Stephen Chadwick

Social Contract Theory and International Relations

From Hobbes to Kant

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Chapter 1
Introduction

In some respects, the idea of the social contract can be traced back to the Ancient Greeks. However, it wasn't until the early modern period that the concept was truly developed and more detailed studies produced. The most important writers are Thomas Hobbes (1588–1679), who provided the first in-depth account, followed by John Locke (1632–1704), Jean-Jacques Rousseau (1712–1778) and Immanuel Kant (1724–1804). Social contract theory continues to have a significant impact in the twenty-first century, thanks to the works of John Rawls and David Gauthier, both of whom are highly influenced by these earlier writers. This book is concerned with the writings of the above-mentioned philosophers of the Enlightenment—Hobbes, Locke, Rousseau and Kant. By studying their works, readers can develop a deeper appreciation of the foundations and principles of contemporary social contract theory.

The primary concern of all these philosophers is the formation of civil society and so their political theories are largely concerned with *domestic* issues. This is hardly surprising given that, during this historical period, states were, largely, self-sufficient. However, as they all acknowledge, the domestic and international domains are interconnected to the extent that no political theory is complete without attention being paid to issues of international relations. In the contemporary world, in which the domestic and international domains are so entwined, concentrating on the domestic at the expense of the international will seriously diminish any political theory. This book, therefore, examines their theories in light of the modern globalised world.

Hobbes and Locke discuss international concerns the least but much can be gleaned from their domestic theories, as well as their comments regarding the international domain. On the other hand, Rousseau and Kant have written extensively on the relations between states and so, in many ways, it is clearer how their views fare when placed in a modern context.

In Chap. 2, a brief outline of some of the main themes in the political theories of the philosophers is presented. This is necessary in order to contextualise and

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evaluate their normative views of international relations. It also serves as a basis for extending their theories of domestic justice to the global arena, particularly in areas where they have not explicitly addressed the subject. In Chap. 3 the theorists are placed within the context of contemporary international political theory through the introduction of internationalism and cosmopolitanism. This distinction arises from varying perspectives on the ethical standing of the primary entities within the international system, namely the states. Although many other distinctions could be employed in order to systematise normative approaches to international relations, this distinction is extremely useful with respect to social contract theory. Chapter 3 also presents international moral scepticism and the analogy of the individual and the state.

Chapters 4 and 5 address issues relating to inter-state conflict. Any normative theory of international relations will have to provide practical counsel for states considering war and those already engaged in war. Many of the philosophers propose aspects of internationalist just war theory although, as will be shown, such principles do not necessarily conflict with a cosmopolitan conception of morality.

One possible method of reducing conflict between states is to institute a form of world government or inter-state federation. This issue is the concern of Chap. 6. Even though Hobbes does not advocate such a move himself, it can be claimed that world government is the logical outcome of his political theory. The eighteenth century French writer, the Abbé de Saint-Pierre, who accepted much of Hobbes's domestic theory, proposed an inter-state federation, and his theory will be examined in conjunction with objections presented by Rousseau.

Throughout the book, it is seen that the concept at the centre of traditional social contract theory—the state of nature—is used in three distinct but interrelated ways: to describe the relationship between pre-political individuals, between states, and between sovereigns and non-state actors during civil wars. In Chap. 7 insights derived from analysing these perspectives are applied to a fourth scenario: international terrorism. To accomplish this, a suitable definition of terrorism is first sought followed by the construction of a formal definition of a state of nature.

The possibility of avoiding inter-state conflict through the establishment of an international body is returned to in Chap. 8 with a discussion of Kant, who wrote extensively on the issue. The final chapter is concerned with global inequality through an interpretation of Locke's theory of property.

The book shows that, although the use of the social contract unites them in the same philosophical tradition, these authors' views when applied to the international domain differ greatly. This is partly due to variations in their actual domestic social contract theories but also is a result of different non-contractarian aspects, such as their fundamental view of human nature and their moral theories.

This book does not consider objections to social contract theory itself, of which there are many. Rather, it is a walkthrough of the theories of these great thinkers in order to see what they have to offer the modern globalised world.

