

We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article 1.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and seven Years a Citizen of the United States, and, when elected, shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and including Indians and Towns three fifths of all other Persons. The actual Enumeration shall be made within three Years after they first meet, and within every subsequent Term of ten Years, in such Manner as they shall direct. The Number of Representatives shall not exceed one for every thirty thousand, and each State shall have at least one Representative; and each State's Numbers shall be made as near the Proportion as may be practicable.

Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

When vacancies happen in the Representation from any State, the Governor thereof shall fill the Vacancies by electing Representatives.

The Times, Places and Manner of holding the said Elections, shall have the Authority of the Legislature of each State.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for a Term of six Years; and they shall have no Powers.

Immediately after they shall be assembled in Congress, they shall be divided into three Classes. In the first Class, one third of the Senate shall be chosen; in the second Class, one third; and in the third Class, one third. When vacancies happen in the Senate, the State Legislatures shall fill the Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

The Vice President of the United States shall be President of the Senate, provided he has no Particular Interest in any of the Business before them.

The Senate shall choose their other Officers, and also a President pro tempore in the absence of the Vice President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold Office; but may extend to any other Punishment, which may be deemed proper; and no Person acquitted on one or more Impeachments shall be liable to be impeached a second Time; and no Person convicted shall be liable to be impeached a second Time.

Section 4. The House Representatives and Members of holding Elections for Senators and Representatives, shall be qualified in each State by the Legislature thereof; the Congress may place on them such Qualifications as it shall think proper.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday of December, unless they shall by Law appoint a different Day.

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business, but a smaller Number may nevertheless adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, and with the Concurrence of two thirds may suspend its Members.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy.

Each House shall be the Judge of the Pardon of its Members, but shall not extend to the Pardon of any Person except its Members.

Number 3

Social Contract Theories

**The Handbooks of Moral and Political Philosophy
Three - Social Contract Theories
by Roger Solt**

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The Handbooks of Moral and Political Philosophy



Number 3 Social Contract Theories

INTRODUCTION

How did government come to exist? What makes laws legitimate? Is there a duty to obey just (or even unjust) laws? Is there a right to resist or to revolt against an unjust government? Questions like these are the staples of political philosophy, and over the thousands of years these and similar issues have been debated, a wide variety of answers has been offered. During the modern era, one of the most popular sets of answers to these questions has revolved around the concept of a social contract, and it is with this set of approaches, commonly referred to as contractarianism or contractualism, that this volume is concerned.

Probably the first thing which should be noted about social contract theory is the wide range of forms which it assumes. Even a quick glance at the major classical social contract theorists--Hobbes, Locke, Rousseau, and Kant--reveals great differences among their theories. Whereas Locke is the classic exponent of limited government, Hobbes and Rousseau are commonly seen as exponents of government absolutism. If many see Locke as the grandfather of modern liberalism, others see Rousseau as the grandfather of totalitarianism. Similarly, contemporary social contract theorists, such as Rawls, Scanlon, Gauthier, and Narveson, draw conclusions from contractarian premises which are often diametrically opposed. Rawls, for example, offers the definitive defense of the modern liberal welfare state, whereas Gauthier and Narveson defend a minimalist, libertarian state which would engage in little or no income redistribution.

There are a number of other important ways in which contract theories differ. First, some theories deal with the formation of society, whereas others deal with the formation of government. Rousseau, for instance, saw humans as existing naturally in a presocial state. Hobbes makes a similar point in his famous statement that in the state of nature life was "solitary, poor, nasty, brutish, and short." Modern anthropology has largely refuted the idea that there was a presocial state of natural solitude; humans, it seems, have always been social beings. But it seems more plausible to claim that there was once a period in which no government existed, at least no government which took the elaborate form of the modern state. And indeed, most social contract theories are really government contract theories, that is, theories concerning the establishment and legitimate scope of governments, rather than theories of a social contract per se.

Second, while the social contract is often seen as an actual historical event, it is more common, at least among contemporary contract theorists, to see the contract as a hypothetical one. Even if most actual states were formed in ways other than explicit contract, the contract device can be useful as a means of testing the justice of laws and institutions. According to Rawls, just institutions are those which we would select in a hypothetical social contract situation in which one knew the basic facts about one's society but not one's own particular characteristics or place in that society. Since many of the criticisms of social contract theory relate to its historical implausibility, the distinction between historical and hypothetical contracts is an important one.

Third, whereas some contract theories offer a rationale for obeying government, others offer a justification for resisting government. Hobbes argued that an absolutist social contract was essential in order to produce peace; as a result, he believed that citizens have a duty to obey pretty much any government which happened to be in power. Locke, in contrast, produced his contract theory mainly in order to justify the glorious revolution of 1689 in which James the Second of England was deposed and replaced by William and Mary. Jefferson, of course, made similar use of contract theory in justifying the American revolution. Actually, most contract theories offer justifications for both resistance and obedience. There is a duty to obey a just government which one has contractually endorsed; on the other hand, there is a right to resist an unjust government--that is, one not based on consent.

A fourth distinction is between explicit and tacit contracts. Governments are occasionally established by explicit contracts, the American constitution serving as one example. On the other hand, few citizens even of modern constitutional democracies take an explicit oath to obey their government. Instead, it is argued, that most citizens form a tacit contract; that is, they implicitly (through residence and accepting government benefits) agree to the prevailing social contract.

Fifth, it is also important to distinguish between limited and absolute contracts. As suggested above, Hobbes and Rousseau extend to the sovereign (the ruler) almost unlimited power. For Locke, on the other hand, government is instituted in order to protect lives, liberty, and property, and its legitimate powers are confined by the ends for which it was established. Among modern contract theorists, Rawls is sometimes argued to be something of an absolutist. Once in society, individuals' property and even their talents become collective resources to be utilized for the common good and especially the good of the least advantaged members of the society. In contrast, Gauthier and Narveson propose much more limited, Lockean contracts in which individual property rights receive much more respect.

Given all of these differences, what do social contract theorists have in common? First, they all agree that legitimate government is grounded in at least some form of consent. Second, social contract theories tend to be individualistic, at least in their starting points. (Even for Hobbes and Rousseau, it is individuals who come together to form society.) Third, contract theorists tend to be rationalists. The contract is seen as the result of a rational decision making process.

The differences and similarities among contract theorists mean that particular contract theories are subject to both internal and external critiques. Locke, for example, takes over a number of features from Hobbes' contract, but he is also one of Hobbes' most forceful critics. Likewise, Gauthier's theory has a good deal in common with Rawls' (Both, for example, draw on game theory in explaining how their hypothetical contractors would come to their conclusions), but Gauthier's work is at the same time both an explicit and an implicit critique of Rawls' position. The external critics of contractarianism, that is, those who operate completely outside the social contract framework tend, on the other hand, to attack many of the common assumptions on which contract theorists rely. Thus, Marxists and communitarians attack the individualistic perspective of contract theory, while many feminists and postmodernists attack its rationalism.

In the remainder of this introduction, I intend to review the major arguments for and against contractarianism. I will do this by discussing the major contract theorists and then by considering the major critical perspectives opposed to the contract tradition. I will conclude with a few comments on the social contract perspective as an argument in academic debate.

MAJOR CONTRACT THEORISTS

- HOBBS

The idea of the social contract has a long intellectual history. Michael Lessnoff traces the idea of a social contract back to a medieval author named Manegard of Lautenberg, who wrote about the social contract sometime around 1080. Other authors go even further back, finding elements of contractarian thought among the ancient Greeks and Romans as well as such early Christian writers as Saint Augustine. But wherever one begins, it is clear that social contract theory did not begin with Hobbes, whose famous book, *LEVIATHAN*, was first published in 1651. Social contract notions had been widely employed from the Renaissance on, and contract theory had a number of important exponents before Hobbes. Hobbes, however, was the most modern as well as the most philosophically rigorous of these early contract theorists. As a result, his idea of the contract remains influential long after such authors as Manegard have been relegated to footnotes.

Hobbes' political theory derives from his view of human nature. Humans, according to Hobbes, are naturally competitive and self-seeking individuals. The result is that in "the state of nature" (the world without government), they are engaged in incessant wars. From Hobbes' perspective, this is extremely undesirable, because for him the ultimate human value is self-preservation. Thus, the social contract is basically a means to produce peace and thereby preserve life. In order to accomplish this goal, government must have virtually unlimited power; unless government possesses the strength of Leviathan, it will lack the necessary means to preserve peace. Many have argued that such an absolutist state poses a major threat to freedom, but this is a tradeoff that Hobbes is perfectly willing to make--he explicitly prefers security to liberty.

It is easy to attack Hobbes' defense of absolutist government, but it is important to remember the historical context in which it was written. The middle decades of the seventeenth century were the era of the English civil war. Charles the First was deposed and executed by the army of Oliver Cromwell, and Cromwell ruled as the "Lord Protector" of England for the better part of twenty years. In a broader historical scale, the Thirty Years War devastated Europe. Between 1618 and 1648 something like a third of the population of Europe may have perished. Thus, in the world which Hobbes experienced, life indeed was poor, nasty, brutish, and short, and his desire to achieve security through an all-powerful sovereign state is an understandable one. Whether such an all-powerful state would indeed provide security is, however, another question.

Hobbes' political theory has been the subject of much criticism. First, it is commonly argued that the Hobbesian state would be intolerably oppressive. Preserving life is not the only important value; liberty, according to Locke and his followers, is also essential to the human good. Second, it is far from clear that Leviathan even offers security. In the twentieth century, in particular, absolutist states have murdered tens of millions of their citizens. Third, it is argued that Hobbes' view of human nature is unsound. Humans are naturally cooperative as well as competitive. Fourth, because his view of human nature is one-sided, Hobbes' defense of ethical egoism (the belief that each person should pursue his or her own rational self-interest) is also flawed. Humans can be altruistic as well as aggressive; they possess natural sympathies as well as natural animosities. Given this, it is arguable that ethics should be more concerned with codifying our moral treatment of others rather than with articulating the principles of prudential self-interest. Fifth, it is questionable whether ethical egoism can really provide a basis for political obedience. Although the rational egoist might well prefer that everyone else obey the law, it might equally well be rational for him or her to make an exception of him or herself. It is sometimes argued that the rational egoists of Hobbes' state of nature would therefore be incapable of ever agreeing on a social contract or effectively carrying it out.

Overall, the objections to Leviathan seem compelling, especially the first two. On the other hand, Hobbes does have his contemporary defenders. Gauthier draws heavily on Hobbes' ethical views in order to justify his own very different social contract. And William Ophuls has argued that conditions of ecological scarcity require the abandonment of Lockean liberalism in favor of a more Hobbesian approach to politics.

- LOCKE

John Locke's social contract theory was articulated in his *SECOND TREATISE OF GOVERNMENT*, first published in 1690. Locke borrows from Hobbes the concept of a state of nature prior to the establishment of government, and although Locke's state of nature is less violent than Hobbes', it too possesses sufficient "inconveniences" that its abandonment is desirable. For Locke, the state of nature isn't synonymous with the state of war, but clearly one of its greatest inconveniences is that it is especially prone to break down into war. Thus, the preservation of life, liberty, and property all require the establishment of government. Government, however, cannot be absolute or arbitrary; otherwise, it risks the destruction of the values it was invented to protect. Since government is designed to protect the natural rights of life, liberty, and property, when it fails to do so, the members of society have a right of revolution against the government which has failed in its side of the contract.

In addition to the idea of limited government and the right of revolution, perhaps the most important idea which Locke develops is the concept of natural rights. For him, these are rights which one possesses in the state of nature; they are prior to society and they are not sacrificed when one enters into the social contract. Rather, the contract is designed to protect these rights. For Locke, the basic natural rights are to life, liberty, and, most controversially, property. In his defense of property rights, Locke develops a labor theory of value. One acquires a just claim to property because one has mixed one's labor with it. Thus, it is by employing and improving nature that one gains a title to it. Locke is also important as an early democratic theorist. Once the contract has been established, decisions under the contract are to be made by majority rule.

Though Locke's theory lacks the decisive difficulties associated with Hobbes', it too has been criticized. Even more than most social contract theorists, Locke seems to rely on the existence of an actual historical contract to justify his position, and the idea of a historical contract has been pretty generally discredited. Second, it is also frequently argued that there are no rights in nature, that rights are conventional rather than natural, existing only when they are recognized by some government. Third, Locke's strong defense of property rights is criticized as a rationalization of capitalism. This criticism can be exaggerated--Locke's writings predate the capitalism of the industrial and postindustrial eras. But Locke clearly does construct a contract which is highly attentive to the interests of the upper classes, and liberty rather than equality is definitely his primary value. Another argument against Locke's theory is that it leads to political and social instability. By insisting on a right of revolution, public authority is conceivably undermined, encouraging political violence.

- ROUSSEAU

Jean-Jacques Rousseau published *THE SOCIAL CONTRACT* in 1762, and whereas Locke's theory strongly influenced the American revolution, Rousseau became the intellectual fountainhead of the French Revolution. Rousseau is a complex and perhaps self-contradictory thinker. He was certainly a man of many dimensions, and it was this multiplicity which made him the most influential thinker of the eighteenth century. His influence manifested itself in philosophy (through Kant), in literature (through romanticism), and in politics (through the revolution of 1789 and later through Marx). He sought to reconcile liberty and equality, freedom and security, justice and utility. Most doubt that he succeeded in this ambitious project, but at least he was highly sensitive to the range of human interests at stake in political philosophy.

Rousseau believed that humans were naturally good and that they were corrupted by society. But despite his romantic affection for "the noble savage," Rousseau believed that there was no going back to the primitive state of nature. The challenge, therefore, was to find a form of government in which the vices of society could be checked and human nature could flourish. Rousseau, it should be noted, had both a historical and a normative theory of the social contract. As a matter of history, he believed that government was mainly created to serve the interests of the rich--thus his famous statement that while men are born free, they are everywhere in chains. In contrast, the contract which Rousseau defends is a hypothetical one, one which would be based on mutual consent, rather than coercion.

For Rousseau, the contract exists to promote life, liberty, and equality. In Rousseau's contract, the people always remain sovereign. In forming government, they come together, renouncing all of their natural freedoms and receiving in exchange both security and the ability to participate in the political direction of society. Though Rousseau criticizes what he called "democracy," by contemporary standards, his contract seems highly democratic since the people retain ultimate sovereignty. His contract also seems relatively egalitarian. He opposes extreme inequalities in wealth because he believes they will corrupt political institutions. Rousseau also claims to protect liberty--this, however, is a far more controversial claim. For authors of a liberal persuasion, Rousseau essentially establishes a tyranny of the majority. While he insists on political freedom, there are really no checks on what the political sovereign can do to limit personal or economic freedom. What seems clear is that Rousseau is willing to sacrifice "negative freedom" (the absence of external restraints) to achieve his notion of positive freedom. For Rousseau, as for Kant, freedom is the obedience to a self-imposed law. Thus, when one enters into the social contract, s/he commits him or herself to obey the sovereign power of which one is fractionally a part. Since for Rousseau freedom is achieved by fulfilling one's commitments, his paradoxical statement that people can be forced to be free makes at least a little sense. They are forced to be free in the Kantian sense of carrying out their self-imposed duties.

The main problem here is that this concept of positive freedom (found also in Hegel and Marx) has tended historically to lead to tyranny. (Sir Isaiah Berlin has made this argument most forcefully in his classic essay on the two concepts of liberty.) Positive freedom, whether to defer to the Hegelian state or to fulfill one's "species essence" as a Marxist worker has tended empirically to look a lot like slavery. And it is probably not coincidental that the French Revolution which Rousseau did so much to inspire rapidly broke down into despotism. It is probably the case that Rousseau, who was in many ways a fervent individualist, would not have approved of many of the uses to which his political theory has been put. Still, the absolutist nature of his contract seems to inevitably dispose it to abuse.

- KANT

The last of the classic contract theorists was the German philosopher, Immanuel Kant. Kant's major works were mainly produced in the 1780s--this includes his three major critiques, of pure reason, practical reason, and judgment, as well as other works on ethics and epistemology. His political writings, many of which date from the 1790s, are less well-known, but have still proved influential. John Rawls, for example, defends a highly Kantian contract theory.

Kant's theory is explicitly hypothetical. It uses the contract as a conceptual device for evaluating the justice of laws. Second, Kant's contract is an expression of his overall ethical view. For him, moral duties are absolute in the personal realm, and, likewise justice and right are absolute in the political domain. Furthermore, the hypothetical contract is the means by which the principles of justice are to be determined--just laws are those which one would consent to in a hypothetical contract.

As far as its substantive dimensions, Kant's contract theory seems relatively liberal. He defends freedom as a preeminent value, supports property rights, and opposes paternalism. He also advocates a republican form of government based on separation of powers. Unfortunately, Kant's contract has at least two extremely illiberal features. First, he defends a concept of passive versus active citizenship. Neither women nor workers would be allowed to vote under Kant's contract because they are passive rather than active citizens. Second, Kant believed that the people have an absolute duty to obey government--even a tyrannical one. The rationale for this was related to Kant's concept of the categorical imperative, which in one formulation states that people should only act on principles which they would be willing to see universalized. Thus, presumably, any disobedience to government would justify all disobedience to government, an outcome which Kant finds unacceptable. It seems clear that Kant wanted government to respect the rights of its citizens, but if government fails to do so Kant leaves the citizenry no real recourse. Thus, the Nazis who claimed at Nuremberg to have been following Kant's ethic by carrying out the universal duty to obey orders were not totally unjustified. Of course, for most people this defense does more to indict Kant than to exonerate the Nazis.

A fuller discussion of Kant's moral and political philosophy are found in the introduction to THE HANDBOOKS OF MORAL AND POLITICAL PHILOSOPHY, Volume One.

- RAWLS

After its heyday in the seventeenth and eighteenth centuries, social contract theory went into a long period of eclipse. Over the past twenty-five years, however, it has enjoyed a marked revival, a revival which was largely precipitated by the publication of Harvard philosopher John Rawls' book, A THEORY OF JUSTICE, in 1971. Since I have discussed Rawls at some length in THE HANDBOOKS OF MORAL AND POLITICAL PHILOSOPHY, Volume Two, I will mainly limit my remarks here to Rawls' contractarianism.

Rawls uses the social contract device in order to justify his principles of justice. He argues that just principles are those that we would agree to in a hypothetical social contract situation which he calls the original position. In the original position, one is aware of the general facts about one's society, but one is not aware of one's own particular values or one's particular place in society. Rawls employs this device, which he calls "the veil of ignorance" in order to assure impartiality. In such a choice situation, Rawls argues, two principles of justice would be selected. The first is the equal liberty principle, which states that liberty should be maximized for each individual consistent with the equal liberty of everyone else. Second, Rawls argues for what he calls the difference principle. This states that any economic differences (in income and property) are only justified if they maximize the welfare of the least advantaged members of society. Thus, Rawls would allow some inequality, but only if it resulted in generating enough additional wealth that everyone would benefit. Obviously, this could only occur if the tax system is used extensively for income redistribution. Finally, as a kind of qualifier to the difference principle, Rawls insists on what he calls the principle of fair equality of opportunity.

Rawls' theory has been highly influential and it has many admirers. But it also has numerous critics. Conservative and libertarian critics indict his theory as overly egalitarian. Rawls, they argue, treats people's property and even their talents as a kind of collective asset which society can dispose of as it chooses. The result is that Rawlsian justice could easily degenerate into tyranny. In contrast, the Marxist left indicts Rawls as insufficiently egalitarian. Even if inequality generates more income, they argue, this isn't worth the price it exacts in terms of diminished self-respect on the part of the lower classes. They also indict Rawls for placing a priority on liberty at the expense of economic welfare. Finally, there is also a highly influential communitarian critique of Rawls which is also an indictment of the whole idea of a hypothetical contract. Hypothetical contracts fail, the communitarians argue, because they ignore the real social context in which decisions are made. People are not abstract, impartial decision makers. Rather, they are embedded persons, who exist within a social framework of projects and commitments. And, according to this line of thought, it is precisely this social context which the veil of ignorance forces us to ignore. A related objection is that Rawls' contract is essentially question begging. That is, the answer to the choice situation which Rawls proposes is essentially predetermined by the assumptions he builds into his model. Since Rawls assumes liberal values, he not surprisingly generates liberal conclusions concerning the nature of justice.

Rawls responded to some of these criticisms in a 1993 book, *POLITICAL LIBERALISM*. One of his main points of defense is to argue that his theory does not assume a comprehensive theory concerning the nature of the good life. Rather, it offers a purely political theory relating to how people with fundamentally different world views can come to agree on the common political principles necessary for a pluralistic society to function. For most of Rawls' critics, this defense seems insufficient. Even a fellow liberal such as Ronald Dworkin has argued that Rawls' principles aren't really neutral with regard to competing world views. Thus, Dworkin argues that an essentially procedural liberalism such as Rawls' can't produce a viable theory of justice. Rather, liberalism needs to offer a comprehensive theory of the good life; it is only on the basis of such a theory that liberal principles can be justified.

