tells us that a government is a trustee for its citizens with certain powers which they have relinquished to it to ensure their more efficient use (Locke, 1952; 210). As long as the government uses its powers for

the purposes of its trust, it commends the allegiance of its citizens. It can however be justifiably removed by revolution if it misuses these powers. Great Socrates, in *Crito* (Plato 1967; 309), argued that we are obliged to obey the rules of justice-and the governments that enforce them- because we (in some sense) agreed to do so. It is as if we made a contract with the state- or, more properly, with everyone else in (what is now) our society-to live together according to certain rules that, according to our best calculations, are in everyone's interest, including our own. In return for the obedience of the rules, everyone else will obey them too (or be forced or threatened to do so). Socrates is of the conviction that one has made an implicit agreement with the society in which one lives simply by "choosing" to (continuing to) live there.

According to Halle (1977; 353) having departed from the state of nature, in which the conduct of life is genetically determined and mindless, man is under the necessity of creating, in its place, a world of his own. Any world that one society of men creates, in response to this necessity, is a normative world of the mind. It constitutes a model for the behavior, individual or collective, of the society that created it and lives under its authority. It resolves the chaos that would make sanity and the conduct of life impossible-the chaos that threatens us all. The State also makes government legible and legitimate to command obedience. For instance when Great Socrates was condemned to death and his friends wanted to steal him out of prison, his reason for refusing is that a government is already in place and must be obeyed. In the *Crito* (Plato, 1963; 457), Socrates argues 'they would say then: "And so you are breaking your bargains and agreements with us, which you made under no compulsion, and not deceived; you were not compelled to decide in a short time, but you seventy years in which you could have gone away, if you did not like us, or if the agreements did not seem to you just.

State also creates equality of citizens. According Locke (1952; 4) the State creates a condition of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another; there being nothing more evident than that creatures of the same species and rank, promiscuously born to all the same advantages of nature and the use of the same faculties, should also be equal one amongst another without subordination or subjection. On the equality of all men Hobbes (1966; 98) argues that nature has made men so equal, in the faculties of their body, and mind, as that though there be found one man sometimes manifestly stronger in body, or of quicker mind than another; yet when all is reckoned together, the difference between man, and man is not

considerable, as that one can thereupon claim to himself any benefit, to which another may not pretend, as well as he.

Philosophical argument in favour of the state

In the *Introduction* to the *Social Contract*, Rousseau (p. 49) explains the reason behind the treatise thus: “My purpose is to consider if, in political society, there can be any legitimate and sure principle of government, taking men as they are and laws as they might be”. The key idea in Rousseau’s *Social Contract* is that each of us puts his person and his power in common under the supreme direction of the general will. According to Rousseau (p. 29) “Men can be both ruled and free if they rule themselves. For what is a free man but a man who rules himself? A people can be free if it retains sovereignty over itself, if it enacts the rules or laws which it is obliged to obey”. For Rousseau (p. 76), the social pact establishes equality among the citizens in that they all pledge themselves under the same conditions and must all enjoy the same rights. Hence by the nature of the compact, every act of sovereignty, that is, every authentic act of general will, binds or favours all the citizens equally, so that the sovereign recognizes only the whole body of the nations and makes no distinction between any of the members who compose it. According to Russell (p. 68): Rousseau’s *Social Contract*, to a modern reader, does not seem very revolutionary, and it is difficult to see why it was so shocking to governments. The chief reason is that it sought to base governmental power upon a convention adopted on rational grounds, and not upon superstitious reverence for monarchs.

Social contract according to Locke is a tacit consent. It is a rational agreement by sentient beings for their good-for the protection and preservation of lives, liberty and property. Once entered into subsequent generations are bound to obey the spirit and the letter of the contract. This is given when individuals on reaching maturity continue to accept the protection and benefits of an organized government instead of withdrawing or challenging the existing state. The state for Locke is important because it supervises human activities in a civilized manner, which was lacking in the state of nature where it was difficult to exercise rational control of individual rights and liberty, it was a “state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another; there being nothing more evident than that creatures of the same species and rank, promiscuously born to all the same advantages of nature and the use of the same faculties,

should also be equal one amongst another without subordination or subjection” (p. 4). Yet, this state was arbitrary in social relations.