Chapter 2
The Social Contract of Hobbes, Locke, Rousseau and Kant

2.1 Introduction

The four social contract theorists that we will be examining—Hobbes, Locke, Rousseau and Kant—all start their theories from the point of view of a pre-contract situation, in which the social contract is to be made. As Parry puts it, in social contract theories, individuals "capable of rational choice are envisaged in a pre-political condition – termed 'state of nature' – in which they are faced with the task of selecting the most suitable form of government to remedy various defects which they find to be inherent in a world without rules" (Parry 1978, 18).[1] In order to fully understand the theorists' differing views of international relations it is, therefore, important to begin by understanding their fundamental beliefs regarding this state of nature and the subsequent domestic social contract. It is impossible to do true justice to four rich social contract theories in one short chapter. For the purpose of this book, a brief overview of each theory is sufficient.

At the heart of social contract theories is an initial situation in which no contract exists, but from which a contract is made in order to move humans into a civil situation.[2] We will see that the differences in the views of the international domain presented by the four theorists arise from their differing views of this pre-contract

[1] More contemporary social contract theorists use different terms for this. For example, John Rawls uses the term "original position" (Rawls 1972) and David Gauthier prefers "initial bargaining position" (Gauthier 1986).

[2] From the offset it should be pointed out that the state of nature is not necessarily supposed to be historical and has been criticised for not being so. See David Hume (2015). A similar argument was framed in the twentieth century by Ronald Dworkin, who said "Insofar as the agreement is hypothetical, it is a fiction, and so insofar as it cannot be said to represent agreement at all. A social contract theory based on this fiction, therefore, is no theory of political obligation at all, but a fantasy of what such a theory might look like if it were not based on actual agreement" (Dworkin 1977, 183). In terms of this book, we will assume that it is to be seen as a useful thought experiment to tease out our intuitions about the political realm.

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scenario, as well as other non-contractarian elements such as human psychology and moral theory.

It must be pointed out that, in the case of all the theorists discussed, they assume that the social contract occurs between men, to the exclusion of women. This is, of course, a severe weakness, which may or may not be overcome with careful analysis of the arguments they present. In some cases, the same can be said with respect to race. For the purpose of this book, we will, however, assume that those subject to, and part of the forming of the social contract, are all human beings, rather than any particular subset.[3]

In this chapter, we will, in chronological order, examine some of the fundamental aspects of the domestic theories presented by each philosopher.

2.2 Thomas Hobbes

While the social contract theory of the early modern period has its roots in Hugo Grotius (1583–1645), it was Hobbes (1588–1679) who provided the first detailed theory.

2.2.1 Interpersonal State of Nature

Hobbes describes the initial position, or pre-contract state, as a "state of nature".[4] By this, he means a situation in which men live without an effective government.[5] For him, it is not goodwill which men have for each other that drives them out of the state of nature and into civil society, but the mutual fear they feel (Hobbes 1949, 24). This fear is the result of man's natural equality and the mutual will men have for hurting each other. Man is naturally equal, in the sense that even the weakest individual can overcome the strongest, "either by secret machination, or by confederacy with others" (Hobbes 1957, 80). "All men therefore among themselves are by nature equal; the inequality we now discern, hath its spring from the civil law" (Hobbes 1949, 25). The mutual will for hurting each other can arise for different reasons—glory, safety and competition. One man may feel superior and seek glory by hurting others. Another man, in order to protect his life, liberty and possessions, may seek violence against the first. But the most common source of violence in the state of nature arises when two or more individuals desire the same object. The strongest will secure it, and this will be decided by violence or the threat of violence

[3] For an excellent discussion of the role of women in social contract theory see Chiara Bottici (2009).

[4] Whilst this concept was apparent in Grotius it was Hobbes who first used this term.

[5] See Simmons (1992), where he differentiates between the definition of a state of nature and its characteristics.