- GAUTHIER

David Gauthier, a philosopher at the University of Pittsburgh, has offered an alternative social contract theory very different from Rawls'. In his 1986 book, *MORALS BY AGREEMENT*, Gauthier defends a basically Hobbesian ethical system. People are assumed to be rational egoists, concerned first and foremost with advancing their own welfare. This need not, however, according to Gauthier, preclude social cooperation. Because cooperation generally benefits both parties, it is rational to cultivate a disposition to cooperate with those who will reciprocate one's cooperation. But the purpose of that cooperation is not altruism--it is mutual advantage. Thus, Gauthier rejects the Rawlsian welfare state and instead places primary emphasis on the free market. The result is a theory of the social contract which is essentially libertarian, one which draws on Hobbesian premises to reach essentially Lockean conclusions.

The most basic indictment of Gauthier concerns his ethical egoism. It is essentially the same argument that is directed against Hobbes: humans are altruistic as well as self-interested, and ethics must be concerned with benevolence as well as mutual advantage. Secondly, Gauthier is commonly argued to possess an overly rationalistic view of human nature. It is claimed that humans rarely engage in (nor should they engage in) the kind of rationalistic calculations which Gauthier's theory prescribes. Another problem concerns the biases Gauthier allows in his social contract bargaining situation. Unlike Rawls, Gauthier provides no veil of ignorance; his bargainers know their tastes and talents, their interests and social status. The result is that the wealthy and talented enjoy a considerable advantage over the poor and inept. Finally, it is not clear that this kind of libertarian contract is one which the poorer members of society would ever agree to.

CRITICS OF THE CONTRACT

HUME AND THE UTILITARIANS. One of the most influential criticisms of the social contract perspective was advanced by the Scottish philosopher David Hume in a 1748 essay titled, "Of The Original Contract." Hume makes a number of arguments, but two seem to be especially powerful. The first indicts the historicity of the contract. All existing states, he argues, were based not on consent but on force. Thus, as a historical theory, contractarianism is bankrupt. Hume's second indictment goes more directly to the heart of such hypothetical contract theories as Kant's and Rawls'. Obedience to a given government, Hume argues, should not be based on consent. Rather it should be based on a utilitarian calculation of the costs and benefits of not complying.

For the most part, obedience is justified because obedience is in one's self-interest. Utilitarians such as Jeremy Bentham regarded Hume's arguments as devastating. And indeed the rise of utilitarianism at the end of the eighteenth century began a period in which contract theory was at its lowest ebb. But over the past several decades, utilitarianism has run into increasing difficulties of its own. (Utilitarianism is discussed at some length in THE HANDBOOKS OF MORAL AND POLITICAL PHILOSOPHY, Volume One.) Indeed, the revival of contract theory in part reflects increasing disenchantment with utilitarianism. Thus, for the present, at least, the utilitarian criticisms of the contract enjoy less popularity than they once did.

- HEGEL

Another prominent critique of contractarianism was advanced by G.W.F. Hegel, a German philosopher who flourished in the early nineteenth century. Hegel's arguments in many ways parallel those advanced by contemporary communitarians. Hegel argued against the historical nature of the contract, claiming that historically community precedes contract and that contractualism neglects human beings' inherently social nature. Hegel argued further that contractual rights are inherently private--they involve claims of one person against another--whereas the state is based on rights of a public nature which can't be reduced to simply private rights. For Hegel, the state is an end in itself; he saw the state and the rule of law as the ultimate embodiments of human reason. Thus, for him the state transcends the individuals who comprise its membership. The state has an organic integrity which is undermined by such highly individualistic notions as the social contract.

Hegel and his communitarian successors uphold the claims of the social collectivity against the claims of the individual. They believe that the individual finds meaning only within a social context and that excessive individualism undermines the collective ties which make society possible. A general discussion of communitarianism is found in the second volume of THE HANDBOOKS OF MORAL AND POLITICAL PHILOSOPHY. In terms of Hegel himself, at least two arguments are important to make. First, his notion of society and state as transcending their individual members may well be overly metaphysical. For liberals, a given society is simply the sum of its members, and to view society as more than this sum is a species of mysticism. Second, the Hegelian view may well lend itself to despotism. The veneration of the state above its individual members was a significant part of the ideology of fascism, and although the Nazis failed to share Hegel's respect for rule of law, they argued for a similarly communitarian conception of the German Volk. If, at its extreme, individualism may lead to personal alienation and the atomization of society, communitarianism can lead to the kind of tribalist excesses associated with contemporary Bosnia and Rwanda.

- MARXISM

Karl Marx was highly critical of the concept of a social contract, repeating many of the standard arguments concerning its empirical falsity and its neglect of the social nature of human beings. Another claim which Marx advanced, one which has been reiterated by contemporary Marxist thinkers such as C.B. Macpherson, is that contract theory serves as an ideological mask for capitalism. According to Marxism, capitalism is inherently based on economic coercion and exploitation of workers. The contract device, therefore, confers a spurious legitimacy on the capitalist state by creating an illusion of choice and employing a rhetoric of voluntarism. In fact, however, capitalism offers merely procedural freedom, not the substantive freedom which would be found in a classless socialist society.

These distinctively Marxist theses can be answered in several ways. One is to question their historical veracity. Hobbes and Locke wrote approximately a century before the real beginnings of the industrial capitalism which Marx made his lifelong enemy. Both contractarianism and capitalism reflect individualistic attitudes associated with the Protestant Reformation, but these two ideas are not simply reducible to each other. It is possible to support government by consent while rejecting capitalism. Second, the historical record of Marxism itself is extremely bloody. From the Stalinist Gulag to the killing fields of Cambodia, the Marxist contempt for procedural checks on government and for individual human autonomy has resulted in millions of deaths. And while capitalism has corrected some of the excesses associated with its early history, Marxism has yet to prove that it can exist with a human face.

- FEMINISM

A final critique of contractarianism has emerged in recent years based on the perspectives of radical feminism. Again, the feminist indictment of the social contract is based on both historical and normative claims. The historical failure of the contractarian view involves its neglect of issues of gender oppression. Among classical contract theorists, it is always men who form the social contract; women never agreed to such a contract and, indeed, the contract neglects their interests. Second, the contract is seen by some feminists as a distinctively masculine mode of thought. In place of an ethic of legal rationalism, feminists such as Carol Gilligan call for an ethic of care, one which recognizes human interconnectedness.

There are, of course, strands of liberal feminism which would reject most of this critique. In their view, the problem with the contract is historical rather than inherent. The problem is not with the basic idea of contract but rather with the failure to extend it far enough. A just society, in this view, is one to which women as well as men would consent. Interestingly, the view of government which Hobbes and Locke initially attacked was known as Patriarchalism--a defense of the divine right of kings based on the prerogatives of paternal power. Certainly from the standpoint of women's rights and interests social contract theory seems like an advance over this kind of perspective. Finally, it is at least arguable that the kind of liberalism with which the social contract has been associated has been indispensable in terms of advancing women's welfare. By this logic, to abandon rights and rationality risks all of the progress which has been achieved over the past two centuries.

SUMMARY

Taken as a whole, a number of themes run through the standard indictments of the social contract perspective. The first is that it is historically false--there never was an actual empirical contract. Second, hypothetical contracts arguably are lacking in force. What one might agree to in some hypothetical situation isn't binding on actual, concrete embedded individuals. This is especially so if the assumptions of the hypothetical contract are as implausible as those offered by Rawls. At most, hypothetical contracts only produce hypothetical obligations. Third, it is argued that the contract is essentially superfluous. Hobbes justifies his concept of government by appeal to the value of security; Locke justifies his views on the basis of natural rights. Given underlying values of liberty or security, morality or justice, utility or community, a certain theory is likely to emerge. In this view, it is these values which determine the nature of the state, and the concept of the contract (especially a hypothetical contract) adds no real explanatory power. Fourth, cultural relativists criticize the contract as assuming a distinctively Western perspective. The notion that there is one "right" view of the state, appropriate for all cultures at all times in their history is viewed as implausible and even ethnocentric. Fifth, many critics of contractarianism argue that it neglects the innately social nature of human beings. Since humans have always existed in society, there could never be an original social contract. Sixth, many authors also take exception to the distinctly rationalistic assumptions embedded in social contract theory. Robert Solomon argues that justice is ultimately grounded in such emotions as empathy and compassion, rather than simply in self-interested reason of the type defended by Hobbes and Gauthier. A seventh indictment comes from the environmentalist school of which William Ophuls is a representative. The basic argument of these neo-Malthusians is that present environmental conditions require an ethic which transcends anthropocentric self-interest and institutions which go beyond limited government. Finally, eighth, it is argued by some that the social contract doesn't really establish a duty of political obedience. Few individuals ever really agree to obey the state, and in world monopolized by nation states it is unclear that such consent could ever be truly voluntary. Thus, it is argued, there is at most a duty to obey just laws because they are just but not because of any overall duty to obey government grounded in a general contract.

Are these objections fatal to the theory of a social contract? Perhaps not. Many of the objections to contractarianism are answered by considering the contract hypothetical: a kind of thought experiment used in testing the legitimacy of laws and institutions. The concept of a state of nature--even if such a state never literally existed--explains why we would want to enter (or persist in) civil society. And the concept of a contract as a means of evaluating which laws we should choose to accept also seems useful. Perhaps such a hypothetical contract isn't binding, but it at least is suggestive concerning the nature of just institutions.

While most of the objections to the contract carry some force, they need not be fatal to what Michael Lessnoff has called a "modest" contractarianism. Perhaps the concept of a contract isn't useful for all cultures at all stages in their histories--still, the idea of government by consent of the governed has wide, if not perhaps universal, applicability. Even communitarians and radical feminists presumably favor government by consent. One can, of course, reject the language of a contract if that seems too rationalistic or individualist, but if the language of a contract is rejected, it seems that there will need to be some other equivalent language substituted in order to capture the values associated with consent, and it is unclear that any such new language would be much of an improvement.

The contract device need not deny human beings their social nature. It simply suggests that at this time in human history, human sociality should be organized in terms to which all (or at least most) can rationally agree. Nor need the contract be overly rationalistic. In Rawls' contract, for example, basic moral intuitions play a significant role in establishing the terms of justice. And surely reason has at least some place in political philosophy. If excessive rationalism has its deficiencies, political irrationalism, seen in forms ranging from hate crimes to the holocaust, seems even more destructive.

Perhaps the most compelling argument in favor of contractarianism is the lack of an appealing alternative. If liberal, democratic institutions are not without their faults, they have at least been less prone to the kind of genocidal slaughters perpetrated by the political heirs to Hegel and Marx. Contractualism is certainly not the only perspective from which questions of political theory can be fruitfully approached. But the question, would I rationally consent to this arrangement? is still a useful one. It is for this reason that the social contract tradition remains a vital one.

IMPLICATIONS FOR DEBATE

In a general effort to defend contract theory, it is easy to forget the range of contract theories which exist. (Indeed, the range of outcomes it permits may be an indictment of the theory.) In defending a contract viewpoint in debate, it seems important to specify what version of the social contract one is defending. Many of the arguments which can be made effectively against a Hobbesian or historical contract are far less fatal to a Lockean or hypothetical version of the theory.

Given the range of options here, it seems important to pin down exactly what version of the contract your opponents are defending. Otherwise, a good deal of time is likely to be wasted in attacking the wrong argument. It is also important to develop arguments which apply against the range of contract theories. Teams arguing against contract based approaches also need to think carefully about the alternative theory which they intend to defend. There clearly are a wide range of alternatives--feminist, Marxist, communitarian, even liberal egalitarian--but the alternative needs to be judiciously chosen and forcefully defended. Finally, the option of defending a different version of the social contract is one which should not be neglected. Some of the strongest criticisms of particular contract theories come from authors writing within the general framework of the theory. Representatives of the contract perspective can be found from virtually all points along the political spectrum, and if they agree in their basic contractarian approach, they will differ on almost everything else.

The concept of a social contract can easily be reduced to a caricature, and it can be debated on an incredibly superficial level. In fact, the contract tradition and the anti-contract tradition are both large and complex bodies of thought. Their mastery is likewise both challenging and rewarding.

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MPP3-1 CONTRACTUALISM DERIVES RIGHTS AND DUTIES FROM AN EXPLICIT OR IMPLICIT CONTRACT
 Vicente Medina, Professor of Philosophy, Bergen Community College, **SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?**, 1990, p.5.

Contractarianism is a theory which maintains that all of our basic political rights and duties are derived from some kind of explicit or implicit contract among a collection of individuals. Hence, the social contract is the act by which those individuals acquire all of their basic political rights and duties.

MPP3-2 THE CONTRACT OF GOVERNMENT AND THE CONTRACT OF SOCIETY ARE LOGICALLY DISTINCT
 Vicente Medina, Professor of Philosophy, Bergen Community College, **SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?**, 1990, p.6.

The two contracts, the contract of government and the social contract, are logically independent. Neither contract implies or presupposes the other. One may uphold the view that the foundation of society is grounded on a social contract without any reference whatsoever to the contract of government. Likewise, one may uphold the contract of government without any reference to the contractual origin of society. What the contract of government presupposes is the existence of some form of community, but whether such a community was originally founded on a social contract is a different question.

MPP3-3 THE SOCIAL CONTRACT DEFINES LEGITIMATE POLITICAL AUTHORITY

Michael Lessnoff, Professor of Politics, University of Glasgow, **SOCIAL CONTRACT**, 1986, p.2.

'Man was born free; and everywhere-he is in chains...what can make [this] legitimate?' asks Rousseau in the famous opening words of his first chapter. Rousseau's answer is - the social contract, or rather his version of it. The terms of legitimate political authority are the terms of this contract. Indeed, so political is the significance of the contract that its traditional name, used by Rousseau - the social contract - is a little misleading; 'political contract' would be a better term. At all events, this conception provides me with an operational definition of social contract theory, as a focus for the discussion in this book; a social contract theory is a theory in which a contract is used to justify and/or to set limits to political authority, or in other words, in which political obligation is analysed as a contractual obligation.

MPP3-4 CONTRACT THEORIES ARE VOLUNTARISTIC AND CONSENSUAL

Michael Lessnoff, Professor of Politics, University of Glasgow, **SOCIAL CONTRACT**, 1986, p.6.

Firstly, contract theory offers an account of political authority that is voluntaristic, that is, makes it dependent on acts of human will. Legitimate authority is legitimate because those subject to it have willed to be subject to it. But, secondly, this voluntarism is also consensual the theory postulates a consensus of wills among all those subject to a given legitimate authority, and this consensus is essential since we are dealing with authority exercised not over isolated individuals but over an entire society.

MPP3-5 CONTRACT THEORY IS INDIVIDUALISTIC AND RATIONALISTIC

Michael Lessnoff, Professor of Politics, University of Glasgow, **SOCIAL CONTRACT**, 1986, p.7.

Thus, thirdly, one important strand of contract theory, which may well be held to be the most important and the most typical, is a highly individualistic theory, grounding legitimate political authority on its acceptance by individuals. Reflection on these features at once indicates a possible strain within the theory. Is it plausible to suppose that there can be such a consensus of individual wills as to provide a viable foundation for authority? This is indeed a serious problem. The attempt at a solution leads to the fourth typical feature of social contract theory, which is rationalism. If the individual wills are not wilful but rational, it is postulated, consensus can be reached. None the less, there remains a tension within social contract theory between its voluntarism, which in principle respects people's choices, whatever they may be, and its rationalism, which supposes that their choices must follow very definite lines.

MPP3-6 CONTRACTUALISM CONTRASTS WITH POLITICAL NATURALISM

Michael Lessnoff, Professor of Politics, University of Glasgow, **SOCIAL CONTRACT**, 1986, p.8.

Naturalistic political theory contrasts both with supernaturalistic and with contract theory (though again surprising combinations are possible). Briefly, on this view, political life including authority is a natural growth which neither depends on nor calls for any self-conscious acts of human will. The most important and influential example of this attitude is Aristotelian theory, so pervasive in the later Middle Ages. According to Aristotle, man is by nature a political animal - *zoon politikon*. Men and women naturally came together to form households, households naturally amalgamated into villages, and several villages, finally, into a 'city' or 'state' (Aristotle, *Politics*, book 1, chapters 1 and 2). Aristotle's theory is teleological and therefore holistic; the entire evolution is governed by its end, and hence the final and most inclusive association the state - has priority over individuals and lesser associations. (As a matter of fact the medieval conception described by Gierke has much of Aristotelianism in it, but with the addition of a more inclusive supreme political unit and the substitution of God's will for nature). For Aristotle, each level of human association has its own function - that of the state is realisation of the good life. Hence, when Aristotle discusses various different forms of political organization he is concerned to assess them purely from this point of view, and not in the least in terms of any contract.

MPP3-7 SOCRATES' VIEW OF THE STATE WAS COMMUNITARIAN, NOT CONTRACTUAL

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.13.

Furthermore it may plausibly be suggested that Socrates be compared more fruitfully with modern communitarianism than with contractarianism. There is not the slightest implication that individuals have an identity apart from the community, nor that the community is the product of individual consenting wills. Indeed, the laws claim responsibility for shaping Socrates into the person he is, and even imply that in so far as they have made him, they own him, he is their servant and must obey.

MPP3-8 SOCIAL CONTRACT THEORIES DIFFER RADICALLY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.1.

Rather than provide a precis of the contributions to this volume, we want in this introductory essay to challenge one of the assumptions of similar commentaries on the social contract, namely that there is a single unified tradition or a single model or definition of the contract. Instead we identify a number of traditions in which the contract takes on a distinct character and serves a specific end. Social contract theories for the purpose of our discussion fall into three broad categories, moral, civil and constitutional. Whilst these are not mutually exclusive categories, there is nevertheless a tendency for one of these types to predominate in any one thinker.

MPP3-9 THERE ARE MANY VERY DIFFERENT SOCIAL CONTRACT THEORIES

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.2.

The idea of the social contract when examined carefully is seen to have very few implications, and is used for all sorts of reasons, and generates quite contrary conclusions. The reason why it is such a flexible tool in the hands of the theorist is that the choice posited, when one is posited, is variable. The choice may be to create society; civil society; a sovereign; procedural rules of justice; or morality itself. It may be a choice of contract that binds in perpetuity, or one renewed with each succeeding generation. The choice may be historical, ideal or hypothetical, its expression explicit or tacit, and the contractees may be each individual contracting with every other, individuals contracting with their rulers and God (and the various permutations to which such a combination gives rise), the heads of families agreeing among themselves, corporations or cities contractually bound to a superior, or the people as a body contracting with a ruler or king. Furthermore, the motivation for the choice may be a religious duty, personal security, economic welfare, or moral self-righteousness. We are not, then, confronted with one social contract, but with a variety of traditions, each adopting contractarianism for its own purposes.

MPP3-10 HOBBS, LOCKE, AND ROUSSEAU HAD RADICALLY DIFFERENT CONTRACT THEORIES

Murray Forsyth, Professor of International Politics, University of Leicester, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.35.

Perhaps the most perplexing problem raised by the doctrine of the social contract that emerged and flourished in Europe in the seventeenth and eighteenth centuries is that it produced political prescriptions that were profoundly at variance with one another. Thomas Hobbes, John Locke and Jean-Jacques Rousseau, the three classical expositors of the doctrine, developed concepts of the state that were scarcely compatible. The first endorsed the absolute state, the second the provisional state, and the third the moral state, or the state-as-church.

MPP3-11 ALL THEORIES OF JUSTICE CAN BE GIVEN CONTRACTARIAN FORMULATION

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.211.

In his book *Theories of Justice*, Brian Barry argues that there are basically two types of theories of justice: justice as mutual advantage and justice as impartiality. Both work from the intuitive idea of agreement or consent and thus both can be given a contractarian formulation.

MPP3-12 SOCIAL CONTRACT THEORY HAS ENJOYED A RECENT RESURGENCE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.1.

In recent decades the theory of social contract, long thought by many to be by now of purely historical interest, has enjoyed a spectacular rebirth. Primarily this has been a phenomenon of political and moral philosophy, yet it has manifested itself too at the level of practical politics. 'At the heart of our programme to save the nation lies the Social Contract'; these are the words of the manifesto published by the British Labour Party just before its victory in the election of October 1974 - the second general election of that year. It was a year that saw sharp economic and political crisis in Britain and elsewhere, which the redemptionist language of the manifesto reflects. In this crisis the nation was to look for its salvation to the social contract.