Aristotle’s (p. 1) earlier observations show us, first, that every polis (or state) is a species of association, and, secondly, that all associations are instituted for the purpose of attaining some good-for all men do all their acts with a view to achieving something which is, in their view, a good. Further, in his *Nicomachean Ethics* Aristotle (p. 3) reiterated the philosophical ground for social contract in the following argument “For though admittedly the good is the same for a city as for an individual, still the good of the city is apparently a greater and more complete good to acquire and preserve. For while it is satisfactory to acquire and preserve good even for an individual, it is finer and more divine to acquire and preserve it for a people and for cities”.

Hobbes (1966; 72), reiterated his argument for social contract thus: “the greatest of human powers, is that which is compounded of all powers of most men, united by consent, in one person, natural, or civil, that has the use of all their powers depending on his will; such as is the power of a commonwealth: or depending on the wills of each particular; such as is the power of a faction or of divers factions leagued”.

Conclusion

In the ‘Preface’ to first volume of *The Encyclopedia*, Diderot presented a major purpose of philosophy thus: “our aim is to gather all knowledge together, so that our descendants, being better instructed, may become at the same time happier and more virtuous (Rousseau, p. 16). This purpose finds eloquence in the idea of social contract as presented by the contractarians. It is sound argument in explaining the philosophical reason why the states are founded and organized. It is a social and moral justification of the reality of states as presently constituted.

However, for the state to remain relevant and serve the existential needs of citizens, its moral imperative must be observed. This assertion finds support in Bell (1989; 19) that without a sound moral basis, a society cannot be civilized. A society may have good laws, a just constitution, regular elections, well organized courts and an efficient structure of government and administration; but, if it has a weak moral basis, the qualities of a civilized society will nevertheless elude it. A sound moral basis is needed, not only to provide the motive for introducing good laws and policies, but also to ensure that good laws and policies work well. Many reforms of the law

and changes of policy depend only slightly, if not all, on moral considerations for their validity; but, as a matter of general principle, there is much truth in the observation that “all reform except a moral one will prove unavailing”. One of the moral planks of the state is justice and equity. A state that applies the norms of justice and equity will reap the sterling benefits of social contract. According to Rawls (2001; 4), a just and well-ordered society: a society in which (1) everyone accepts and knows that the others accept the same principles of justice, and (2) the basic social institutions generally satisfies and are generally known to satisfy these principle. The individual should be accorded with respect and dignity as an end in himself. According to Bell (1988; 13), civilized society is based on a general respect for the well-being, happiness and freedom of all the individuals who comprise it...Respect is at the heart of a definition of a civilized society; and, for a society to function in a civilized way, respect is needed between different callings and categories of individuals and between individuals and social institutions. This is where government becomes relevant and imperative. Rousseau (p. 80) had this in mind when he writes that “We have given life and existence to the body politic by the social pact; now it is a matter of giving it movement and will by legislation”. This legislation is left in the hands of the government. Government, simply defined is an institution of the state that exists to serve the needs of the society and to resolve conflicts, through the making, execution and interpretation of laws. The main organs involved in this process are the legislature, whose main duty is to make laws, the executive, whose main duty is to implement laws, and the judiciary, whose duty it is to interpret laws (Oyeneye, Onyenwenu and Olusunde, 2012). Government is therefore an institution through which the will of the society is formulated, expressed and realized for the attainment of its collective goals of the state. The role of government in achieving the objectives and the goals of the state is paramount. Government, i.e., supreme administration, is an intermediary body established between the subjects and the sovereign for their mutual communication, a body charged with the execution of the laws and the maintenance of freedom, both civil and political. The legitimate and executive power of government is rationally and reasonably exercised for the good of man. Therein lies the realization of the ideal of social contract.

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