(Hobbes 1949, 25–26).[6] None of this implies that men are inherently evil, for Hobbes says, "even if there were fewer evil men than good men, good, decent people would still be saddled with the constant need to watch, distrust, anticipate, and get the better of others, and to protect themselves by all possible means" (Hobbes 1949, 11).[7]

It is clear that Hobbes is no psychological egoist, but he does accept that every man naturally desires what he believes is good for himself, and avoids what is evil.[8] The greatest evil for an individual is death, and each individual avoids this "by a certain impulsion of nature" (Hobbes 1949, 26). "It is therefore neither absurd, nor reprehensible, neither against the dictates of true reason, for a man to use all his endeavours to preserve and defend his body and the members thereof from death and sorrows". This does not mean of course that some men, even in the state of nature, will not behave altruistically and even put the lives of others before their own, but for Hobbes every man has a natural right of self-preservation—"the first foundation of natural right is this, that every man as much as in him lies endeavour to protect his life and members" (Hobbes 1949, 27).

Since man has a natural right of self-preservation, "*jus naturale*", it follows that he "must also be allowed a right to use all the means, and do all the actions, without which he cannot preserve himself" (Hobbes 1957, 84). Each individual is to be the judge as to what is necessary as a means to his own preservation. For each person is equal; if someone else could judge in my case, then I could judge in their case (Hobbes 1949, 27). It is only right that everyone judges their own case.

It follows from this that everyone has a right to all things that nature provides, including one another's bodies (Hobbes 1957, 85).[9] For if we all have the right to judge what is necessary for our own preservation, and no one else has the right to do this for us, then every person could potentially judge the whole of nature to be necessary for their own preservation, and so "to have all, and do all, is lawful for all" (Hobbes 1949, 28). But to have a right to all things is, in a way, no better than to have no right at all. For every other person has an equal right to all things.

[6] See also Hobbes (1957, 81–82).

[7] For an excellent discussion of this point see Richard Tuck (1999, 130).

[8] The issue of whether or not Hobbes was a psychological egoist is a well-trodden debate. See Bernard Gert (1967) and Gregory S. Kavka (1986, 44–51).

[9] In what way is Hobbes using the term 'right', when he talks of everybody having a right to all things? Does it imply a correlative duty on others to respect this right? Howard Warrender thinks Hobbes uses rights in two distinct ways. The first way refers to something to which one is morally entitled and therefore entails corollary duties on others to respect these rights. The second way refers to that which one cannot be morally obliged to renounce. When Hobbes talks about everyone having a right to all things, he surely means it in the second way. This means that everyone cannot be obliged to renounce anything, and so other people may resist him or even take away that to which he has this right, and doing so is not contrary to any duty. This is why *everyone* can be said to have a right to all things. See Warrender (2000, 18–22) and Gauthier (1969, 30–31).

2.2.2 *Laws of Nature*

Hobbes posits various laws of nature. He defines a law of nature, "*lex naturale*", as the "dictate of right reason, conversant about those things which are either to be done or omitted for the constant preservation of life and members, as much as in us lies" (Hobbes 1957, 84). Since war is the very state in which the preservation of life is impossible, it follows that "the first and fundamental law of nature is, that peace is to be sought after, where it may be found; and where not, there to provide ourselves for helps of war" (Hobbes 1949, 32).[10] It is the first part of this which is the actual fundamental law of nature; the second part is the right of self-preservation (Hobbes 1957, 85). Peace is most conducive to the preservation of life, and so all men in the state of nature can agree that peace is good, as are other types of virtuous behaviours. However, in situations where peace is impossible to achieve, such as when you are attacked, then using every possible means to fight back in self-defence is most conducive to the preservation of your life.

This law of nature is fundamental because all the others are "derived from this, and they direct the ways either to peace or self-defence" (Hobbes 1949, 33). The second natural law, or "precept of the law of nature" (Hobbes 1949, 52),[11] is that the "right of all men to all things, ought not to be retained, but that some certain rights ought to be transferred, or relinquished" (Hobbes 1949, 33).[12] Since the right of all, to all, is one of the main reasons why the state of nature is a state of war, the loss of this right will be conducive to fulfilling the fundamental law of nature—the formation of peace. Holding on to this right is to act against the fundamental law of nature (Hobbes 1949, 33). Loyd considers this second law of nature, and thus reciprocity, to be at the heart of Hobbes's moral theory and is thus the "paramount duty under the Law of Nature" (Lloyd 2009, 266).[13] According to her interpretation, "one acts against reason when one does what one would judge another unjustified in doing" (Lloyd 2009, 4). The reciprocal nature of Hobbes's theory is brought out in the tenth law of nature where Hobbes claims that no man may "reserve to himself any right, which he is not content should be reserved to every one of the rest" (Hobbes 1957, 38). And it seems clear that it is the seeking of peace, as laid out in the fundamental law, that is truly paramount.