MPP3-13 CONTRACTUALISM REMAINS A VITAL STRAND IN CONTEMPORARY THOUGHT

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.29.

What should be clear from our account and the following chapters is the resourcefulness of the contractarian traditions in the face of fundamental criticisms of the sort posed by Hume, Hegel or modern feminism. However, it is also clear that the ideal of political life as an agreement on fair terms of association between individuals who have a recognized status as free and equal is a moral ideal that has a very deep resonance in modern culture, and it is one that has proved a great inspiration to those who do not enjoy the recognition of that status. Thus whilst Rawls may well have weakened his commitment to the 'original position' and Gauthier may also have retreated in the face of major criticisms, it would be foolishness indeed, to choose to write the obituary for contractarianism.

MPP3-14 THE SOCIAL CONTRACT IS A USEFUL METAPHOR

Charles Frankel, Columbia philosopher, *THE CASE FOR MODERN MAN*, 1956, p.31.

This conception of a "social contract" has been criticized on a number of counts, legitimate and illegitimate, and it has now been dropped from the liberal lexicon. But the idea of a "social contract" was at bottom a metaphor, and a peculiarly apt one. It expressed a social ideal, and the ideal persists. From the point of view of liberalism, membership in any association should never be absolutely irrevocable. The individual should always have a choice about his social affiliations.

MPP3-15 A MODEST CONTRACTARIANISM IS WORKABLE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.155.

Thus, a modest contractarianism incorporating a modified veil of ignorance seems workable. It can, perhaps, be taken further. It might be used, for example, to ground the Rawlsian basic liberties (though not necessarily their priority); that is, a hypothetical contract can be used to ground protection of these liberties, for societies which value them. This may sound like arguing in a circle - basic liberties should be safeguarded for those who value them, because they value them; but it is not. The argument escapes circularity through the distinction between values and the distribution of what is valued. Where members of a society, by and large, value liberty, the device of hypothetical contract plus (or including) a veil of ignorance yields the conclusion that (other things equal) what is valued should be distributed in a particular way. Whoever wants liberty is forced by the veil of ignorance to agree that everyone ought to have it.

MPP3-16 A MODEST CONTRACTARIANISM IS USEFUL AND JUSTIFIES OUR BASIC INSTITUTIONS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.157.

If the foregoing argument has any merit, it suggests that a modest hypothetical contractualism is not useless. We may use it to think about our own society, at least if our society exhibits a significant degree of consensus on values. I suggest that it does. Our attitudes to security, both physical and economic, to liberty and to the exercise of power are sufficiently similar to ground certain, rather general conclusions about their distribution. If it is permissible, as suggested by Mueller et al., to base a contractualist argument on the average attitude of our society in these matters, more specific conclusions can be derived. Broadly speaking, these conclusions constitute a justification of the political institutions of liberal democracy, the free market, and the welfare state.

MPP3-17 A MODEST CONTRACTARIANISM JUSTIFIES LIBERAL DEMOCRATIC INSTITUTIONS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.156.

But, by hypothesis (the hypothesis of modest contractarianism), we assume that our contractors value security (otherwise they wouldn't want government at all). Hence we have a contractarian argument for the usual liberal-democratic safeguards against abuse of power, and for a share in its exercise by ordinary citizens, for example, through representative institutions.

MPP3-18 THE GRADUAL DEVELOPMENT OF GOVERNMENT CAN STILL BE SUBJECT TO CONTRACTUALIST EVALUATION

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.69.

A set of institutional arrangements may evolve by gradual steps over a period of time; but if each step involves elements of choice, deliberation and purpose, then the whole process takes on an intentional flavour, becomes susceptible to intentionalist categories, and may be evaluated in terms of human purposes in the way that contract theory requires. This remains the case even if it is true - which it usually is - that the whole process was not the subject of anyone's intentions and that the overall direction of the development was unforeseen. That is not a reason to withhold intentional evaluation from each - and therefore all - of the steps in the process, since each step can at least be seen as the upshot of intentional human action, and all subsequent steps remain an open subject for our choice.

MPP3-19 THE CONTRACT IS AN IDEAL, NOT A HISTORICAL REALITY

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.51.

Modern contractarians accept without question that most of the social and political institutions which interest them are not in fact the upshot of any contract or agreement among those whose lives they affect. They are happy to repudiate ideas like the state of nature and the original contract as historical hypotheses, to regard them, in Robert Nozick's phrase, as 'fact-defective' characterizations, and to accept that the actual evolution of political society probably took an entirely different course from the one the contract image suggests. Many accept also that the legitimacy of the modern state and our obligations to it do not depend on the reality of our consent or voluntary submission. For example, John Rawls concedes, 'No society can . . . be a scheme of cooperation which men enter voluntarily in a literal sense; each finds himself placed at birth in some particular position in some particular society'. To the extent that it is used at all, the social contract is understood as a purely hypothetical construction: not an assumption of fact but, as Kant described it, 'merely an idea of reason' that generates the basis of a normative standard for testing laws and social arrangements. We do not ask whether the arrangements were in fact agreed to; we ask instead whether they could have been agreed to by people working out the basis of a life together under conditions of initial freedom and equality. If the answer is 'No', then we have a basis for condemning the institutions in question as incompatible with the very ideas of freedom and equality, quite apart from their actual origin or purpose.

MPP3-20 THE CONTRACT STORY IS A TOOL FOR MORAL EVALUATION, NOT A HISTORICAL DESCRIPTION

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.63.

The contract story is not intended as a historical description; it is intended rather as a moral tool for historical understanding. It is the function of the political anthropology to offer us an account of what actually happened; while the contract story offers us the moral categories in terms of which what actually happened is to be understood.

MPP3-21 THE STATE OF NATURE NEED NEVER HAVE EXISTED TO BE A USEFUL CONCEPT

John Charvet, Reader in Politics, London School of Economics, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.179.

Nevertheless, given the cosmopolitan's adherence to a system of universal individual rights the idea of the state of nature without political divisions must have logical priority over the reconstitution of the state within cosmopolitan theory. This does not involve the belief that the state of nature ever existed, or even could exist without complete disaster for the human race. Yet it is necessary to entertain this idea in its social form as described above in order to see whether the system of universal rights is compatible with the existence of a world divided into formal complete associations. We may immediately conclude from the contemplation of the idea that such associations are justified.

MPP3-22 CONTRACT IS A METAPHOR, NOT A LITERAL DESCRIPTION

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.2.

Before that, however, we need some sharper analysis of the concept of contract. Contract is a legal term, and the notion of the social or political contract postulates that political obligation is analogous to the legal obligation of a party to a contract. It must be stressed that this is an analogy, not an identity - it is not postulated by contract theorists that political obligation is a legal obligation. Indeed, since the function of social contract theory is to give an account of politically organised society ('civil society', as many theorists have called it), and civil law is itself one aspect of the latter, it would be manifestly absurd to base political obligation on law in this sense. Clearly it must rest on something prior to civil law; and the typical understanding of contract theorists has been that the contractual obligation they postulate is founded on natural law.

MPP3-23 THE SOCIAL CONTRACT TRADITION CAN BE REFORMULATED IN TERMS OF A HYPOTHETICAL CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.94.

The case of hypothetical contract is different, and is indeed available as a possible way of reformulating the whole social contract tradition up to Locke (and perhaps Rousseau also). Thus interpreted, social contract theorists are understood to assert that, in certain circumstances considered to be relevant to determining political obligation, individuals or peoples would agree to government according to certain terms (or perhaps better, would be willing to agree). The typical circumstance of this hypothetical agreement, in contract theory, is, of course, the state of nature, that is, a condition where men lack centralised government. On the present interpretation, the state of nature too could be considered to be a purely imaginable or hypothetical state of affairs, or as a possible one, or even as perhaps once actual.

MPP3-24 THE SOCIAL CONTRACT FOLLOWS FROM THE CONCEPT OF HUMAN RIGHTS

John Charvet, Reader in Politics, London School of Economics, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.178.

Let us suppose, then, that after entering upon the process of abstraction through which we arrive at the idea of our general human interests we also come to hold that we possess natural or human rights in respect of them; in other words, that persons as such, in virtue of being ends in themselves independently of their membership of particular communities, can claim rights to life and liberty and rights of access to resources. In that case we must believe ourselves to be immediately part of a universal ethical order the basic units of which are individual human beings with rights. The idea of such a universal order is given an initial elaboration in classic contractarian theory in the form of the notion of a state of nature. This notion has subsequently been much ridiculed, not least by those writers in the communitarian tradition. But it has been given powerful contemporary reformulations by Nozick and Gauthier, and can, I think, be shown to be a necessary implication of the idea of a world of natural or human rights.

MPP3-25 THE SOCIAL CONTRACT EXISTS TO PROMOTE INDIVIDUAL RIGHTS

George Kateb, Amherst Political Scientist, *DISSENT*, Spring 1986, p.169.

The agreement, the social contract, is made and sustained for the sake of individual rights. We do not exist for each other, that truly means that we do not exist for the sake of a mystique. We owe each other respect for rights, with all the duties attaching to such respect. If one gives up everything, it is not for the people, but for the rights of other individuals, including the unborn.

MPP3-26 CONTRACTUALISM CALLS FOR MUTUAL TOLERANCE AND LIMITS COERCION

David Wong, Professor of Philosophy, Brandeis, *DEFENDING DIVERSITY*, Lawrence Foster and Patricia Herzog, eds., 1994, p.13.

Thomas Nagel has argued for restraint in the coercive exercise of political power when one is engaged in a particular kind of intractable moral conflict. This liberal principle of tolerance gains support from the contractualist idea that one should not impose arrangements, institutions, and requirements on grounds that people could reasonably reject, that is, when the disagreement comes down to a "bare confrontation between personal points of view."

MPP3-27 ALL CONTRACT THEORIES ASSUME NATURAL FREEDOM

Murray Forsyth, Professor of International Politics, University of Leicester, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.38.

The core of the idea of equality which is embodied in the contract theory is not, however, man's power to kill, but rather the principle that all men are equally free. While - as we shall see - not all the classical writers agreed exactly on the meaning of this principle, they did agree on this: that each man, by right of nature, that is, by right of his human character, rather than through the mediation of other men, possessed the quality of freedom. Even Hobbes, who spoke of equality in the grimly physical terms alluded to, also spoke of man's inherent right to 'use his own power, as he will himself, for the preservation of his own nature'. More concisely and trenchantly, he wrote that 'all men equally, are by nature free'.

MPP3-28 THE CONTRACTUAL STATE ISN'T TOTALITARIAN OR MILITARISTIC

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.16.

It would be anachronistic to attribute to the contractarians who personified the state the totalitarian and militaristic implications that have become associated with the German realists Trietscke and Bernhardt. The person of the state for Pufendorf, to take just one instance, had the modest objective of ensuring the security of its citizens, and could have no justifiable expansionist ambitions. It was purportedly subject to natural law and should always be motivated by the general rule: 'Let the safety of the people be the supreme law'.

MPP3-29 THE SOCIAL CONTRACT WAS A HUGE ADVANCE IN HUMAN EQUALITY

Murray Forsyth, Professor of International Politics, University of Leicester, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.37.

But such criticism should not be allowed to obscure the main point, which is that the notion of a social contract implied and embodied a huge advance in the idea of human equality, and that the very ambiguity in the words 'men' and 'man', their simultaneous connotation of males and humanity, made it possible for the theory to be expanded beyond the limited assumptions of its founders. The emergence of the notion of the social contract is hence linked intimately with the emergence of the idea of the equality of human beings. It is the political expression of this idea, developing alongside, and interweaving with, the religious and economic expressions of it.

MPP3-30 CONTRACT THEORY SUPPORTS RULE OF LAW
Allan Bloom, Professor of Philosophy, University of Chicago, *THE CLOSING OF THE AMERICAN MIND*, 1987, p.319.

The contract theorists (from whose teachings the American form of government was derived) all taught that the law must never be broken, that the strength of the law is the only thing that keeps us away from the state of nature, therefore that risks and dangers must be accepted for the sake of the law. Once the law is broken with impunity, each man regains the right to any means he deems proper or necessary in order to defend himself against the new tyrant, the one who can break the law.

MPP3-31 CONTRACTUALISM AIDS IN UNDERSTANDING OPPRESSION

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.70.

Contractarianism has critical as well as legitimizing resources. The strength of the theory is that it provides a set of categories by which events like oppression and subjugation can be evaluated negatively, and with which attempts to draw doctrines of obligation, allegiance and legitimacy out of such a history can be resisted. It is explicit in the moral categories of contractarianism that, as Locke puts it, 'no-one can be . . . subjected to the Political Power of another, without his own Consent'. The setting up of political institutions by force, or the setting up or altering of institutions in a way that everyone could not possibly agree to, has no effect whatever so far as the establishment of obligation or political legitimacy are concerned.

MPP3-32 GOVERNMENTS ESTABLISHED BY FORCE CAN BE UNDERSTOOD IN THE CONTRACTUAL SCHEME

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.70.

Thus, viewing events through the template of the social contract story does not mean that we must view every stage in the history of our political development as a legitimate contractual step. It means simply that we should view it using contractarian categories, and that means treating each step either as though it involved elements of choice, consent and obligation, or as though it were an incident of force, oppression and the persistence of a right to resist) and drawing the appropriate conclusions. That is the choice that the contract approach gives us for each stage in the process of our political development. We make judgments, and the upshot of those judgments will contribute towards an estimation of our moral position in relation to the political system which is currently claiming our allegiance. No doubt this estimation will be very complicated, but of course it is no part of the contractarian philosophy to commit us to the view that political obligation and political legitimacy are simple and straightforward issues.

MPP3-33 CONSENSUAL STATES ARE CLEARLY MORE LEGITIMATE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.88-9.

Hume is clearly right that no existing state is directly founded on an original contract; nevertheless, one should consider separately the problems arising from 'usurpation and conquest' on the one hand, and from the peaceful continuation of states through successive generations on the other. It is, after all, open to the contract theorist to deny the legitimacy of states founded immediately or ultimately on violence, precisely on the ground that such states are not based on consent (Locke did just this) and while to Hume this leads to absurd (indeed dangerous) results, everyone is not compelled to agree with him. This remains an open question. It would be more difficult to deny the legitimacy of states which, at first founded on an original contract, continue peacefully through successive generations.

MPP3-34 CONTRACTUALISM JUSTIFIES A STATE GUARANTEED MINIMUM

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.152-3.

Is it then simply rational for everyone to agree to a state-guaranteed social minimum? Not exactly-this still depends on attitudes to risk, as does the level of the minimum (and concomitant redistribution) that it would be rational to choose. These attitudes vary from person to person, and from society to society. Nevertheless, we can still defend a modest hypothetical contractualism; a contractualism much more modest than traditional contract theory in the following ways. Firstly, in so far as it derives specific conclusions, it must be admitted that these will be applicable only to particular societies, not universally. For example, only for societies where economic security is relatively highly valued will the contractarian argument yield support for a social minimum. Secondly, the conclusions cannot be too specific - thus, even in a society in which people value economic security, not everyone puts the same value on it, and so there is no single level of social minimum that can reflect everyone's attitude. And thirdly, there are likely to be some people, even in such a security-minded society, whose attitudes to risk are so positive that, for them, acceptance of a social minimum is not rational at all. In sum, this modest contractualism can hope to be persuasive only to the great bulk of members of particular societies (not to all members of all societies), and can only lay down rather general prescriptions. Thus, a social contract argument applied to the countries of Western Europe in the late twentieth century - societies where economic security is highly valued - can be used to justify a relatively generous social minimum, but not at any specific level, and certainly not the 'maximum minimum' prescribed by Rawls. In the USA, perhaps, attitudes to risk are more positive, the desire for security less strong and widespread, and for that country 'modest' contractarianism prescribes a less generous minimum, or even conceivably none at all.

MPP3-35 CONTRACTUALISM JUSTIFIES SOCIAL SECURITY

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.153.

Now, there is a significant parallel between this argument for social security, and the traditional contractarian argument for government; the latter is, one might say, essentially that government makes life more secure (less risky) than in the state of nature - an argument compelling only to those who value security. There is, in other words, a formal similarity between the state of nature and the unregulated free market (which is not to agree with C. B. Macpherson that the contractarian argument of Hobbes presupposes such a free market)- both are highly risky situations in which men may seek security by setting up appropriate institutions. If, indeed, we may designate the market as natural - which it presumably is, in the sense of evolving spontaneously, rather than as a result of deliberate design - then such a free market can be considered analogous to the state of nature in a further sense, or even as part of a (hypothetical) state of nature. Just as a completely unregulated free market would be a predicament from which men would very likely wish to escape, but we cannot say exactly to what, so the same is true of the state of nature; we may plausibly argue that they would prefer government, but we cannot say exactly what system of government - whether Hobbes's, Locke's, Rousseau's, or Rawls's.

MPP3-36 CONTRACTARIANISM NEED NOT BE LIMITED TO WESTERN SOCIETIES

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.160.

Yet, in principle, the application of even modest contractarianism need not be confined to modern western society; it should be applicable to any society that recognises the need for a just resolution of conflicting individual interests. And if this is not quite a universal applicability, perhaps it ought to be.

MPP3-37 THE SOCIAL CONTRACT SEEKS THE WELFARE OF ALL, NOT JUST SELF-INTEREST

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.121-2.

In summary, so far as the issue of self-interest is concerned, social contract theory occupies what might be called a middle-of-the-road position. Up to a point, it appeals to the self-interest of the individual (and certainly does not call for self-abnegation), in so far as self-interest is assumed to be the motive for contracting. But the standard of legitimacy that it proposes is not the self-interest of any individual, but rather a (hypothetical) contract that promotes or reconciles the interests of all concerned. Thus the theory appeals not only to self-interest, but also to a due concern for the interests of one's fellows. It seeks to balance the equally legitimate interests of all. This fact, no doubt, accounts for the continuing popularity of the idea in present-day political discourse; and also makes intelligible the fact that the modern philosophical revival of contract theory has been, above all, as a theory of justice.

MPP3-38 CONTRACT THEORY DOESN'T STRESS HUMAN SELFISHNESS

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.119.

Reformulation of social contract theory in the hypothetical mode alters the picture in details, but not in essentials. It is true that there can then no longer be any reliance on the moral obligation to keep promises; rather, the obligation postulated is to accept, support or obey institutions that are in one's interest, as well as in the interests of all others affected. Thus interpreted, Hobbes's argument is that there is an (almost absolute) moral obligation to obey the sovereign, because it is on balance in one's interest (and in everyone's interest) to be ruled by a nearly absolute sovereign: the argument is not that obedience to the sovereign is always in one's own selfish interest, which would be manifestly absurd. Admittedly, Hobbes's version of social contract theory is problematic, precisely because he does appear to postulate (though this has been disputed by some commentators) that all human action is selfishly motivated. It then becomes dubious whether such purely selfish individuals are capable of adhering to the moral obligation that Hobbes prescribes to them (cf. Gauthier above). But the important point is that Hobbes is in this respect untypical of social contract theory; that, indeed, the postulate of purely selfish human nature, far from being congruent with contract theory, threatens to undermine it.

MPP3-39 CONTRACT THEORY ISN'T OVERLY SELFISH

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.118-9.

Gauthier's onslaught seems to me to exemplify a more general kind of mis-diagnosis of social contract theory - namely, that it is, so to speak, an apotheosis of selfishness. It is true that the theory makes some appeal to self-interest, but there is much more to it than that; equally, it is an appeal to moral obligation. What I earlier called the 'standard' form of the theory - which postulates adhesion to the contract as an actual event - appeals to the moral obligation to keep one's promises (and this, I have argued, applies to Hobbes as much as to his predecessors) (see above, p.58). The argument of 'standard' contract theory is, roughly, that one has a moral obligation to do what one must, in relevant circumstances, have promised to do, out of self-interest. This is by no means to say that one should or may always act selfishly, indeed it implies the contrary. Nor should it be forgotten that a social contract is not just a promise made for self-interested reasons - it is a promise that equally recognises the interests of the other parties to the contract. It promotes the interest, not of this or that individual, but of all. This, of course, is individualism, but it is not the apotheosis of selfishness.

MPP3-40 THE STATE OF NATURE NEED NOT IMPLY SOCIAL ATOMISM

John Charvet, Reader in Politics, London School of Economics, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.178-9.