To relinquish your right to all things is to will that it is no longer lawful to take everything you want, when you want. To transfer or convey your right requires a third person to whom the right is conveyed. The third person must accept the conveyed right or no transfer takes place. If two, or more, individuals mutually convey

[10] See also Hobbes (1957, 85).

[11] In *Leviathan*, he calls them "articles of peace" (1957, 84).

[12] In *Leviathan*, he says that the right of men to all things should be laid down "as far-forth, as for peace, and defence of himself he shall think it necessary" (1957, 85). This is implicit in the law as expressed in *De Cive* as all the natural laws are a means to the fundamental law of nature, i.e. peace. It is therefore unnecessary to relinquish any right beyond the point necessary for peace.

[13] See also Rosamond Rhodes (2010).

their rights it is a *contract* (Hobbes 1949, 34–35).[14] The third law of nature states "that men perform their covenents made" for without this such covenants and contracts "are in vain, and but empty words" (Hobbes 1957, 93).

The problem is that, in the state of nature, there is no assurance that the individual who is supposed to perform the action second will indeed carry it out. There does not seem, therefore, to be any motivation for the first individual to act. In civil society this is not the case; for there is a guarantee—"in a civil state, when there is a power which can compel both parties, he that hath contracted to perform first, must first perform; because, that since the other may be compelled, the cause which made him fear the other's non-performance, ceaseth" (Hobbes 1949, 37). This does not mean that, in the state of nature, there is no possibility of contracts and covenants—there must be, otherwise civil society could never arise. What exists in the state of nature to ensure that these are possible is the "fear of that invisible power, which they every one worship as God" (Hobbes 1957, 93). An oath to the contract must be sworn by the parties in order to ensure that they will fulfil their obligations. Of course, this makes the guarantee that contracts will be kept much less certain, for it requires a fear of God (and there exists the possibility of being forgiven if you subsequently repent).[15] In civil society, the fear of the sovereign is real in all citizens, and there is no automatic exoneration. This is why contracts in civil society are more secure than in the state of nature, and so "covenants, without the sword, are but words, and of no strength to secure a man at all" (Hobbes 1957, 109).

Is the law of nature known to all people? Hobbes acknowledges that "laws, if they be not known, oblige not, nay, indeed are not laws" (Hobbes 1957, 109). But he thinks that all people, at times when not gripped by passion, can know these laws.[16] They can be summarised as a negative version of the golden rule—"do not that to others, you would not have done to yourself" (Hobbes 1949, 55).

However, to know these laws is one thing, to act accordingly is another. In the state of nature, to act according to the laws leaves one open to the desires of those who do not: "It is not therefore to be imagined, that by nature, (that is, by reason) men are obliged to the exercise of all these laws in that state of men wherein they are not practised by others". In such a state, we are "obliged … to a readiness of mind to observe them whensoever their observation shall seem to conduce to the end for which they were ordained", i.e. when conducive to peace. He concludes that the "law of nature doth always and everywhere oblige in the internal court, or that of conscience, but not always in the external court, but then only when it may be done with safety" (Hobbes 1949, 55–56). So Hobbes suggests that we are obliged

[14] See also *Leviathan* (Hobbes 1957, 86).

[15] Of course, in the case of atheists, there is no fear of God and so nothing to enforce compliance. Warrender goes further and claims that for a law to oblige, its author must be known or knowable. The author of the law of nature is supposed to be God and so this would imply that the atheist is not obliged by the laws of nature (Warrender 2000, 83). Whether Hobbes himself was an atheist is open to question. See Douglas M. Joseph (2002).