The concept of a state of nature is standardly criticized for its assumption of an asocial atomism, by which is meant the view that individual human beings can develop fully their human capacities as independent atoms outside society. In other words the concept is held to be incompatible with the idea of our necessary social formation as members of some community. But there is little warrant for this criticism. Asocial atomism is certainly not a necessary part of the concept. There is nothing in the idea of a state of nature which conflicts with the belief that persons need to develop their human nature through being formed in families and wider informal linguistically and culturally uniform 'neighbourhoods'. All that is required is that the reasons for action that persons acquire through membership of such groups be based on the fundamental principles of natural right and be translatable from one group to another to permit of universal interaction on common rules. Understood in this way, what I call, following Chris Brown, cosmopolitanism, doesn't assert that persons at one time in the past lived independently and asocially, and yet possessed a set of natural or human rights. It can perfectly well acknowledge that the world has hitherto been divided into distinct formal complete associations each with its own set of reasons for believing and acting, which are not obviously mutually compatible. It needs to claim only that when the members of such communities come to reflect on their traditional beliefs and practices from the point of view of their general character as human individuals, they will independently arrive at the same fundamental conception of the principles of just interaction between persons - namely a set of universal individual rights. From the standpoint of these principles a cosmopolitan will then have to hold that a just world is one in which all human interactions are governed by mutual respect for rights, and that the existing territorially based formal complete associations must either be abolished or reconstituted in accordance with the new principles.

MPP3-41 POLITICAL OBLIGATION ISN'T NECESSARY; MORAL OBLIGATION IS SUFFICIENT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.151-2.

The fact that both contractarians and anticontractarians fail to justify political obligation (understood as a self-assumed obligation) is nothing new; the anarchists have argued similarly for a long time. But from this conclusion nothing really dramatic follows. From the fact that we generally do not have political obligations, it does not follow that we can disobey the laws of the land as we please. Most of the time there are legitimate moral reasons for compliance. If this is true, we ought to respect the law, not because we have a political obligation to do so but because there are important moral reasons for doing so. As free moral agents (autonomous persons), we have natural obligations that must be taken into consideration before we obey or disobey any law or regulation.

MPP3-42 THE SOCIAL CONTRACT ISN'T NEEDED FOR A THEORY OF RIGHTS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.143.

A second important question can now be taken up briefly. Is the concept of the social contract necessary for the development of a general theory of rights that accounts for natural or moral rights? The answer is clear. The idea of the social contract is superfluous to our understanding of natural or moral rights. This can be seen clearly in Locke's political philosophy. Locke, in his *Second Treatise of Government*, develops his theory of natural rights before even mentioning any sort of contract. Natural rights, according to Locke, are rights we possess by virtue of our nature. Thus a contract can neither confer these rights (natural or moral) nor take them away. If so, then we can develop a general theory of rights or talk meaningfully about rights without any reference to the social contract.

MPP3-43 NATURAL RIGHTS AND THE SOCIAL CONTRACT ARE LOGICALLY DISTINCT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.143.

The concept of the social contract is neither necessary nor sufficient to explain natural or moral rights. The fact that most advocates of contractarianism also talk about natural rights is a matter of a contingent historical situation rather than the result of any logical connection between the social contract and natural rights. These are two radically different concepts. Consequently, we can talk about one without necessarily talking about the other. The notion of natural rights is a more fundamental notion than that of a social contract. In fact, most contractarian philosophers use the metaphor of the social contract partly as a way of explaining why we ought to protect natural rights. But if natural rights are rights we possess by virtue of our nature, then we ought to respect them regardless of any contract or agreement. Such respect is necessary for the development of our moral personality as well as for our personal integrity.

MPP3-44 SOCIAL CONTRACT THEORY IS ANTHROPOLOGICALLY NAIVE

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.633.

The theory that government was created by a contract is, of course, pre-evolutionary. Government, like measles and whooping-cough, must have grown up gradually, though, like them, it could be introduced suddenly into new regions such as the South Sea Islands. Before men had studied anthropology they had no idea of the psychological mechanisms involved in the beginnings of government, or of the fantastic reasons which lead men to adopt institutions and customs that subsequently prove useful. But as a legal fiction, to justify government, the theory of the social contract has some measure of truth.

MPP3-45 THE SOCIAL CONTRACT IS A HISTORICAL ABSURDITY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.16.

J. K. Bluntschli, for example, writing during the mid-nineteenth century, criticized Pufendorf, Locke and Kant (to a lesser extent) for failing to see that the will of the person of the state was not composed of the wills of each individual. For Bluntschli the social contract was both historically and logically absurd. There was no evidence of any such historical event, and a political contract, dealing as it did not with private but public goods, required the prior existence of the community whose common good it aimed to promote. He argued that the state was a developing maturing 'moral and spiritual organism' with 'a personality which, having spirit and body, possesses and manifests a will of its own'.

MPP3-46 EVOLUTIONARY THEORY DENIES THE SOCIAL CONTRACT MODEL

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.130.

One dominant metaphor in recent evolutionary theory is the game, which does not, of course, suggest that the animals that are fighting for their survival are having fun. But it is a metaphor that has the virtue of embracing both competition and cooperation within a framework in which the integrity of the group is presupposed. In this, it is both slightly similar to and dramatically different from that "state of nature" model that defines so many theories of justice from Hobbes and Rousseau to Rawls.

MPP3-47 THERE'S NO EVIDENCE ON THE EVOLUTION OF A CONTRACT

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.55.

As if this were not enough, there is a further difficulty with the historical plausibility of the contractarian account. Not only is there evidence that political society evolved in a non-contractarian way, there is also none of the sort of evidence we should expect to find if contractarian events had been involved in its development. The point is stated clearly by David Hume: It is strange, that an act of mind, which every individual is supposed to have formed, and after he came to the use of reason too, otherwise it could have no authority; that this act, I say, should be so much unknown to all of them, that, over the face of the whole earth, there scarcely remain any traces or memory of it.

MPP3-48 THE HISTORICAL CRITICISM OF THE CONTRACT IS RIGHT

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.88.

As an account of the history of states, then, even the Althusian version of the contract theory, and the ancient notion of a contract between people and ruler which it incorporates, are highly imperfect. And the problems on this score are much greater for the 'classical' version of contract theory, which portrays the state as a creation of numerous individuals (or heads of families) contracting together, and supposes that subsequent generations of citizens adhere, one by one, to the original contract. Here the scepticism of Filmer and Hume as to the reality of such contracts seems highly persuasive. In sum, our answer to question (1) must be, Yes, the critics are right.

MPP3-49 THE FICTITIOUS NATURE OF THE CONTRACT UNDERMINES CLASSICAL SOCIAL CONTRACT THEORY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.89-90.

In this case the entire notion that government is founded on contract is fictitious; a fact which is indeed fatal to contract theory in its standard form, that is, from Manegold to Locke. It is worth repeating why this is so. The theory of social contract, in its standard form, holds that the political obligation of peoples and individuals, and the limits of that obligation, derive from undertakings that they (and perhaps also their rulers have voluntarily given. If they have not in fact, given any such undertakings, no conclusion about their obligations can be derived in this way.

MPP3-50 EVEN THE MOST PLAUSIBLE HISTORICAL THEORY OF THE CONTRACT HAS DIFFICULTIES

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.87-8.

Perhaps the most plausible, as a strictly historical account, is that of Althusius, which envisages the union of individuals into families and other private associations, of private associations into lesser public associations and of the lesser public associations into commonwealths. Althusius also incorporated the ancient concept of a contract between the people and its (future) ruler, both at the institution of the state and at the election of a new prince; and this element is not only plausible, but is even a reasonable interpretation of the constitution of some medieval European kingdoms. Nevertheless, as history, the Althusian theory suffers from several defects. First, the plausibility of the contract between people and ruler depends on one's willingness to allow that the people can act through representatives, and its accuracy as history requires that certain magnates, not delegated by the people, may be considered as occupying this representative role. Here, it is hard not to side with Filmer in rejecting such a notion. Second, it would not be sufficient if the constitutions of some particular medieval states did indeed incorporate a contract between ruler and people - for contract theory claims to be a general theory of legitimate government. And third, a degree of plausibility is not the same thing as actual historicity, and while the Althusian sequence of events may not be too implausible, this is not to say that it actually occurred (the sequence in its Aristotelian version, as a natural progression, may well seem the more plausible of the two).

MPP3-51 PEOPLE IN THE STATE OF NATURE WOULDN'T BE SOPHISTICATED ENOUGH TO FORM A CONTRACT

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.56.

But we are evidently very clever at figuring out what is good for us, and we are capable--according to the theory--of getting together and negotiating our personal and mutual interests and hammering out a contract that spells out the terms of our agreement and provides incentives and sanctions for our compliance. That is asking an awful lot from a first gathering of presumably primitive creatures who probably know very little about one another and certainly do not share even the beginnings of a language, much less the complicated legal concepts that are essential to contracts. Pre-social humanity was both remarkably sophisticated and, it seems, only grudgingly cooperative. The state of nature is one of those grand ancient myths with which people have always proved to themselves both how clever we have always been and how much better off we are now.

MPP3-52 AMERICA DOESN'T PROVE THE VIABILITY OF A PRIMITIVE SOCIAL CONTRACT

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.57.

We do, of course, have an inspiring example of a society actually formed by virtue of such a contract, and that is our own. The "contract" is our Constitution. But, needless to say, it was not presocial savages who gathered together in Philadelphia two centuries ago. They were well-trained, highly skilled, and well-read lawyers and statesmen. (Some of their favorite reading was precisely the philosophical literature on the social contract.) And the society they "founded" was by no means society as such, society built up from the ground up, but a considerably improved version of the Western European (especially British) type of society that already existed in the colonies, in which property was already established, in which local laws against theft and murder and a thousand other crimes were already in place together with a system of punishment to enforce them. The social contract metaphor, on the other hand, presumes an outrageous pretension, that we can build society from scratch, and may have actually done so. The myth of the state of nature is an analysis of the raw ingredients we used to do this.

MPP3-53 THE SOCIAL CONTRACT IS MYTHICAL

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.633.

The social contract, in the sense required, is mythical even when, at some former period, there actually was a contract creating the government in question. The United States is a case in point. At the time when the Constitution was adopted, men had liberty of choice. Even then, many voted against it, and were therefore not parties to the contract. They could, of course, have left the country, and by remaining were deemed to have become bound by a contract to which they had not assented. But in practice it is usually difficult to leave one's country. And in the case of men born after the adoption of the Constitution their consent is even more shadowy.

MPP3-54 ORIGINAL LEGITIMACY DOESN'T ASSURE CONTINUING LEGITIMACY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.89.

For example, it is widely held that the federal constitution of the United States of America is legitimate today, because it was agreed by legitimate procedures involving the representatives of the people involved in 1787 (and in later years, when other states acceded). No one would dream of questioning the legitimacy of the American government's authority on the grounds that later generations of citizens have been given no opportunity to consent to it; the (indirect) consent of the first generation is acknowledged to be sufficient, as well as (many would hold) necessary for this legitimacy. It takes the penetration of a Hume to show that this kind of thinking is sloppy and untenable.

MPP3-55 HYPOTHETICAL CONTRACTS LACK BINDING FORCE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.60.

Of course, virtually every author on the subject insists that there was in fact no such state of nature. (Rousseau boldly announces, "Let's begin by ignoring all the facts.") But these authors clearly do believe that, prehistory aside, we are independent, autonomous beings by nature, concerned primarily with calculating our own interests, living together only grudgingly. So, too, the authors who defend the idea of a social contract virtually never suggest that there was, in fact, such a historical agreement. But, then, it is not easy to understand what sort of binding force this fiction is supposed to have on us.

MPP3-56 IDEAL CONTRACTS ARE CIRCULAR

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.94.

The distinction between a hypothetical and an ideal social contract is an important one, and in one respect the former seems to be much the more valid concept of the two (we are now assuming that the idea of an actual social contract is discredited). To invoke an ideal contract is to appeal to what individuals, ideally, ought to agree to, or what they would agree to if they were ideally moral beings. As a way of arguing for or against particular political institutions, this seems needlessly circuitous. In brief, morally good beings would agree to morally good institutions, and whatever arguments might be deployed to show that institutions are such that morally good beings would (or would not) agree to them, could be deployed directly in defence of (or against) the institutions themselves, without reference to agreement, contract, or consent.

MPP3-57 HYPOTHETICAL CONTRACT ARGUMENTS ARE OVERLY SPECULATIVE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.94-5.

The notion of deriving political obligation from what men would agree to in a state of nature, while avoiding some of the difficulties of the actual and the ideal social contracts, still faces some old problems as well as some new ones. One problem is that such an argument is inevitably speculative (though no more so than arguments about supposedly actual contracts of which no record remains). Both this hypothetical contract, and the supposedly actual but unrecorded contract, in effect depend on postulates about human nature- a universal human nature which motivates a universal contract and so generates universal principles of political obligation. Arguments on this score are liable to be somewhat treacherous.

MPP3-58 CONTRACTARIANS CAN'T AGREE ON A CONSISTENT FORM FOR THE IDEAL STATE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.95-6.

What is essentially the same problem can be put in a different way. It is perhaps not hard to show that a given form of state is more advantageous for everyone than no state at all (though even this the anarchists, by definition, would deny). But there may be many such forms of state. How, then, can this mode of reasoning show which is the legitimate or best form of state, as contract theory down the centuries has sought to do? Just this difficulty accounts for the huge variety of state forms and constitutions that have been defended by different contract theorists - a variety which has been exemplified in the pages of this book, and is symptomatic of the problematic character of the contractarian idea.

MPP3-59 SOCIAL DIVERSITY MAKES CONTRACTUALISM PROBLEMATIC

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.105.

Meanwhile, let us remind ourselves of the real reason why man's social nature raises problems for contract theory. That theory standardly rests on an assumption of a universal human nature, from which a universal contract can be derived. Yet if man is essentially social, and human societies are historically and culturally diverse then human nature will appear to be radically diverse also. The model of man used in social contract theory thus risks, as was said above, being not only unreal but arbitrary - what is taken to be human nature may be only one of innumerable possible human natures, and the temptation is great to construct the model just in such a way as to generate the desired conclusions.

MPP3-60 CONTRACTUALISM CAN'T DEAL WITH THE PLURALITY OF CONCEPTIONS OF THE GOOD

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.26.

Any political authority which adopts strict neutrality towards the goods that individuals pursue is in danger of seeing the diversity of a plural culture disappear in the face of mass opinion. If, on the other hand, the state adopts a stance of protecting important components of a society's culture then it must necessarily abandon a strict impartiality between individual's choices and forms of life and assert grounds for preferring some ways of life above others. This cannot be done within the terms of contract arguments. Thus critics such as Taylor argue that even political liberalism needs more than the underpinnings of a neutralist contractarianism.

MPP3-61 SOCIAL CONTRACT THEORY FALSELY ASSUMES INNATE SELFISHNESS

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.71.

Underlying the idea of a social contract to protect us from one another is the uncritical and inadequate notion that we are all basically selfish and competitive. It is as if our selfish desires occur naturally, quite apart from ethics or society, but our sense of justice is not natural at all. Against this, Plato argues that justice cannot be just a social convention but must be found in the nature of the soul of the agent. This means that selfishness cannot be so simply opposed to justice, and justice must be understood in terms of what kind of people we are and should be. Justice does not depend on a contract or on anyone's sense of obligation. Indeed, the ancient Greeks did not even have our overly contractual notion of "obligation." It is simply not true that all of us are basically selfish creatures who need contractual obligations to keep us in line. Indeed, holding simultaneously to the antagonistic concepts of "selfishness" and "obligation" makes any adequate conception of justice impossible.

MPP3-62 HUMANS HAVE ALWAYS BEEN SOCIAL BEINGS

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.151.

From the earliest transitional, quasi-human beings, Australopithecus and onward, we have been social animals with social instincts, born into and living in already established groups. We would certainly not have survived otherwise. A group of cooperating men can kill a saber-toothed tiger which could easily kill any of them individually. Our attachments to and dependency on not only our parents but our peers and our neighbors precede by hundreds of thousands of years (or more) our willingness to engage in negotiations and make explicit agreements. Our compassion and affection for one another, however threatened by mutual distrust, envy, and jealousy, and our sense of sociability and mutual cooperation, however threatened by ambition and deviousness, have a far more solid and unshakable basis than a possibly nonbinding rational agreement.

MPP3-63 GENERAL SUSPICION OF SOCIETY IS SELF-DESTRUCTIVE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.151.

It is true that we are often suspicious of governments and rightly distrustful of the state in any form, but it is ultimately self-defeating if not self-destructive to be distrustful of society per se, even if in any particular case it makes perfectly good sense to be reflective and reform-minded about the character of one's own group or culture. We are social creatures, and the illusion of the self against society is no more than one of the dominant but very peculiar rules of reciprocal altruism in a society that has grown much too large and complex to have any simple rules.

MPP3-64 HUMANS ARE BASICALLY UNLIKE THE WAY SOCIAL CONTRACT THEORISTS DEPICT THEM

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.150-1.

We never were, never could have been, and never wanted to be the independent, autonomous creatures that Jean-Jacques Rousseau, expressing his own paranoia, fantasized about. We never were the selfish, nasty, brutal beings that Thomas Hobbes posited. We never were and never could be the purely rational beings that John Rawls envisions. We are not in any sense the independent and self-interested creatures that smart philosophy and bad biology make us out to be.

MPP3-65 NATURAL SOCIABILITY DISPROVES THE CONTRACT

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.149-50.

The prominent foundation of many current theories of justice--the so-called "social contract" and the contrasting "state of nature"--should be reconsidered within the context of this biological picture. It is all well and good to insist that this picture is merely hypothetical and in fact a thought-experiment to bring to light the rationality of certain social arrangements. But the fact is that certain deep assumptions are being made about justice and about human nature before that thought experiment even begins. One need not accept the hard determinist's view of the world and insist that what we are by nature determines what we must be in order to recognize that we are by nature certain sorts of creatures. We are, like wolves and chimps, products not just of our genes but of the conditions in which we find ourselves, which are, first and foremost, social conditions. That is where the state of nature theorists go so wrong; there is no individual in the state of nature, no war of all against all except in a few paranoid or polemical minds and in the self-justifying rhetoric of some Wall Street hostile takeover moguls. It is not just the fact of our sociability that is in question here; it is our natural constitution as social animals, in which reason may play a major role, but only because it becomes instrumental in the management of the increasing complications of our natural reciprocity.

MPP3-66 HUMAN NATURE IS MEANINGLESS OUTSIDE A SOCIAL CONTEXT

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.62.

It is against the twin mythology of a "state of nature," according to which we are all independent, autonomous beings, and a "social contract," according to which we are rational, mutually committed individuals, that my argument in this book is directed. My thesis is that it makes no sense to talk about human nature--whether as pure rationality or productivity and possessiveness--apart from those features that we cultivate and acquire in society, and at the same time that there is no need to bring in rationality as a corrective for an essentially selfish human nature. Our affiliations in society and with each other are not rational or a matter of self-interested calculation but a product of natural feelings and affections. It is selfishness and not society that is unnatural, and justice should not be conceived as a rational corrective to our natural human emotions.

MPP3-67 THE CONTRACT FALSIFIES OUR SOCIAL EXISTENCE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.61.

What does it mean to talk to individuals capable of bargaining and making the most sophisticated negotiations apart from their socialization and education in a particular kind of society? We can appreciate the importance of shared agreement and mutual concern in society, but why should we think that this is or should be the very nature of society as such? We can applaud society's individuality and autonomy, but do we have to pretend that these traits constitute human nature as such? We falsely ontologize our independence, and we falsify the very essence of our existence, which is not to be individuals with interests but to be social beings who define ourselves in terms of our attachments, affections, and social identities.

MPP3-68 THE SOCIAL CONTRACT MYTH IS FALSE TO OUR SOCIAL NATURE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.59-60.

This pair of myths and metaphors--the "state of nature" and "the social contract"--dominates and has dominated the literature on justice since the seventeenth century, though such ideas have been around since ancient times. The appeal of the myth, whatever its other virtues or defects, is that it emphasizes an image of the individual's relationship to society and other people that we find particularly appealing--a relationship of mutual agreement and consent. Indeed, the idea that citizens necessarily participate in the formation and continuation of society has become so powerful that it no longer seems like an idea--much less a difficult and controversial idea--but rather a working definition of what it means for something to be a "society." The idea is that we are not trapped in society the way we are (for the moment) trapped on our planet, by virtue of being born there. We are, on this theory, all Americans or Britons or Frenchmen, Texans or Iowans or Californians by choice; we choose our governments, and we choose to be citizens and obey the law, by mutual agreement. But the reason we do so is not that we have any natural tie or affection for the others with whom we happen to share our world. We live in society because it is the rational thing to do. It is in our own best self-interest. And we believe in justice not because we care about other people but because we recognize that this too is rational and in our own best interest. It is easy to see the appeal of such a theory, but it is also easy to see what nonsense it is and how false a portrait of our nature. We can and do make choices and mutual agreements, of course, but even in the most democratic societies our choices and agreements are grounded in our already shared social sensibilities. Of course, there are millions of people who, by choice or coercion, move from one culture to another; learning a new language and a new life, but this hardly proves the independence of individuals from society. The extreme choice of leaving the society in which one has grown up represents one of the most traumatic and unnatural ruptures in life. We are not and never have been naturally independent, and society has always been based, first of all, on the natural affections and affiliations in which we find ourselves with others. The idea that we could exist or have ever existed as purely autonomous creatures is at best an inspiring intellectual fraud.