[16] Hobbes thinks that the laws of nature are contrary to our natural passions and the "passions of men, are commonly more potent than their reason" (Hobbes 1957, 122).

to observe the laws of nature when doing so will result in peace. If you believe that following the laws will result in someone else exploiting you, then you are not obligated to behave accordingly, for doing so will not result in peace—the end to which these laws are the means—but rather the destruction of your life.

As we saw earlier, this does not mean that in the state of nature, where there is no sovereign power, the laws of nature never oblige in the "external court", or "*in foro externo*" (Hobbes 1957, 103). For situations may arise where you are sure that you will not be victimised if you obey them. This is obvious, for otherwise people would never be able to contract to leave the state of nature and would instead always use the right of war.[17] However, due to Hobbes's view of human nature, the likelihood of 'secure situations' occurring within the state of nature is very small, and this is why the state of nature is, for Hobbes, a state of war. It is only with the institution of civil society that true security arises.[18]

The essential problem with the laws of nature is the lack of security that every person feels in observing them. Hobbes points out that the consent of a few individuals to abide by the laws for the common good is not enough to provide the necessary security. Firstly, there will still be insecurity with respect to other groups of individuals. Secondly, there is always the danger that a member within the group will act contrary to the good of the group if such a time occurs when it would be advantageous to them. Hobbes concludes that simple consent to direct all actions towards a common goal is not enough for the necessary security. What is also required is that individuals "may by fear be restrained, lest afterwards they again dissent, when their private interests shall appear discrepant from the common good" (Hobbes 1949, 65).

This required fear can only be obtained if each person consents to "subject his will to some other one, to wit, either man or council". This is done when "each one of them obligeth himself by contract to every one of the rest, not to resist the will of that one man, or council, to which he hath submitted himself". In doing this, each individual conveys to the man or council "the right of his strength and faculties; insomuch as when the rest have done the same, he to whom they hath submitted hath so much power, as by the terror of it he can conform the wills of particular men unto unity and concord" (Hobbes 1949, 67).

This union is called "civil society" or "commonwealth", and is a "civil person" with its own will, separate from the particular wills of individuals, and has its own rights and properties (Hobbes 1957, 112). The person or council, in whom the will of all is invested, has "supreme power" which is absolute (Hobbes 1949, 68). It is called the "sovereign" (Hobbes 1957, 112). Since everyone may disagree on what is just, unjust, good, evil and so on, this supreme power has the right to "make some common rules for all men, and to declare them publicly, by which every man may know what may be called his, what another's, what just, what unjust, what honest,

[17] As Warrender says, "though the State of Nature is a state of general insecurity, it is not a state of total insecurity, and there are secure positions or 'situations' within it" (Warrender 2000, 64).

[18] Hobbes accepts that civil society is not a totally secure situation, and hence he thinks a person can defend themselves from attacks by the sovereign on their life.

what dishonest, what good, what evil" (Hobbes 1949, 74). These rules comprise *civil law*. However, the sovereign does not have the right to command everything, for it is not necessary for man in the state of nature to lay down all their rights for a peaceful commonwealth to exist. Thus Hobbes points out that in civil society I am not obliged to kill myself even if the sovereign tells me to (Hobbes 1949, 61).[19]

The supreme power also has the "right of punishing" transgressors of civil law. Individuals enter civil society for peace and security, but security can only be achieved through fear—fear of punishment if the laws are transgressed.[20] The supreme power also has the "right to arm, to gather together, to unite so many citizens … as shall be needful for common defence against the certain number and strength of the enemy; and again … to make peace with them" (Hobbes 1949, 73). Security will not be obtained for the citizens if there is a continuous fear of conquest by those outside the society.[21]

2.2.3 Natural and Civil Law

What exactly is the connection between natural law and civil law? For Hobbes, "civil and natural law are not different kinds, but different parts of law; whereof one part being written, is called civil the other unwritten, natural" (Hobbes 1957, 174). The problem with natural law is that it is too ambiguous (Hobbes 1949, 162).