MPP3-69 THE SOCIAL CONTRACT ASSUMES PEOPLE ARE NATURALLY SOLITARY AND SELFISH

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.56.

But what does this idea of an original agreement or contract presuppose? To begin with, there must have been individuals who could get together to make such an agreement, and presumably they did not already live together in any kind of organized or coherent society. They lived instead, according to the now-established mythology, in the "state of nature"--a primal, purely individual existence in which they all "naturally" served only their own interests, at whatever cost to whomever else they might run across in the pursuit of their needs and desires. Thus the theory presumes, first of all, a theory of human nature, according to which we are all essentially independent, autonomous creatures, capable of existing (whether well or badly) on our own. We are also selfish, or at least self-interested, creatures, more or less oblivious to the needs and interests of others and without enduring affections or attachments.

MPP3-70 SOCIAL CONTRACT THEORY DENIES OUR ESSENTIALLY SOCIAL NATURE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.54-5.

One such grand theory rules our thinking today. It provides the starting point for our thinking and the ground rules for our conceptions and discussions about justice. It has all the intellectual elegance that the smartest philosophers of modern times have contributed, and it has all of the appeal that our most deeply felt political opinions can provide. It is a theory that has become labyrinthine in its development but is almost childishly simple in its basic conception. It is the theory that has come to be known as the theory of "the social contract," and it encompasses not only a theory of justice but a theory of human nature and our basic emotions and motivation as well. In its most basic formulation, it is the view that justice--and the very existence of society as such--is created and justified by the fact that we all agree to its principles because they ultimately serve each of our best interests. In many versions of the theory, justice becomes a matter of reason whose purpose is to counter and control the unruly and usually selfish dictates of our natural passions. I want to argue that such theories rather reduce reason to the mere calculation of self-interest and ignore or even deny our emotional and essentially social nature.

MPP3-71 THE GOOD LIFE ISN'T PRIOR TO OR OPPOSED TO SOCIETY

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.152.

We are bound by our biology, our culture, our circumstances, and our characters. It is no argument against freedom and autonomy to say, against so much of recent philosophy and ideology, that freedom and autonomy have their limits. Nor is it an argument or excuse for excessive government to insist that society is prior to individual rights. The Greeks had it right: to live a good life, live in a good society. The idea that the good life is something prior to and opposed to society as such is a bit of insanity that only the anonymity and agoraphobia of modern urban society could inspire.

MPP3-72 CONTRACTUALISM CAN ALIENATE US FROM OUR EMOTIONS

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.31-3.

Throughout this book, I will have much to say about this hardly flattering model of "natural" humanity and the formation of society by way of a mutually agreed-upon contract. It is this model, in its many variations, that forms the foundation for just about every theory of justice now in the books or on the drawing boards. For now, however, I just want to point out the viciousness of the dichotomy it presumes--our natural inclinations (most of them selfish) on the one side, our social and contractual obligations and expectations on the other. It is, to begin with, a dubious distinction--between inclinations and obligations, between our natural existence and our social existence, between the natural disposition of our feelings and the rationality that allows us to form society and then live in it. But it is a vicious dichotomy, emotion versus reason, and these two classic metaphors-- the "state of nature" and "the social contract"--have a dangerous appeal for us. They make us distance ourselves from our emotions (falsely conceived of as "natural" and presocial) and encourage us to entertain the appealing fiction that we live in society by voluntary choice rather than just because we happened to be born and raised here. The metaphors suggest a convenient way of defusing unwanted obligations not of our own choosing and defending the most unreasonable expectations as "rights." They provide a flattering way of fooling ourselves into thinking that we are above nature and smarter than our emotions, rational creatures who have taken our existence--and especially our social existence--into our own hands.

MPP3-73 OUR EMOTIONS ARE KEY TO A PROPER THEORY OF JUSTICE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.33.

Theories of justice can serve as articulate and systematic expressions of our emotions, but they can also serve as rationalizations, as obfuscations, as obstacles to our emotions. That is why it is important to look at our emotions and that too easily dismissed gut level sense of justice and cast a suspicious eye not just on this or that theory of justice but on the very idea of a theory of justice. The emotions are not just evidence or "intuitions" that will (or won't) support one or another theory of justice; they are the very substance of our sense of justice.

MPP3-74 SOCIAL CONTRACT THEORY IS BASED ON HATRED AND RESENTMENT

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.61.

I think we should be extremely suspicious of all of those social thinkers who suggest that a theory of justice is an attempt to establish justice by creating society anew. Beginning with Plato's Republic, philosophers have developed theories of justice that try to replace their own society with another, better one, and the social contract is but the latest intellectual device for doing this. But the attempt to replace one's society suggests that the motivation behind these various theories of justice, however couched in the language of rationality, consists largely of such emotions as contempt and resentment. Could it even be that some of the quest is simple self-hatred, as in Jean-Jacques Rousseau's attempt to design a society that would no longer have room for people like himself?

MPP3-75 CONTRACTARIANISM IS OVERLY ABSTRACT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.153.

To sum up, the critics of contractarianism have successfully demonstrated the futile abstractness of this approach to political philosophy. From a hypothetical contract in a hypothetical situation one can only derive hypothetical obligations. Hypothetical obligations are not actual obligations, and a hypothetical contract is not a real contract. If the main idea behind the social contract tradition is to justify political authority, then contractarianism fails in achieving this objective. If political authority can indeed be morally justified, it must be justified either on utilitarian grounds, or on concrete considerations of justice, or on both, but not on hypothetical considerations.

MPP3-76 THE SOCIAL CONTRACT PRODUCES AN ARROGANT AND ABSTRACT IDEA OF JUSTICE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.61-2.

Nevertheless, it does not take much critical imagination to realize how much the subject of justice has been distorted and overidealized by these philosophers. The very idea of founding a society (much less society as such) is so arrogant, so abstract and so distracting from the actual problems of justice and injustice that we should from the start be extremely suspicious of any theory of justice that starts by suggesting not a better but a different society or begins by pretending that society is unnatural and was formed by the rational agreement (for whatever reasons) of presocial individuals, as if we could, even in theory, momentarily retreat to that original position and renegotiate the basic terms under which we live.

MPP3-77 CONTRACTUALISM IS UNDERMINED BY THE REQUIREMENT FOR UNANIMITY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.18-9.

Filmer went to great pains to expose the absurdity of contractarian arguments, and it is this aspect of his thought that is widely considered the most penetrating. If people are naturally free and equal, he argues, and if God granted property in common, then it would require a unanimous agreement to take anything out of the common stock, or to institute an authority over them, a condition, in his view, that was simply impractical.

MPP3-78 THE CONTRACT DOESN'T JUSTIFY OBEDIENCE TO THE STATE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.143-4.

And, finally, I will question whether contractarianism in any of its forms, can provide an adequate answer to a third important question: Is the concept of the social contract necessary or sufficient to justify a general prima facie moral obligation to obey the state and its institutions? We may agree that we have a moral obligation to promote a "just" government (what Rawls understands as a natural duty of justice) but consistently deny that we have a political obligation (understood as a self-assumed obligation) to obey all or most of the laws emanating from such an authority.

MPP3-79 POLITICAL SOCIETY ISN'T A CLUB WE VOLUNTARILY JOIN

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.151.

Yet political society is not like a club that we voluntarily join, voluntarily accepting the obligations attached to our membership. Political society is more like a family: we are born into it without any choice. We use the benefits provided by political society without voluntarily accepting them in any real sense; we just take these benefits for granted.

MPP3-80 MOST PEOPLE NEVER CONSENT TO THE STATE'S AUTHORITY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.150.

If my analysis of political obligation is correct, then the large majority of people are not bound by it, although they may be bound to their community by their patriotic sentiments and their natural moral obligations. Most people are born as members of a particular political society (state), and they are never or hardly ever asked whether they voluntarily accept the state's authority and its benefits. Even those who argue that political obligations are generated through the "principle of fair play" fail in their quest for justification.

MPP3-81 UNREQUESTED SOCIAL BENEFITS DON'T GENERATE OBLIGATIONS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.148-9.

The fact that citizens in general receive benefits from the political community of which they are members cannot generate a serious obligation of gratitude. The reason is that the benefits we acquire in political society, like the benefits we acquire as members of a family, are hardly ever "voluntarily" accepted. Instead, such benefits are generally taken for granted. Most of the time we do not ask for these benefits, they are provided without our having requested them. In order for benefits to generate serious moral obligations, they must be requested and voluntarily accepted. Otherwise such benefits can be interpreted as "gifts" with no moral strings attached. Benefits thus provided by the political community (the state and its institutions) can never generate serious moral and political obligations. From these considerations it follows that one can never have a serious moral obligation of gratitude if one does not voluntarily request benefits. Whenever one requests benefits, one should act accordingly to discharge those artificially acquired moral obligations. Since most of the benefits we receive from the state are generally unrequested, it follows that we never or hardly ever have obligations of gratitude to the state.

MPP3-82 RECEIVING BENEFITS FROM SOCIETY DOESN'T MANDATE OBEDIENCE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.148.

But as I have already argued, a promise as such can never be sufficient to generate a general prima facie obligation to obey the law. And although it is true, generally speaking, that citizens have acquired benefits by residing in a particular political community, it is also true that, if they have been good citizens, they have provided benefits to others by contributing to the well-being and stability of the community. This is not a one-way relationship in which one of the parties involved receives benefits at the expense of others. Instead this is a quid pro quo situation in which all parties benefit to some degree.

MPP3-83 PEOPLE ARE ONLY OBLIGATED TO OBEY JUST LAWS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.147-8.

We need to keep in mind that a naturalized citizen is, before anything else, an autonomous person and, as such, is only morally obligated to obey just laws. It might be argued that naturalized citizens acquire a prima facie political obligation to obey the law of the land by virtue of their oath of citizenship. However, even in the case of naturalized citizens it is not clear that this oath is always performed voluntarily, since, for example, there might be social pressures compelling them to become citizens. And even if there were no social or any other kind of pressure, the oath of citizenship, from the perspective of moral agency, does not have any significant moral weight. We simply promise faithful allegiance to those rules and regulations that are morally right; but one ought to respect these rules and regulations by virtue of their being morally right, regardless of what one has promised. Thus it follows that an oath of allegiance is virtually otiose from a moral point of view, although important from a legal perspective.

MPP3-84 POLITICAL COMMITMENTS DON'T JUSTIFY IMMORAL ACTS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.147.

If we agree that political obligation should be understood as a self-assumed obligation that we voluntarily impose on ourselves, as when we promise to do something, or when we enter into a contractual relation, then most people in society do not appear to be bound by this political obligation. Even naturalized citizens do not promise to obey the state and its institutions unconditionally, since they cannot give up moral agency on demand, as if selling themselves into slavery. One should only consent to do that which is morally acceptable. Individuals can always assent to do something morally wrong, but it does not follow that they are morally obliged to do so. On the contrary, once we recognize that we have promised to do something immoral, we ought not to fulfill our promise.

MPP3-85 ECOLOGICAL SCARCITY UNDERMINES SOCIAL CONTRACT THEORY

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.216.

Ecological scarcity thus forces us to confront once again, perhaps in a particularly acute form, the hard realities and cruel dilemmas of classical politics, from which four centuries of abnormal abundance have shielded us. As a result, we shall have to reexamine fundamental political questions in the light of ecology and construct a new steady-state paradigm of politics based on ecological premises instead of on the individualistic, hedonistic, materialistic, and anthropocentric premises of bourgeois "social contract" theory (see Box 22). The alternative is to let the shape of the steady-state paradigm be decided for us by accepting the outcome of current trends toward technocracy.

MPP3-86 THE SOCIAL CONTRACT IS ENVIRONMENTALLY UNSUSTAINABLE

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.215.

As a product of the Great Frontier, the theory of the social contract is fundamentally cornucopian: Nature's abundance being endless and inexhaustible, one has only to resolve the problem of achieving social harmony through a just division of the spoils. Nature is thus external to politics. But these cornucopian premises have become as anomalous in an age of ecological scarcity as the divine right of kings was in the era of the Great Frontier and the Industrial Revolution. Ecology and politics are now inseparable, out of prudent self-restraint, if for no other reason, a valid political theory of the steady state will be obliged to give the same weight to ecological harmony as to social harmony. Thus, just as it was the task of the seventeenth- and eighteenth-century political philosophers to create the social-contract theory of government to take account of the new socioeconomic conditions and justify the political ascent of the bourgeois class, so it will be the duty of the next generation of philosophers to create an "ecological-contract" theory promoting harmony not just among humans, but also between humanity and nature.

MPP3-87 LIBERAL DEMOCRACY CAN'T COPE WITH ECOLOGICAL SCARCITY

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.3.

This book argues, to the contrary, that the external reality of ecological scarcity has cut the ground out from under our own political system, making merely reformist policies of ecological management all but useless. At best, reforms can postpone the inevitable for a few decades at the probable cost of increasing the severity of the eventual day of reckoning. In brief, liberal democracy as we know it—that is, our theory or "paradigm" of politics (see Box 1)—is doomed by ecological scarcity; we need a completely new political philosophy and set of political institutions. Moreover, it appears that the basic principles of modern industrial civilization are also incompatible with ecological scarcity and that the whole ideology of modernity growing out of the Enlightenment, especially such central tenets as individualism, may no longer be viable.

MPP3-88 POLITICAL COERCION IS INEVITABLE

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.201.

Political coercion in some form is inevitable. Failing to confront openly the issues it raises is likely to have the same effect repression has on the individual psyche: The repressed force returns in an unhealthy form. By contrast, if we face up to coercion, full political awareness will dispel its seeming nastiness, and we shall be able to tame it and make it a pillar of the common interest.

MPP3-89 DEMOCRACY CAN'T SURVIVE AS IT NOW EXISTS

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.199-200.

It hardly need be said that these conclusions about the tragedy of the commons radically challenge fundamental American and Western values. Under conditions of ecological scarcity, the individuals, possessing an inalienable right to pursue happiness as they define it and exercising their liberty in a basically laissez-faire system, will inevitably produce the ruin of the commons. Thus the individualistic basis of society, the concept of inalienable rights, the purely self-defined pursuit of happiness, liberty as maximum freedom of action, and the laissez-faire principle itself all become problematic. All require major modification or perhaps even abandonment if we wish to avert inexorable environmental degradation and eventual extinction as a civilization. Certainly, democracy as we know it cannot conceivably survive.

MPP3-90 PURSUIT OF INDIVIDUAL SELF-INTEREST MEANS ENVIRONMENTAL RUIN

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.199.

It therefore appears that if under conditions of ecological scarcity, individuals rationally pursue their material self-interest unrestrained by a common authority that upholds the common interest, the eventual result is bound to be common environmental ruin. In that case, we must have political institutions that preserve the ecological common good from destruction by unrestrained human acts. The problem that the environmental crisis forces us to confront is, in fact, at the core of political philosophy: how to protect or advance the interests of the collectivity when the individuals who make it up (or enough of them to create a problem) behave (or are impelled to behave) in a selfish, greedy, and quarrelsome fashion. The only solution is a sufficient measure of coercion (see Box 20). According to Hobbes, a certain minimum level of ecological order or peace must be established; according to Rousseau, a certain minimum level of ecological virtue must be imposed by our political institutions.

MPP3-91 REGULATION IS ESSENTIAL TO AVOID ECOLOGICAL RUIN

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.195.

In short, resources that once were so abundant that they were freely available to all have now become ecologically scarce. Unless they are somehow regulated and protected in the common interest, the inevitable outcome will be the mutual ecological ruin that the human ecologist Garrett Hardin (1968) has called "the tragedy of the commons." We need to apply much more widely the same kind of social rules and political controls that have traditionally governed the use of grazing lands and other commons in the past (although these controls have not always been sufficiently strong to avert partial or even total destruction of a resource).

MPP3-92 INDIVIDUAL CHANGE CAN'T SAVE THE ENVIRONMENT

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.202.

Some theorists hope or assert that attitudinal change will bring enough major changes in individual behavior to save a democratic, laissez-faire system from ecological ruin. However, except in very small and tightly knit social groups, education or the inculcation of rigid social norms is not sure proof against the logic of the commons. Apparently, it is simply not true that, once they are aware of the general gravity of the situation, a large number of people will naturally moderate their demands on the environment. A number of studies have shown that even the individuals who are presumably the most knowledgeable and concerned about population growth evince little willingness to restrain their own reproductive behavior (Attah 1973; Barnett 1971; Eisner et al. 1970). How much can we expect of most ordinary citizens? The problem is that in order to forestall the logic of the commons, people in overwhelming numbers must be prepared to do positive good whether or not cooperation is universal. And in a political culture that conceives of the common interest as being no more than the sum of our individual interests, it seems unlikely that we can prudently count on much help from unsupported altruism (this is not to say that people cannot be educated to be ecologically more responsible than they are at present).

MPP3-93 ENVIRONMENTAL SUSTAINABILITY REQUIRES LIMITING GROWTH

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.2.

However, few really disagree with the ultimate implications. At least seven major studies concluded, in the 1970s, that population and material growth cannot continue forever on a finite planet and that conducting "business as usual" will fail to meet basic human needs (Corson, 1990, p. 15, citing Meadows et al. 1982). These studies called for a "steady-state" society characterized by frugality in the consumption of resources and by deliberate setting of limits to maintain the balance between humanity and nature. In the 1980s five more studies came to similar conclusions.

MPP3-94 THE ADVANCED TECHNOLOGICAL AGE REQUIRES AUTHORITARIAN RULE

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.210.

Such questions about the viability of democratic politics in a supertechnological age propel us toward the political thought of Plato. In *The Republic*, the fountainhead of all Western political philosophy, Plato argued that the polity was like a ship sailing dangerous waters. It therefore needed to be commanded by the most competent pilots; to allow the crew, ignorant of the art of navigation, to participate in running the vessel would be to invite shipwreck. Thus the polity would have to be run by an elite class of guardians, who would themselves be guided by the cream of this elite, the philosopher-kings. As the quotation from Dahl suggests, to the extent that Plato's analogy of the ship of state approximates reality, his political prescriptions are difficult to evade. This is precisely why, from Aristotle on, those who have favored democratic rather than oligarchic politics have concerned themselves with keeping the political community small enough and simple enough so that elite rule would not be necessary for social survival. The emerging large, highly developed, complex technological civilization operating at or very near the ecological margin appears to fit Plato's premises more and more closely, foreshadowing the necessity of rule by a class of Platonic guardians, the "priesthood of responsible technologists" who alone know how to run the spaceship.

MPP3-95 ENVIRONMENTAL SOLUTIONS REQUIRE COERCION

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.206.

However, although the socioeconomic machinery needed to enforce a steady-state political economy need not involve dictatorial control over our everyday lives, it will indeed encroach upon our freedom of action, for any social device that is effective as a hedge will necessarily prevent us from doing things we are now free to do or make us do things we now prefer not to do. It could hardly be otherwise: If we can safely squeeze no more cattle onto the commons, then we herders must be satisfied either with the herds we now possess or, more likely, with the lesser number of cattle that the commons can tolerate ecologically over the long term. The solution to the tragedy of the commons in the present circumstances requires a willingness to accept less-perhaps much less-than we now get from the commons. No technical devices will save us. In order to be able mutually to agree on the restraints we wish to apply to ourselves, we must give up the exercise of rights we now enjoy and bind ourselves to perform public duties in the common interest. The only alternative to this kind of self-coercion is the coercion of nature-or perhaps that of an iron regime that will compel our consent to living with less.

MPP3-96 CLASSICAL POLITICAL PHILOSOPHY SUPPORTS THE ENVIRONMENTALIST PERSPECTIVE

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.295.

Human ecology is also consonant with even older bodies of political thought, such as the classical tradition. In *Book Two* of his *Republic*, Plato says that although people need tools, some division of labor, and the like-in other words, a modest level of development-in order to live a civilized and humane life, they do not seem to know when to stop. Thus they overdevelop, and the consequences include luxury, vice, class struggle, war, and many other ills. To prevent this, says Plato, we must restrain people with wise rule by philosophers who know that what people desire is not always desirable for them and that true justice requires the establishment of controls to maintain the balance and harmony of the whole.

MPP3-97 THE STATE LIMITS SOME FREEDOMS TO PRESERVE MORE IMPORTANT ONES

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.195-6.

Beyond telling us that the answer to the tragedy is "mutual coercion, mutually agreed upon by the majority of the people affected"-by which he means social restraint, not naked force-Hardin avoids political prescription. However, he does suggest that unrestrained exercise of our liberties does not bring us real freedom: "Individuals locked into the logic of the commons are free only to bring on universal ruin; once they see the necessity of mutual coercion, they become free to pursue other goals." By recognizing the necessity to abandon many natural freedoms we now believe we possess, we avoid tragedy and "preserve and nurture other and more precious freedoms." There are obvious dangers in a regime of "mutual coercion," but without restraints on individuals, the collective selfishness and irresponsibility generated by the logic of the commons will destroy the spaceship, so that any sacrifice of freedom by the crew members is clearly the lesser evil. After all, says Hardin, "injustice is preferable to total ruin," so that "an alternative to the commons need not be perfectly just to be preferable" (Hardin 1968, pp.1247-1248).

MPP3-98 HUMANS ARE NATURALLY COMPETITIVE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.50-1.

The natural relation of men, therefore, is competitive, and their competition has no natural limit as to the means employed. Hence their relation is also one of mutual fear (diffidence, in Hobbes's term) - fear of destruction by rivals and enemies, leading to what Hobbes calls 'anticipation' - that is, attack as the best form of self-defence. Competition and diffidence, says Hobbes, are two 'principal causes of quarrel,' which makes the natural condition of mankind a war 'of every man, against every man' (HL, 184-5).

MPP3-99 FOR HOBBS, HUMANS ARE INHERENTLY POWER SEEKERS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.50.

Man, as a desiring but also a reasoning creature, must be of necessity preoccupied with the means of achieving his desires; that is, says Hobbes, with his power. 'The power of a man (to take it universally), is his present means, to obtain some future apparent good'. Hence man is by nature a maximiser of his power. 'I put for a general inclination of all mankind, a perpetual and restless desire of power after power, that ceaseth only in death' (HL, 150,161).

MPP3-100 HOBBS IS AN ETHICAL AND PSYCHOLOGICAL EGOIST

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.11

Hobbes is both a psychological and an ethical egoist. People, according to Hobbes, always want to promote their own good, and, furthermore, they ought to do so. He presents his psychological egoism in the following passage of *De Cive*: "whatsoever is voluntarily done, is done for some good to him that wills it." In *Leviathan* he writes: "of the voluntary acts of every man, the object is some Good to himselfe." He also defines natural right in egoistic terms. In *De Cive* he defines the word "right" as "that liberty which every man hath to make use of his natural faculties according to right reason. Therefore. the first foundation of natural right is this, that every man as much as in him lies endeavor to protect his life and members." And in *Leviathan* he explains: "The Right of Nature, . . . Jus Naturale, is the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life."

MPP3-101 FOR HOBBS, MORALITY IS AN EXPRESSION OF SELF-INTEREST

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.214.

The structure of Gauthier's argument is similar to Hobbes's argument from mutual advantage in *Leviathan*. Hobbes argued that moral rules are instrumentally rational to the pursuit of each person's self-interest: they are, he wrote, 'theorems concerning what conduceth to the preservation and defence' of mankind. Morality is presented in Hobbes as a system of mutually advantageous constraints on the pursuit of self-interest, and the sovereign or political authority is justified as a mechanism to ensure that individuals adhere to these constraints. In Hobbes's theory, political authority is an external coercive power to ensure that the parties to the initial contract comply with their agreement: coercion is necessary because, although cooperation is mutually advantageous, sometimes it is more rational (in self-interested terms) to agree to cooperate and defect when possible, than to keep one's agreements.

MPP3-102 THE DESIRE FOR GLORY LEADS TO WAR

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.51.

The war is further intensified by one particular, in Hobbes's view, pre-eminent human desire - the desire for glory. Glorifying is 'joy, arising from imagination of a man's own power and ability', and this passion too is antisocial. For its gratification demands recognition by others of one's eminence: 'Every man looketh that his companion should value him, at the same rate he sets upon himself: And upon all signs of contempt, or undervaluing, naturally endeavours, as far as he dares (which amongst them that have no common power, to keep them in quiet, is far enough to make them destroy each other,) to extort a greater value from his contempters.' (HL, 124-5,185) Hobbes even went so far as to claim on one occasion, that 'all the mind's pleasure is either glory, . . . or refers to glory in the end' (HC, 24). There can be little doubt that Hobbes attributed the misfortune of the English Civil War, in large measure, to a desire for glory, on the part of the rebels and others.

MPP3-103 HUMANS ARE EQUAL BY NATURE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.183.

Nature hath made men so equall, in the faculties of body, and mind; as that though there bee found one man sometimes manifestly stronger in body, or of quicker mind then another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon claim to himselfe any benefit, to which another may not pretend, as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himselfe.

MPP3-104 THE STATE OF NATURE IS A WAR OF ALL AGAINST ALL

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.188.

To this warre of every man against every man, this also is consequent; that nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice have there no place. Where there is no common Power, there is no Law: where no Law, no Injustice. Force, and Fraud, are in warre the two Cardinall vertues. Justice, and Injustice are none of the Faculties neither of the Body, nor Mind. If they were, they might be in a man that were alone in the world, as well as his Senses, and Passions. They are Qualities, that relate to men in Society, not in Solitude. It is consequent also to the same condition, that there be no Propriety, no Dominion, no Mine and Thine distinct; but onely that to be every mans that he can get; and for so long, as he can keep it. And thus much for the ill condition, which man by meer Nature is actually placed in; though with a possibility to come out of it, consisting partly in the Passions, partly in his Reason.

MPP3-105 LIFE IN THE STATE OF NATURE IS POOR, NASTY, BRUTISH, AND SHORT

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.186. Whatsoever therefore is consequent to a time of Warre, where every man is Enemy to every man; the same is consequent to the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them withall. 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 Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short.

MPP3-106 HOBBS SAW MEN AS INHERENTLY WAR PRONE

Murray Forsyth, Professor of International Politics, University of Leicester, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.41.

The political order, for Hobbes, had its own original roots in the perpetual tendency of human freedom to produce war. Politics, for Hobbes, was war, and the perpetual struggle to subdue, restrain and corral war. War was not an unfortunate and temporary side-product of human existence, nor was it to be explained as simply the product of the designs of certain wicked or evil men (which did not preclude the possibility that in certain instances it might be the work of such men). Nor, finally, was war due to the 'belligerent nature' of the human being. War, in other words, did not take place solely because individual human beings are inherently pugnacious. Hobbes certainly considers that some men were so constituted that they were naturally pugnacious - he described them as vain-glorious men, or men who use violence 'for trifles, as a word, a smile, a different opinion, and any sign of undervalue, either direct in their persons, or by reflection in their kindred, their friends, their nation, their profession, or their name'. But Hobbes's theory of war was not teased wholly or essentially on the existence amongst mankind of such men. It was based on broader factors, on the very nature of man, or, more precisely, on the nature of man when he comes into close proximity with his fellow men.

MPP3-107 WAR, FOR HOBBS, IS A PRODUCT OF NATURAL FREEDOM

Murray Forsyth, Professor of International Politics, University of Leicester, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.41.

War, for Hobbes, was the product of a relationship, albeit a negative one, between the wills of two or more persons. A person adopts a posture of war when, in a given situation, his original right and capacity to decide what is good, desirable or reasonable for him comes into fundamental conflict with another person's identical right and capacity. War springs from the fact that 'all men are, by nature, equally free'. Individual conviction of the rightness of one's own conscience is just as capable of producing war as individual conviction that something external belongs to one. The ultimate cause of war is not a particular 'thing' or 'substance' - whether economic or religious - but the right possessed by each person, in an interacting group or 'multitude', to decide for himself over what is his and how it is to be preserved.

MPP3-108 GOVERNMENT IS INITIATED BY AN ORIGINAL CONTRACT

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.228-9.

A Common-wealth is said to be Instituted, when a Multitude of men do Agree, and Covenant, every one, with every one, that to whatsoever Man, or Assembly of Men, shall be given by the major part, the Right to Present the Person of them all, (that is to say, to be their Representative ;) every one, as well he that Voted for it, as he that Voted against it, shall Authorise all the Actions and Judgments, of that Man, or Assembly of men, in the same manner, as if they were his own, to the end, to live peaceably amongst themselves, and be protected against other men.

MPP3-109 THE HOBBSIAN CONTRACT PROVIDES THE BASIS FOR LEGITIMATE POLITICAL AUTHORITY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.10-1.

The elements of the Hobbesian theory are, briefly, these. Men are exhibited in what has come to be called the state of nature (Hobbes himself in the *Leviathan* calls it the estate of nature, or the natural condition of mankind). This is a definition of what men and their relations are naturally like, that is, in the absence of any deliberately contrived institutions. Contrary to the Aristotelian view, it is a non-political condition, devoid of any political authority. In it all men have a natural right of liberty, but it is none the less a patently unsatisfactory state of affairs, and reason clearly demonstrates the preferability of political society under an effective authority. This must therefore be established by general agreement, by what Hobbes calls a covenant of every man with every man, or, in other words, a social contract. This contract is, then, the basis of legitimate political authority and of political obligation. In making it and abiding by it, Hobbes says, men obey the law of nature, the true moral law. Hobbes' theory thus combines with the idea of social contract the ideas of state of nature, natural right, and law of nature.

MPP3-110 SELF-PRESERVATION IS THE BASIS RIGHT OF NATURE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.189. The Right of Nature, which Writers commonly call Jus Naturale, is the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own Judgement, and Reason, he shall conceive to be the aptest means thereunto.

MPP3-111 THE BASIC LAW OF NATURE IS THAT MAN SHOULD SEEK PEACE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.189-90.

And because the condition of Man, (as hath been declared in the precedent Chapter) is a condition of Warre of every one against every one; in which case every one is governed by his own Reason; and there is nothing he can make use of, that may not be a help unto him, in preserving his life against his enemyes; It followeth, that in such a condition, every man has a Right to every thing; even to one another's body. And therefore, as long as this naturall Right of every man to every thing endureth, there can be no security to any man, (how strong or wise soever he be,) of living out the time, which Nature ordinarily alloweth men to live. And consequently it is a precept, or generall rule of Reason, That every man, ought to endeavour Peace, as farre as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre. The first branch of which Rule, containeth the first, and Fundamentall Law of Nature; which is, to seek Peace, and follow it. The Second, the summe of the Right of Nature; which is, By all means we can, to defend our selves.

MPP3-112 SELF-PRESERVATION IS A FUNDAMENTAL HUMAN MOTIVE

Alasdair MacIntyre, Professor of Philosophy, Notre Dame, *A SHORT HISTORY OF ETHICS*, 1966, p.132.

When society is resolved into its simple elements, what do we find? A collection of individuals, each of which is a system whose end is its own self-preservation. The fundamental human motives are the desire to dominate and the desire to avoid death. "Men from their very birth, and naturally, scramble for everything they covet, and would have all the world, if they could, to fear and obey them." "Continually to be outgone, is misery. Continually to outgo the next before, is felicity. And to forsake the course, is to die." The only limitations upon a "perpetual and restless stirring of power after power" are death and the fear of death.

MPP3-113 SELF-PRESERVATION IS THE ONLY NATURAL RIGHT

Richard Tuck, Lecturer in History, Cambridge University, *HOBBS*, 1989, p.60-1.

It is clear that he believed that our only natural right is the right barely to preserve ourselves, and to use whatever means we take to be necessary for that purpose. His reasons for thinking this are not set out straightforwardly anywhere, but the limitation of our 'natural' rights to self-preservation alone is something which makes very good sense against the background of Hobbes's pessimism about human mental and emotional malleability. If we are skilled at persuasion, for example, then for our own purposes we can get other people to believe and want almost anything; the one thing we will not be able to persuade them is that they want their own death. At that point their fundamental nature will rebel against us. Everyone, in turn, will have to recognize this fact about other people, and thus to accept that the one common and unmalleable belief to be found among men is the belief that their own preservation is a good. Beyond that, any belief is possible. Seen in this light, Hobbes's reasons for limiting our natural rights to the special case of self-preservation were precisely the same as Grotius's: the fact that whatever else people might believe, they will have to acknowledge that all men will always, whatever the circumstances, want to preserve themselves-and that this is the one thing which they will always want to do. If there is to be agreement among men, it will have to be on such a basis; if we were to acknowledge other people's right to do whatever they wanted, we would have no hope of leaving the world of moral conflict.

MPP3-114 WHEN THE SOVEREIGN CAN'T PROTECT ITS SUBJECTS, ITS POWER IS DISSOLVED

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.272.

The Obligation of Subjects to the Sovereign, is understood to last as long, and no longer, than the power lasteth, by which he is able to protect them. For the right men have by Nature to protect themselves, when none else can protect them, can by no Covenant be relinquished. The Sovereignty is the Soule of the Common-wealth; which once departed from the Body, the members do no more receive their motion from it. The end of Obedience is Protection; which, wheresoever a man seeth it, either in his own, or in another's sword, Nature applyeth his obedience to it, and his endeavour to maintaine it. And though Sovereignty, in the intention of them that make it, be immortall; yet is it in its own nature, not only subject to violent death, by foreign war; but also through the ignorance, and passions of men, it hath in it, from the very institution, many seeds of a naturall mortality, by Intestine Discord.

MPP3-115 EVEN FOR HOBBS, THE INDIVIDUAL CAN RESIST THE SOVEREIGN TO DEFEND HIS LIFE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.55.

As a matter of fact, Hobbes's position is not so extreme as it may seem. True, the sovereign has, according to him, absolute authority to rule, and is responsible for his exercise of authority to no one but God. Nevertheless, the obligation of the subject to obey the sovereign is not unlimited. As Hobbes remarks, a covenant is a voluntary act: 'and of the voluntary acts of every man, the object is some good to himself. And therefore there be some rights, which no man can . . . have abandoned, or transferred', notably his right to defend his 'own body'. The transfer of natural right to the sovereign, therefore, is subject to this exception, and it follows that no one is obliged, in obedience to the sovereign, 'to kill, wound or maim himself; or not to resist those that assault him; or to abstain from the use of food, air, medicine, or any other thing, without which he cannot live', or even, in certain cases, to fight in the sovereign's wars (HL, 260,376,192,268-9). A man may always defend his life and person, even against the sovereign - a conclusion that seems to follow necessarily from Hobbes's premises.

MPP3-116 SELF-PRESERVATION IS THE ULTIMATE END OF GOVERNMENT

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.223. The final Cause, End, or Designe of men, (who naturally love Liberty, and Dominion over others,) in the introduction of that restraint upon themselves, (in which we see them live in Common-wealths,) is the foresight of their own preservation, and of a more contented life thereby; that is to say, of getting themselves out from that miserable condition of Warre, which is necessarily consequent (as hath been strewn) to the naturall Passions of men, when there is no visible Power to keep them in awe, and tie them by feare of punishment to the performance of their Covenants, and observation of those Lawes of Nature set down in the fourteenth and fifteenth Chapters.

MPP3-117 IN HOBBS VIEW, PEOPLE MUST CHOOSE BETWEEN LIBERTY AND SECURITY

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.27.

Hobbes stood apart from the others in insisting that sovereignty must be unified and absolute. Hobbes said that men must choose: either they were ruled or they were free; they could not be both; liberty went with anarchy and security with civil obedience.

MPP3-118 WITHOUT GOVERNMENT HUMANS FACE THE WAR OF ALL AGAINST ALL

Alasdair MacIntyre, Professor of Philosophy, Notre Dame, *A SHORT HISTORY OF ETHICS*, 1966, p.132-3.

Before society exists there is nothing but competition for domination, a war of each against all. Of this situation it is true that "Where there is no common power, there is no law: where no law, no injustice. Force and fraud are in war the two cardinal virtues." Nonetheless reason instructs the individual that he has more to fear than to hope for from this war; death is a more certain outcome than domination. To avoid death, he must exchange peace for war, agreement for competition; and those articles of agreement which reason urges as prudent even in a state of nature constitute the Laws of Nature.

MPP3-119 ENFORCING PEACE REQUIRES LEVIATHAN
Alasdair MacIntyre, Professor of Philosophy, Notre Dame, *A SHORT HISTORY OF ETHICS*, 1966, p.133.

In the state of nature there are no sanctions by means of which contracts may be enforced. "And covenants, without the sword, are but words, and of no strength to secure a man at all." To give the covenants the backing of a sword there has to be an initial contract by which men transfer their power to a common power which becomes sovereign among them. This social contract effects the creation of "that great LEVIATHAN, or rather, to speak more reverently, of that mortal God, to which we owe under the immortal God, our peace and defence."

MPP3-120 THE STATE IS NEEDED TO SOLVE INHERENT CONFLICTS OF JUDGEMENT

Richard Tuck, Lecturer in History, Cambridge University, *HOBBS*, 1989, p.65.

By the terms of Hobbes's account of the state of nature, conflict arises because people judge differently about what is a danger to them, and the fact that they judge differently is enough to show that there is an inherent dubiousness about the cases in question—a view similar to the attitude expressed in a remark he made in another context in the *Elements of Law*, that 'the infallible sign of teaching exactly, and without error, is this: that no man hath ever taught the contrary; not that few, how few soever' (I. 13.3). There is no fact of the matter in these doubtful cases, and people therefore have no reason to prefer their own judgement to that of another person. Since they do have a most powerful reason for wanting their judgement aligned with other people's, it is a simple conclusion to draw that they should all find some single source of opinion whose view about the danger to each of them in doubtful or contentious cases they will accept. Its power will then protect its citizens, for it will be able to co-ordinate their judgements round the same dangers, and elicit common action against both criminals and other nations who pose a possible threat to the new 'commonwealth' which the citizens have thus brought into being. This common judge is by definition the sovereign over the commonwealth, though it need not be a single person: a single will, even if it is the decision of an assembly of some kind, is all that is necessary.

MPP3-121 ANARCHY SHOULD BE AVERTED EVEN AT THE COST OF LEVIATHAN

James Buchanan, Professor of Economics, Virginia Polytechnic, ANARCHISM, J. Rowland Pennock and John Chapman, eds., 1978, p.40.

By contrast, in the basic Hobbesian vision, or in any paradigm that is derivative from this, anarchy is not a state to be desired at all. Life for the individual in genuine anarchy is indeed predicted to be "poor, nasty, brutish, and short." The Hobbesian jungle is something to be avoided, and something that rational self-interested persons will seek to avoid through general agreement on law, along with requisite enforcement institutions, even if, in the extreme, the contract may be irreversible and Hobbes's Leviathan may threaten.

MPP3-122 HOBBS WAS RIGHT—LACK OF FORMALIZED RULES MEANS THE LAW OF THE JUNGLE

James Buchanan, Professor of Economics, Virginia Polytechnic, ANARCHISM, J. Rowland Pennock and John Chapman, eds., 1978, p.39.

The only alternative seems to be found in the distribution of limits on individuals, spheres of action that would be found in the total absence of formalized rules, that is, in genuine Hobbesian anarchy. In this setting, some "equilibrium," some sustainable distribution of allowable activities would emerge. This distribution would depend on the relative strengths and abilities of persons to acquire and to maintain desirable goods and assets. The "law of the jungle" would be controlling, and no serious effort could be made to attribute moral legitimacy to the relative holdings of persons.

MPP3-123 THE RISK OF TYRANNY IS LESS THAN THE RISK OF CIVIL WAR

C.B. McPherson, Professor of Political Economy, University of Toronto, introduction to Thomas Hobbes' LEVIATHAN, 1968, p.47-8.

The most practical objection Hobbes foresaw, and the most obvious one, was that the people, having utterly subordinated themselves to a sovereign power, would be reduced to a condition of impotence which, since they would still be appetitive beings, they could not be expected to put up with : '... a man may here object, that the Condition of Subjects is very miserable; as being obnoxious to the lusts, and other irregular passions of him, or them that have so unlimited a Power in their hands.' His immediate answer to this objection was the simple one 'that the estate of Man can never be without some incommmodity or other; and that the greatest, that in any form of Government can possibly happen to the people in general is scarce sensible, in respect of the miseries, and horrible calamities, that accompany a Civill Warre ...' He went on to argue that sovereigns would not try to damage their subjects, because the sovereign's strength consists in the vigour of the subjects.

MPP3-124 ANARCHY WOULD DESTROY SOCIAL PRODUCTIVITY

C.B. McPherson, Professor of Political Economy, University of Toronto, introduction to Thomas Hobbes' LEVIATHAN, 1968, p.40-1.