> All laws, written, and unwritten, have need of interpretation. The unwritten law of nature, though it be easy to such, as without partiality and passion, make use of their natural reason, and therefore leaves the violators thereof without excuse; yet considering there be very few, perhaps none, that in some cases are not blinded by self-love, or some other passion; it is now become of all laws the most obscure, and has consequently the greatest need of able interpreters (Hobbes 1957, 180).

What one person may consider contrary to natural law, another may consider prescribed by the law; for in the state of nature, the "knowledge of good and evil belongs to each single man". Civil law, therefore, provides a yardstick independent of the subjective views of the citizens. It removes the ambiguities found in the laws of nature, and so civil laws become the "rules of good and evil, just and unjust, honest and dishonest" (Hobbes 1949, 128).[22] Sovereigns, having the right to make civil laws, are no more than "interpreters of the laws" of nature (Hobbes 1949, 189).[23] Different civil societies may have distinct civil laws, even though they are all based

[19] Susanne Sreedhar argues further that it is the right of self-defence that is retained in Hobbes's commonwealth (Sreedhar 2010). See also David Dyzenhaus (2001).

[20] The supreme power cannot be punished for anything, for if it was it would not be the supreme power, as there would be something with power over it (Hobbes 1949, 76–80).

[21] Security for Hobbes is more than the security of the person; it includes the safety of "all other contentments of life" (Hobbes 1957, 219).

[22] See also Hobbes (1957, 104).

[23] See also Hobbes (1957, 180–182).

upon the same laws of nature. The reason for this is that each sovereign has interpreted the natural laws differently. But *within* each society, civil laws provide a standard interpretation of the laws of nature, thus removing the disagreements which result from individuals interpreting the natural laws themselves.[24] "Theft, murder, adultery, and all injuries are forbid by the laws of nature; but what is to be called theft, what murder, what adultery, what injury in a citizen, this is not to be determined by the natural, but by the civil law" (Hobbes 1949, 81). Although civil law is simply a codified version of natural law, its purpose is to remove the ambiguities of the latter.

Sovereignty, therefore, removes two ambiguities found in the unwritten laws of nature. Firstly, it removes the ambiguity found in the interpretation of the law of nature itself—civil law provides a standard interpretation applicable to all under its jurisdiction.[25] Secondly, it removes ambiguity arising from insecurity. The laws of nature only oblige *in foro externo* when there is sufficient security. Whether this exists is subjective—I might believe there is sufficient security in a situation, whereas you might not. Sovereignty removes this subjectivity by providing an enforcer of the law upon which all can equally rely.

Finding a consistent analysis of various aspects of Hobbes's political theory is challenging because his writings are often ambiguous. One problem with the above analysis is that it seems to conflict with several aspects of his description of the state of nature, for example with respect to property and justice.

(i) Property: Hobbes says that in the state of nature, everyone has a right to all things, and hence there is no such thing as property (Hobbes 1957, 83). However, he then says that theft is forbidden by the law of nature. But surely theft presupposes property. If there are merely possessions, and everyone has a right to all things, how then can there be theft?

It may be that what Hobbes means when he says that there is no property in the state of nature is that there are no *objective* rules governing ownership. As each individual can interpret the laws of nature differently, who is to say what property is, and therefore who is to say what constitutes theft? This is not to say that there is no such thing as theft and that it is not contrary to the law of nature. Rather, it is only when a sovereign provides a clear and objective interpretation of natural laws, through civil laws, that property rights become concrete and theft can be identified as a crime.

(ii) Justice: Hobbes says, "before there was any government, just and unjust had no being". Sovereigns "make the things they command just, by commanding them,

[24] Warrender gives a similar interpretation of the connection between civil and natural law (Warrender 2000).

[25] This is one reason why Hobbes thinks that monarchy is better than democracy. For in a democracy, every representative has a different interpretation of the laws of nature, whereas with a monarchy there is only one interpretation, and hence less ambiguity (Hobbes 1949, 123). For other reasons for this preference see Hobbes (1957, 122–123). For a discussion of Hobbes's views of monarchy see Leo Strauss (1936, 59–61).