He introduces, in Chapter XIII of Leviathan, a hypothetical condition generally called 'the state of nature'. (Hobbes does not call it that in Leviathan though he does in the Rudiments.) This hypothetical condition is what would exist if there were no common power able to restrain individuals, no law and no law-enforcement. Given what he has already shown about man's necessary behaviour in society, it is easy for him to show that if all restraint were removed every man would constantly be open to violent invasion of his life and property. As a result, civilized life would be impossible, and any life risky. There would be 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 Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters, no Society; and which is worst of all, continuall feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short.

MPP3-125 SOVEREIGN POWER SHOULD BE ABSOLUTE

Thomas Hobbes, LEVIATHAN (Penguin Edition), 1651, p.260. So that is appeareth plainly, to my understanding, both from Reason, and Scripture, that the Sovereign Power, whether placed in One [107] Man, as in Monarchy, or in one Assembly of men, as in Popular, and Aristocraticall Common-wealths, is as great, as possibly men can be imagined to make it. And though of so unlimited a Power, men may fancy many evill consequences, yet the consequences of the want of it, which is perpetuall warre of every man against his neighbour, are much worse. The condition of man in this life shall never be without Inconveniences; but there happeneth in no Common-wealth any great Inconvenience, but what proceeds from the Subjects disobedience, and breach of those Covenants, from which the Common-wealth hath its being. And whosoever thinking Sovereign Power too great, will seek to make it lesse; must subject himselfe, to the Power, that can limit it; that is to say, to a greater.

MPP3-126 DIVIDING SOVEREIGN POWER DESTROYS IT

Thomas Hobbes, LEVIATHAN (Penguin Edition), 1651, p.368. There is a Sixth doctrine, plainly, and directly against the essence of a Common-wealth; and 'tis this, That the Sovereign Power may be divided. For what is it to divide the Power of a Commonwealth, but to Dissolve it; for Powers divided mutually destroy each other. And for these doctrines, men are chiefly beholding to some of those, that making profession of the Lawes, endeavour to make them depend upon their own learning, and not upon the Legislative Power.

MPP3-127 INSUFFICIENT POWER IN A SOVEREIGN IS WORSE THAN TOO MUCH

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.238-9.

But a man may here object, that the Condition of Subjects is very miserable; as being obnoxious to the lusts, and other irregular passions of him, or them that have so unlimited a Power in their hands. And commonly they that live under a Monarch, think it the fault of Monarchy; and they that live under the government of Democracy, or other Sovereign Assembly, attribute all the inconvenience to that forme of Common-wealth; whereas the Power in all formes, if they be perfect enough to protect them, is the same; not considering that the estate of Man can never be without some incommmodity or other; and that the greatest, that in any forme of Government can possibly happen to the people in generall, is scarce sensible, in respect of the miseries, and horrible calamities, that accompany a Civill Warre; or that dissolute condition of masterlesse men, without subjection to Lawes, and a coercive Power to tie their hands from rapine, and revenge: nor considering that the greatest pressure of Sovereign Governours, proceedeth not from any delight, or profit they can expect in the damage, or weakening of their Subjects, in whose vigor, consisteth their own strength and glory; but in the restiveness of themselves, that unwillingly contributing to their own defence, make it necessary for their Governours to draw from them what they call in time of Peace, that they may have means on any emergent occasion, or sudden need, to resist, or take advantage on their Enemies. For all men are by nature provided of notable multiplying glasses, (that is their Passions and Self-love,) through which, every little payment appeareth a great grievance; but are destitute of those prospective glasses, (namely Morall and Civill Science,) to see a farre off the miseries that hang over them, and cannot without such payments be avoyded.

MPP3-128 THE SOVEREIGN HAS POWER OVER QUESTIONS OF WAR AND PEACE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.233-3.

And because the End of this Institution, is the Peace and Defence of them all; and whosoever has right to the End, has right to the Means; it belongeth of Right, to whatsoever Man, or Assembly that hath the Sovereignty, to be Judge both of the meanes of Peace and Defence; and also of the hindrances, and disturbances of the same; and to do whatsoever he shall think necessary to be done, both before hand, for the preserving of Peace and Security, by prevention of Discord at home and [91], Hostility from abroad; and, when Peace and Security are lost, for the recovery of the same.

MPP3-129 POLITICAL OBLIGATION IS OWED TO WHOEVER HAS POWER

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.56.

All obligation of obedience, indeed, depends on the sovereign's power, and when he loses it, he loses his authority also. Our obligation is always to the ruler with effective power (on which peace depends). A sovereign who acquires power by force, possibly by overthrowing a previous government, has exactly the same authority, and is owed the same obligation, as a sovereign established by an original or other contract (HL, 272,252). The rationale of his authority is exactly the same, and the fact that he may have acquired his power by illegal and unjust means - means which Hobbes unreservedly condemns - is irrelevant. It was doctrines such as these that permitted Hobbes to rally to Cromwell in 1651, and made him so suspect to royalists and political traditionalists generally.

MPP3-130 EQUITY REQUIRES THAT NO PERSON BE HIS OWN JUDGE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.213-4.

And seeing every man is presumed to do all things in order to his own benefit, no man is a fit Arbitrator in his own cause: and if he were never so fit; yet Equity allowing to each party equall benefit, if one be admitted to be Judge, the other is to be admitted also; & so the controversie, that is, the cause of War, remains, against the Law of Nature.

MPP3-131 REASON REQUIRES SACRIFICING THE RIGHT TO AGGRESS

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.190.

From this Fundamentall Law of Nature, by which men are commanded to endeavour Peace, is derived this second Law; That a man be willing, when others are so too, as farre-forth, as for Peace, and [65] defence of himselfe he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe. For as long as every man holdeth this Right, of doing any thing he liketh; so long are all men in the condition of Warre. But if other men will not lay down their Right, as well as he; then there is no Reason for any one, to devest himselfe of his: For that were to expose himselfe to Prey, (which no man is bound to) rather than to dispose himselfe to Peace.

MPP3-132 FULFILLING ONE'S COVENANTS IS A LAW OF NATURE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.201-2.

From that law of Nature, by which we are obliged to transferre to another, such Rights, as being retained, hinder the peace of Mankind, there followeth a Third; which is this, That men performe their Covenants made: without which Covenants are in vain, and but Empty words; and the Right of all men to all things remaining, wee are still in the condition of Warre. And in this law of Nature, consisteth the Fountain and Originall of JUSTICE. For where no Covenant hath preceded, there hath no Right been transferred, and every man has right to every thing; and consequently, no action can be Unjust. But when a Covenant is made, then to break it is Unjust: And the definition of INJUSTICE, is no other than the not Performance of Covenant. And whatsoever is not Unjust, is Just.

MPP3-133 GRATITUDE IS A LAW OF NATURE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.209.

As Justice dependeth on Antecedent Covenant; so does GRATITUDE depend on Antecedent Grace; that is to say, Antecedent Free-gift: and is the fourth Law of Nature; which may be conceived in this Forme, That a man which receiveth Benefit from another of meer Grace, Endeavour that he which giveth it, have no reasonable cause to repent him of his good will. For no man giveth, but with intention of Good to himselfe; because Gift is Voluntary; and of all Voluntary Acts, the Object is to every man his own Good; of which if men see they shall be frustrated, there will be no beginning of benevolence, or trust; nor consequently of mutuall help; nor of reconciliation of one man to another; and therefore they are to remain still in the condition of War; which is contrary to the first and Fundamentall Law of Nature, which commandeth men to Seek Peace. The breach of this Law, [76] is called Ingratitude; and hath the same relation to Grace, that Injustice hath to Obligation by Covenant.

MPP3-134 MUTUAL ACCOMMODATION IS A LAW OF NATURE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.209.

A fifth Law of Nature, is COMPLEASANCE; that is to say, That every man strive to accommodate himselfe to the rest. For the understanding whereof, we may consider, that there is in mens aptnesse to Society; a diversity of Nature, rising from their diversity of Affections; not unlike to that we see in stones brought together for building of an Edifice. For as that stone which by the asperity, and irregularity of Figure, takes more room from others, than it selfe fills; and for the hardnesse, cannot be easily made plain, and thereby hindereth the building, is by the builders cast away as unprofitable, and troublesome: so also, a man that by asperity of Nature, will strive to retain those things which to himselfe are superfluous, and to others necessary; and for the stubbornness of his Passions, cannot be corrected, is to be left, or cast out of Society, as combersome thereunto).

MPP3-135 WILLINGNESS TO PARDON OFFENSES IS A LAW OF NATURE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.210.

A sixth Law of Nature is this, That upon caution of the Future time, a man ought to pardon the of offences past of them that repenting, desire it. For PARDON, is nothing but granting of Peace; which though granted to them that persevere in their hostility, be not Peace, but Fearer yet not granted to them that give caution of the Future time, is signe of an aversion to Peace; and therefore contrary to the Law of Nature.

MPP3-136 THERE IS A DUTY OF MUTUAL RESPECT

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.210-11.

And because all signes of hatred, or contempt, provoke to fight; insomuch as most men choose rather to hazard their life, than not to be revenged; we may in the eighth place, for a Law of Nature, set down this Precept, That no man lay deed, word, countenance, or gesture, declare Hatred, or Contempt of another. The breach of which Law, is commonly called Contumely.

MPP3-137 THERE IS A DUTY TO ACKNOWLEDGE THE EQUALITY OF OTHERS

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.211.

Nature therefore have made men equall, that equalitie is to be acknowledged: or if Nature have made men unequall; yet because men that think themselves equall, will not enter into conditions of Peace, but upon Equall termes, such equalitie must be admitted. And therefore for the ninth law of Nature, I put this, That every man acknowledge other for his Equall by Nature. The breach of this Precept is Pride.

MPP3-138 DEALING EQUALLY WITH OTHERS IS A LAW OF NATURE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.212.

Also if a man be trusted to judge between man and man, it is a precept of the Law of Nature, that he deale Equally between them. For without that, the Controversies of men cannot be determined but by Warre. He therefore that is partiall in judgment, cloth what in him lies, to deterre men from the use of Judges, and Arbitrators; and consequently, (against the fundamentall Lawe of Nature) is the cause of Warre. The observance of this law, from the equall distribution to each man, of that which in reason belongeth to him, is called EQUITY, and (as I have sayd before) distributive Justice: the violation, Acception of persons.

MPP3-139 ONCE FORMED, THE CONTRACT CAN'T BE REVOKED

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.229. From this Institution of a Common-wealth are derived all the Rights, and Facultyes of him, or them, on whom the Sovereigne Power is conferred by the consent of the People assembled. First, because they Covenant, it is to be understood, they are not obliged by former Covenant to any thing repugnant hereunto. And Consequently they that have already Instituted a Commonwealth, being thereby bound by Covenant, to own the Actions, and Judgements of one, cannot lawfully make a new Covenant, amongst themselves, to be obedient to any other, in any thing whatsoever, without his permission.

MPP3-140 FOR HOBBS, THE CONTRACT IS AN OBLIGATION OF NATURAL LAW

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.53.

Particularly important are three laws of nature: first, and most fundamentally, 'That every man ought to endeavour peace, as far as he has hope of obtaining it'; secondly (derived from the first), for the sake of peace. that he be 'willing to lay down [the natural] right to all things; and be contented with so much liberty against other men, as he would allow other men against himself'; thirdly, 'that men perform their covenants made' (HL, 190, 201) In sum, men must, for the sake of peace, make a contract or covenant to renounce their natural liberty, and they must abide by this covenant. The notion of an obligation to abide by one's promise or contract is of course a corner-stone of all social contract theory, and there is nothing new in supposing such an obligation to be a law of nature; but that Hobbes should portray the making of the contract as also an obligation of natural law is indeed a striking innovation, and a testimony to Hobbes's revolutionary interpretation of that old phrase.

MPP3-141 THE LAW OF NATURE IS GROUNDED IN REASON

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.189. A LAW OF NATURE, (Lex Naturalis,) is a Precept, or generall Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved. For though they that speak of this subject, use to confound Jus, and Lex, Right and Law; yet they ought to be distinguished; because RIGHT, consisteth in liberty to do, or to forbear; Whereas LAW, determineth, and bindeth to one of them: so that Law, and Right, differ as much, as Obligation, and Liberty; which in one and the same matter are inconsistent.

MPP3-142 THE LAWS OF NATURE ARE SUMMED UP IN THE GOLDEN RULE

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.214-5.

And though this may seem too subtle a deduction of the Lawes of Nature, to be taken notice of by all men; whereof the most part are too busie in getting food, and the rest too negligent to understand; yet to leave all men unexcusable, they have been contracted into one easie sum, intelligible, even to the meanest capacity; and that is, Do not that to another, which thou wouldest not have done to thy selfe; which sheweth him, that he has no more to do in learning the Lawes of Nature, but, when weighing the actions of other men with his own, they seem too heavy, to put them into the other part of the ballance, and his own into their place, that his own passions, and selfe-love, may adde nothing to the weight; and then there is none of these Lawes of Nature that will not appear unto him very reasonable.

MPP3-143 LAWS OF NATURE ARE ETERNAL

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.215. The Lawes of Nature are Immutable and Eternall; For Injustice, Ingratitude, Arrogance, Pride, Iniquity, Acception of persons, and the rest, can never be made lawfull. For it can never be that Warre shall preserve life, and Peace destroy it. The same Lawes, because they oblige onely to a desire, and endeavour, I mean an unfeigned and constant endeavour, are easie to be observed. For in that they require nothing but endeavour; he that endeavoureth their performance, fulfilleth them; and he that fulfilleth the Law, is Just.

MPP3-144 FOR HOBBS, NATURAL LAW IS OBJECTIVE AND UNIVERSAL

Murray Forsyth, Professor of International Politics, University of Leicester, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.43.

In the course of this process men were driven to see that their original freedom, directed solely towards the satisfaction of their individual passions, must be guided, not merely by reason in the sense of self-concentrated calculation, but by 'right reason', in the form of the laws of nature, if it was not to destroy itself. The laws of nature were for Hobbes the only objective morality. They were, as he stressed again and again, eternal, God-given and immutable; not made, or agreed upon, by men, but discovered by reason, under the pressure of passion, and furthermore 'agreeable to the reason of all men'.

MPP3-145 THE LAWS OF NATURE ARE DISCOVERED BY REASON AND PROMOTE BOTH SELF-INTEREST AND THE COMMON GOOD

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.52-3.

If such was the natural condition of men, the consequence of their natural liberty and equality, it is not surprising that they chose to leave it. Men are creatures of passion, but also reasoning creatures. Certain passions, says Hobbes, incline men to peace for example, 'desire of such things as are necessary to commodious living; and a hope by their industry to obtain them'; and also above all - fear of death. 'And reason suggesteth convenient Articles of Peace, upon which men may be drawn to agreement. These Articles are they which otherwise are called the Laws of Nature'. A law of nature, Hobbes goes on to explain, is 'a precept or general rule, found out by reason, by which a man is forbidden to do that which is destructive of his life, or taketh away the means of preserving the same; and to omit that by which he thinketh it may be best preserved.' The laws of nature, therefore, which are the true universal morality, also correspond to the self-interest and especially the common interest of men.

MPP3-146 JUSTICE IS BASED ON THE CONTRACT

Thomas Hobbes, LEVIATHAN (Penguin Edition), 1651, p.202.

But because Covenants of mutual trust, where there is a feare of not performance on either part, (as hath been said in the former Chapter,) are invalid; though the Originall of Justice be the making of Covenants; yet Injustice actually there can be none, till the cause of such feare be taken away; which while men are in the naturall condition of Warre, cannot be done. Therefore before the names of Just, and Unjust can have place, there must be some coercive Power, to compell men equally to the performance of their Covenants, by the terrour of some punishment, greater than the benefit they expect [72] by the breach of their Covenant; and to make good that Propriety, which by mutual Contract men acquire, in recompence of the universall Right they abandon: and such power there is none before the erection of a Commonwealth.

MPP3-147 JUSTICE IS ACTION IN CONFORMITY WITH REASON

Thomas Hobbes, LEVIATHAN (Penguin Edition), 1651, p.206.

The names of Just, and Injust, when they are attributed to Men, signifie one thing; and when they are attributed to Actions, another. When they are attributed to Men, they signifie Conformity, or Inconformity of Manners, to Reason. But when they are attributed to Actions, they signifie the Conformity, or Inconformity to Reason, not of Manners, or manner of life, but of particular Actions. A Just man therefore, is he that taketh all the care he can, that his Actions may be all Just: and an Unjust man, is he that neglecteth it.

MPP3-148 THERE IS NO JUSTICE IN THE STATE OF NATURE

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.52.

Hence Hobbes's conception of the right of nature (that is, the right of men in the state of nature) which, like that of some earlier writers, is a right of total liberty in Hobbes's famous phrase, 'every man has a right to every thing; even to one another's body' (HL, 189-90). By this, Hobbes means a right to get everything he can get, and do everything he can do for in the war of every man against every man, 'nothing can be unjust. The notions of right and wrong, justice and injustice, have there no place'. There is, to be sure, a place for the notions of good and evil: men call the objects of their desire 'good' and the objects of their aversion 'evil'. But these judgements are purely subjective, and conflicting in so far as man's desires conflict. Indeed they intensify the conflict of the state of nature. Little wonder that the life of man therein is 'solitary, poor, nasty, brutish and short' (HL, 188, 120, 186).

MPP3-149 LIBERTY IS THE ABSENCE OF EXTERNAL IMPEDIMENTS

Thomas Hobbes, LEVIATHAN (Penguin Edition), 1651, p.189.

By LIBERTY, is understood, according to the proper signification of the word, the absence of externall Impediments: which Impediments, may oft take away part of a mans power to do what hee would; but cannot hinder him from using the power left him, according as his judgement, and reason shall dictate to him.

MPP3-150 FREEDOM IS THE ABSENCE OF IMPEDIMENTS

Thomas Hobbes, LEVIATHAN (Penguin Edition), 1651, p. 261-2.

LIBERTY, or FREEDOME, signifieth (properly) the absence of Opposition; (by Opposition, I mean externall Impediments of motion;) and may be applyed no lesse to Irrationall, and Inanimate creatures, than to Rationall. For whatsoever is so tyed, or environed, as it cannot move, but within a certain- space, which space is determined by the opposition of some externall body, we say it hath not Liberty to go further. And so of all living creatures, whilst they are imprisoned, or restrained, with walls, or chayrns; and of the water whilst it is kept in by banks, or vessels, that otherwise would spread it selfe into a larger space, we use to say, they are not at Liberty, to move in such manner, as without those externall impediments they would. But when the impediment of motion, is in the constitution of the thing it selfe, we use not to say, it wants the Liberty; but the Power to move; as when a stone lyeth still, or a man is fastned to his bed by sicknesse.

MPP3-151 BECAUSE THERE'S NO FREE WILL, CIVIC LIBERTY IS MEANINGLESS

Richard Tuck, Lecturer in History, Cambridge University, HOBBS, 1989, p.47.

The idea of the 'free self' was as imaginary as the idea of the self: 'a wooden top that is lashed by the boys, and runs about sometimes to one wall, sometimes to another, sometimes spinning, sometimes hitting men on the shins, if it were sensible of its own motion, would think it proceeded from its own will, unless it felt what lashed it.' ('The Questions concerning Liberty, Necessity, and Chance'). This metaphysical argument gave an additional purchase to the attack on the traditional humanist notion of civic liberty which, as we shall see, Hobbes undertook in his political works-for if no one can be truly free, there is no point in proclaiming that one can be at liberty only under a certain constitutional regime.

MPP3-152 PUNISHMENTS SHOULD ONLY AIM AT FUTURE BENEFITS

Thomas Hobbes, LEVIATHAN (Penguin Edition), 1651, p.210. A seventh is, That in Revenges, (that is, retribution of Evil for Evil,) Men look not at the greatness of the evil past, but the greatness of the good to follow. Whereby we are forbidden to inflict punishment with any other design, than for correction of the offender, or direction of others. For this Law is consequent to the next before it, that commandeth Pardon, upon security of the Future time. Besides, Revenge without respect to the Example, and profit to come, is a triumph, or glorying in the hurt of another, tending to no end; (for the End is always somewhat to Come;) and glorying to no end, is vain-glory, and contrary to reason; and to hurt without reason, tendeth to the introduction of Warre; which is against the Law of Nature; and is commonly stiled by the name of Cruelty.

MPP3-153 PUNISHING THE INNOCENT VIOLATES THE LAWS OF NATURE

Thomas Hobbes, LEVIATHAN (Penguin Edition), 1651, p.359-60.

All Punishments of Innocent subjects; be they great or little, are against the Law of Nature: For Punishment is only for Transgression of the Law, and therefore there can be no Punishment of the Innocent. It is therefore a violation, First, of that Law of Nature, which forbiddeth all men, in their Revenges, to look at any thing but some future good: For there can arrive no good to the Common-wealth, by Punishing the Innocent. Secondly, of that, which forbiddeth Ingratitude: For seeing all Sovereign Power, is originally given by the consent of every one of the Subjects, to the end they should as long as they are obedient, be protected thereby; the Punishment of the Innocent, is a rendring of Evil for Good. And thirdly, of the Law that commandeth Equity; that is to say, an equal distribution of Justice; which in Punishing the Innocent is not observed.

MPP3-154 HOBBS' THEORY WAS A MAJOR ADVANCE

Bertrand Russell, A HISTORY OF WESTERN PHILOSOPHY, 1945, p.556.

The merits of Hobbes appear most clearly when he is contrasted with earlier political theorists. He is completely free from superstition; he does not argue from what happened to Adam and Eve at the of the Fall. He is clear and logical; his ethics, right or wrong, is completely intelligible, and does not involve the use of any dubious concepts. Apart from Machiavelli, who is much more limited, he is the first really modern writer on political theory. Where he is wrong, he is wrong from over-simplification, not because the basis of his thought is unreal and fantastic. For this reason, he is still worth refuting.

MPP3-155 HOBBS THEORY WAS ORIGINAL AND IMPRESSIVE

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.46.

Hobbes's version of the social contract theory is philosophically the most impressive of all. It is also the most innovative, both philosophically and politically. Politically, it is highly unusual in that it used contract theory to defend and uphold the authority of rulers, indeed a (nearly) absolute authority. Of all the many previous contract theorists we have surveyed, only one - Engelbert of Volkersdorf - was also a supporter of secular authority (that of the Emperor), and even he can hardly be said to have used contract theory much or very convincingly to that end. Philosophically, Hobbes was just as original, and in too many ways to yield to easy summary.

MPP3-156 THE SOCIAL CONTRACT SHOULDN'T BE TREATED AS HISTORICAL-IT'S AN EXPLANATORY MYTH

Bertrand Russell, A HISTORY OF WESTERN PHILOSOPHY, 1945, p.550-1.

The second part tells how men escape from these evils by combining into communities each subject to central authority. This is represented as happening by means of a social contract. It is supposed that a number of people come together and agree to choose a sovereign, or a sovereign body, which shall exercise authority over them and put an end to the universal war. I do not think this "covenant" (as Hobbes usually calls it) is thought of as a definite historical event; it is certainly irrelevant to the argument to think of it as such. It is an explanatory myth, used to explain why men submit, and should submit, to the limitations on personal freedom entailed in submission to authority. The purpose of the restraint men put upon themselves, says Hobbes, is self-preservation from the universal war resulting from our love of liberty for ourselves and of dominion over others.

MPP3-157 HOBBS' STATE OF NATURE IS A LOGICAL DEVICE, NOT A HISTORICAL THEORY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.12-3.

He recognizes that the state of nature is not "generally" historical. He believes that "It may peradventure be thought, there was never such a time, nor condition of warre as this; and I believe it was never generally so, over all the world: but there are many places, where they live so now.' Later he emphasizes the nonhistorical character of the state of nature: "But though there had never been any time, wherein particular men were in a condition of warre one against another; yet in all times, Kings, and Persons of Sovereign "authority, because of their Independency, are in continuall jealousies, and in the state of posture of Gladiators; having their weapons pointing, and their eyes fixed on one another." We can infer from this that, according to Hobbes, the state of nature is not historical. He uses this concept mainly as a logical device to demonstrate what would happen if there were no "common Power to fear" in civil society. The result, given his assumptions about human nature, would be a war of every person against one another.

MPP3-158 THE IMPORTANCE OF THE STATE OF NATURE IS ITS EXPLANATORY POWER, NOT ITS HISTORICAL ACCURACY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.13.

We need not worry whether Hobbes intended his concept of the state of nature to be historical, since its importance lies in its explanatory power rather than its historical applicability. One clear function of this concept is to characterize human nature, or what he calls "the natural condition of mankind," as a compendium of dark forces. For Hobbes, human beings are acquisitive, fearful, violent, and egotistical individuals who can be deterred only by fear. This explains why the state of nature is a potential state of war among people.

MPP3-159 THE HOBBSIAN STATE HAS BEEN EFFECTIVE

C.B. McPherson, Professor of Political Economy, University of Toronto, introduction to Thomas Hobbes' *LEVIATHAN*, 1968, p.62-3.

But quite apart from the extreme case of civil war, it may still be argued that individual self-interest, however rational and however long-run, is not a sufficient cement to hold a society together. The rational self-interest of Hobbes's appetitive, calculating individuals, it may be objected, is bound to set up a perennial disposition to neglect or deny obligation to the sovereign. This is the central objection that modern moralists make to Hobbes's doctrine. It is a strong objection if his theory of obligation is taken at its face value as a universally valid theory (as Hobbes believed it was). But it is a very weak objection if we take his theory as applicable only to bourgeois societies. When it is so taken, it is reasonable to believe that the long-run self-interest on which Hobbes relied can be expected to outweigh the short-run self-interest that would contradict it. Bourgeois self-interest has in fact sustained a sovereign state, Hobbesian in almost every respect except the self-perpetuating power of the sovereign body, in most bourgeois societies since Hobbes's time. Hobbes built better than he knew, and better than most of his modern critics know. If his prescription has run out, it is only because bourgeois society, after three hundred years, is no longer self-renewing.

MPP3-160 HISTORY SUPPORTS HOBBS' INSISTENCE ON STRONG CENTRAL AUTHORITY

Murray Forsyth, Professor of International Politics, University of Leicester, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.432-3. For Hobbes equally there could be no sense in the doctrine of separating and subordinating political powers in the manner of Locke and Rousseau. He had no instinctive distrust of representation. On the contrary, the formation of the state was at heart an act of representation - in the sense of 'making present' or 'making public' the common will for peace. His whole emphasis, when it came to the structure and organization of public powers, was on the interrelatedness of such powers, on the need for a nerve of connection to run through them, allowing them to act effectively in pursuit of their authorized end. There had to be unity in the public will, and this unity was for him best effected by having one person at the heart of what today we call the 'decision-making process'. Doubtless he went too far in his advocacy of unity in government, but his conviction that a representative assembly requires leadership and direction, his profound scepticism about 'government by assembly', and his deeply ingrained sense that rule requires a single person at the centre, have surely been endorsed rather than refuted by subsequent history.

MPP3-161 HOBBS IS ONE OF THE MOST SYSTEMATIC ANALYSTS OF POWER

C.B. McPherson, Professor of Political Economy, University of Toronto, introduction to Thomas Hobbes' *LEVIATHAN*, 1968, p.9.

Our world is obsessed with problems of power, and Hobbes was an analyst of power. We want not only to understand and so control power, but also to harness it to right. So did Hobbes. He exposed the lineaments of power more clearly than anyone had done since Machiavelli, more systematically than anyone had ever done, and than most have done since.

MPP3-162 HIS CONCERN WITH WAR AND PEACE MAKES HOBBS STILL RELEVANT

C.B. McPherson, Professor of Political Economy, University of Toronto, introduction to Thomas Hobbes' *LEVIATHAN*, 1968, p.10.

Although we now have more to fear from international war than had seventeenth-century men, we also have reason to be mindful of civil war and fearful of its threats to us wherever it breaks out. Our generation is more conscious of the meaning of war and peace, for every member of society, than were most of the intervening generations since Hobbes's time. We go to Hobbes, then, because we recognize in him an acute analyst of power and peace.

MPP3-163 HOBBS REMOVES ALL DOUBTS ABOUT THE STATUS OF SOVEREIGNTY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.57-8.

But be this as it may, Hobbes's method does have one great advantage, from his point of view: it removes all scope for questioning whether men are parties to the contract of sovereignty, for this is not a matter in which they have any option. As noted above, they are obliged to the contract, as well as by the contract. Thus Hobbes does not have to face the problem, so troublesome to Locke and other theorists of the original contract, as to the obligations of later generations of subjects. Just as no one has any option but to submit to a conqueror, so no one, when he reaches the age of majority, has any option but to accept the authority of any existing commonwealth in which he lives.

MPP3-164 HOBBS' MORAL THEORY IS INCREASINGLY ACCEPTED

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.10.

Nevertheless, in Hobbes we find the true ancestor of the theory of morality that we shall present. Only recently has his position begun to acquire a significant following. G. R. Grice has developed an explicitly contractarian theory, and Kurt Baier has acknowledged the Hobbesian roots of his central thesis, that 'The very *raison d'être* of a morality is to yield reasons which overrule the reasons of self-interest in those cases when everyone's following self-interest would be harmful to everyone.'

MPP3-165 HOBBS' VIEW OF HUMAN NATURE ISN'T OVERLY PESSIMISTIC

Richard Tuck, Lecturer in History, Cambridge University, *HOBBS*, 1989, p.55.

Men, on Hobbes's account, do not want to harm other men for the sake of harming them; they wish for power over them, it is true, but power only to secure their own preservation. The common idea that Hobbes was in some sense 'pessimistic' about human nature is wide of the mark, for his natural men (rather like Grotius's) were in principle stand-offish towards one another rather than inherently belligerent.

MPP3-166 HOBBS' THEORY DOESN'T RELY ON NATURAL EGOISM

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.136.

Nor does it actually require that their interests are selfish or even strongly self-directed, though Hobbes evidently believed that they would normally be. But what matters is that they have conflicting ends, however the conflict may be engendered. It is not required that some people simply want to do others in; ends may engender incidental rather than essential conflict: it simply turns out that, given certain circumstances, A wants x, B wants y, and unfortunately, if A gets x, then B doesn't get y.

MPP3-167 HOBBS DOESN'T ASSUME HUMANS ARE NATURALLY EVIL

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.136.

It is important to appreciate just what Hobbes's argument does and what it does not presuppose about people. It does not, to begin with, presuppose that people are nasty or evil by nature. The term 'evil', indeed, applies only when there already is a morality, and in the situation we are imagining, there is not (yet). Nobody in it, therefore, is evil, though some are possibly nasty. However, Hobbes does not even suppose they are nasty. He merely supposes that they are sufficiently self-interested that, in the absence of some sort of artificial restraints, they will not shrink from using violence if it serves their ends; and he is supposing that people's ends are of such a type that violence might sometimes serve them: as when someone stands between you and what will satisfy your raging hunger, for instance.

MPP3-168 HOBBS' VIEW OF HUMAN NATURE IS EMPIRICALLY SUPPORTED

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.136-7.

As a matter of fact, Hobbes presupposes something quite different from the "nasty" theory. For real Nasties, what A wants is to frustrate B, and vice versa. Anything that's good for B is ipso facto bad for A, and vice versa. Such people have fundamental antagonisms; so long as their interests remain of that kind, there can be no peaceful solution to their problem. But Hobbes believes that all of us are such that peace is a solution to our problems, whatever they may be. He pre-supposes that we are not nasty. This may be a weakness in his assumptions, in one sense: perhaps people are, after all, basically nasty. But there is, at least, a good deal of empirical evidence to the effect that most of them are not.

MPP3-169 HOBBS' VIEW OF HUMAN NATURE ISN'T TOO PESSIMISTIC

Thomas Hobbes, *LEVIATHAN* (Penguin Edition), 1651, p.186-7.

At may seem strange to some man, that has not well weighed these things; that Nature should thus dissociate, and render men apt to invade, and destroy one another: and he may therefore, not trusting to this Inference, made from the Passions, desire perhaps to have the same confirmed by Experience. Let him therefore consider with himselfe, when taking a journey, he armes himselfe, and seeks to go well accompanied; when going to sleep, he locks his dores; when even in his house he locks his chests; and this when he knows there bee Lawes, and publike Officers, armed, to revenge all injuries shall bee done him; what opinion he has of his fellow subjects, when he rides armed; of his fellow Citizens, when he locks his dores; and of his children, and servants, when he locks his chests. Does he not there as much accuse mankind by his actions, as I do by my words?

MPP3-170 ACQUISITIVENESS DOESN'T UNDERMINE HOBBS' CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.118.

That argument, remember, is that naturally non-social individuals value coercively enforced social order only in so far as they value goods whose supply is increased by social co-operation, but over whose distribution conflict will arise among them namely, economic goods. Hobbes's argument, however, is that naturally non-social individuals value the good of peace, or rather more basically the good of life, which is threatened by man's natural lust for power and glory and thus must be preserved by state coercion - a quite different story and one which is perfectly coherent. Infinite appropriateness is therefore not necessary to Hobbes's argument, which is, in a general sense, perfectly in line with the entire tradition of social contract theory.

MPP3-171 MAXIMIZING UTILITY REQUIRES A POWERFUL STATE

Richard Tuck, Lecturer in History, Cambridge University, *HOBBS*, 1989, p.97.

What the Utilitarians argued was that the different amounts of 'pleasure' or 'utility' which people get out of particular situations can be compared, and that public policy should be directed towards securing (in the famous phrase) 'the greatest happiness of the greatest number'. A necessary implication of this is that some people's interests or happiness might be sacrificed in the interests of wider utility, and that they might therefore have to be compelled politically to subordinate their concerns to those of the rest of the community. It was this sense of the need for an omnipotent and neutral sovereign to bend citizens' wills to a Utilitarian norm which led the Utilitarian writers to read Hobbes with appreciation.

MPP3-172 SCARCITY MAKES POLITICS ESSENTIAL

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.189.

It was suggested in the Introduction that scarcity is the source of original political sin: Resources that are scantier than human wants have to be allocated by governments, for naked conflict would result otherwise. In the words of the philosopher Thomas Hobbes in *Leviathan* (1651, p. 107), human life in an anarchic "state of nature" is "solitary, poor, nasty, brutish, and short." To prevent the perpetual struggle for power in a war of all against all, there must be a civil authority capable of keeping the peace by regulating property and other scarce goods. Scarcity thus makes politics inescapable.

MPP3-173 ONLY CIVIC VIRTUE CAN SAVE THE ENVIRONMENT

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.297.

We have seen how this problem has surfaced again and again in our analysis-in the Hobbesian dynamics of the tragedy of the commons, in the consequences of accepting the Faustian bargain of nuclear technology, and so on. The essential political message of this book is that we must learn ecological self-restraint before it is forced on us by a potentially monolithic and totalitarian regime or by the brute forces of nature. We are currently sliding by default in the direction of one (or both) of these two outcomes. Only the restoration of some measure of civic virtue (to use the traditional term) can forestall this fate, and the necessary lessons in virtue are, again, better learned from political philosophy than from personal suffering.

MPP3-174 HARDIN'S TRAGEDY OF THE COMMONS PARALLELS HOBBS' STATE OF NATURE

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.196-7.

Hardin's implicit political theory is in all important respects identical to that of Thomas Hobbes in *Leviathan* (1651). Hardin's "logic of the commons" is simply a special version of the general political dynamic of Hobbes's "state of nature." Hobbes says that where men desire goods scarcer than their wants, they are likely to fall to fighting. Each knows individually that all would be better off if they abstained from fighting and found some way of equitably sharing the desired goods. However, they also realize that they cannot alter the dynamics of the situation by their own behavior. In the absence of a civil authority to keep the peace, personal pacifism merely makes them easy prey to others. Unless all can be persuaded or forced to lay down their arms simultaneously, nothing can prevent the war of all against all. The crucial problem in the state of nature is thus to make it safe for men to be reasonable, rather than merely "rational," so that they can share peacefully what the environment has to offer. Hobbes's solution was the erection, by a majority, of a sovereign power that would constrain all men to be reasonable and peaceful—that is, Hardin's "mutual coercion, mutually agreed upon by the majority of the people affected."

MPP3-175 HOBBS' ANALYSIS APPLIES TO CURRENT ENVIRONMENTAL CONDITIONS

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.201-2.

This is an extreme conclusion, but it seems to follow from the extremity of the ecological predicament that industrial humanity has created for itself. Even Hobbes's severest critics concede that he is most cogent when stark political choices are faced, for self-interest moderated by self-restraint may not be workable when extreme conditions prevail. Thus theorists have long analyzed international relations in Hobbesian terms, because the state of nature mirrors the state of armed peace existing between competing nation-states that are obedient to no higher power. Also, when social or natural disaster leads to a breakdown in the patterns of society that ordinarily restrain people, even the most libertarian governments have never hesitated to impose martial law as the only alternative to anarchy. Therefore, if nuclear holocaust rather than mere war; or anarchy rather than a moderate level of disorder, or destruction of the biosphere rather than mere loss of amenity is the issue, the extremity of Hobbes's analysis fits reality, and it becomes difficult to avoid his conclusions.

MPP3-176 ONLY AUTHORITARIAN POLITICS CAN SAVE THE ENVIRONMENT

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.216.

In summary, scarcity in general erodes the material basis for the relatively benign individualistic and democratic politics characteristic of the modern industrial era. Ecological scarcity in particular seems to engender overwhelming pressures toward political systems that are frankly authoritarian by current standards, for there seems to be no other way to check competitive overexploitation of resources and to ensure competent direction of a complex society's affairs in accordance with steady-state imperatives. *Leviathan* may be mitigated but not evaded.

MPP3-177 ENVIRONMENTAL PROTECTION REQUIRES A CLASS OF ECOLOGICAL MANDARINS

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.214-5.

The ecologically complex steady-state society may therefore require, if not a class of ecological guardians, then at least a class of ecological mandarins who possess the esoteric knowledge needed to run it well. Whatever its level of material affluence, the steady-state society will not only be ostensibly more authoritarian and less democratic than the industrial societies of today (the necessity of coping with the tragedy of the commons would alone ensure that), but it may also be more oligarchic as well, with full participation in the political process restricted to those who possess the ecological and other competencies necessary to make prudent decisions.

MPP3-178 MILITARY SERVICE CAN BE JUSTIFIED ON HOBBSIAN GROUNDS

Richard Tuck, Lecturer in History, Cambridge University, *HOBBS*, 1989, p.67.

A question sometimes raised about Hobbes's theory of the origin of sovereignty is that it seems to rule out the possibility of men ever fighting for their sovereign, since it must always be better to avoid participating in a war than to run the risk of dying on the battlefield or being killed when trying to arrest a criminal. Yet Hobbes says (*Leviathan* ch. 21, p. 2701 that 'when the Defence of the Common-wealth, requireth at once the help of all that are able to bear Arms, every one is obliged'. But if we think of the sovereign as making decisions for us in doubtful cases about what is a threat, then we can see that bearing arms for our country is rational: for it has just the same rationale as fighting against a presumed enemy in the state of nature. The only difference is that the sovereign is now doing the presuming, rather than us ourselves.

MPP3-179 HOBBS' STATE WOULDN'T BE TYRANNICAL
 William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.204-5.

That we must give our political authorities great powers to regulate many of our daily actions is a profoundly distasteful thought. We tend to see political systems that do not bestow our kind of political and economic liberties as "totalitarian," a word that brings to mind all the evil features of past dictatorships. But even Hobbes, no matter how firm his conviction in the necessity of absolutism, certainly did not have Stalinesque tyranny in mind. Hobbes makes clear that order in the commonwealth is not the goal but is rather the means without which the fruits of civilization cannot be enjoyed. The sovereign power is to procure the "safety of the people... But by safety here is not meant a bare preservation but also all other contentments of life which every man by lawful industry, without danger or hurt to the commonwealth, shall acquire to himself" (Hobbes 1651, p. 262). And it is part of the task of the sovereign power to actively promote these "contentments of life" among its subjects. Furthermore, Hobbes will not countenance tyranny. The sovereign power must rule lawfully, give a full explanation of its acts to its subjects, and heed their legitimate desires. Through wise laws and education, the subjects will learn moral restraint. Also, the sovereign power is not to be a dictator regulating every action of the citizen: it does not "bind the people from all voluntary actions" but only guides them with laws that Hobbes likens to "hedges.. set not to stop travelers, but to keep them in their ways" (p. 272). Thus many different styles of rule and of life are compatible with his basic analysis.

MPP3-180 HOBBS MISUNDERSTOOD HUMAN NATURE
 Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.106.

But, of course, it was not stones, volcanoes, and monsoons that Hobbes had in mind. He was referring to people, or whatever creatures immediately preceded people, in the so-called "state of nature," humanity before it was socialized and civilized, humanity not yet fully human. His thesis was that there is nothing in either nature or human nature that makes us just, except for the conventions and laws of society. In nature, as opposed to society, there is only unceasing competition and brutality, "red in tooth and claw." But I want to argue that this is an inadequate vision of nature as well as an inaccurate view of human nature. Ever since the Greeks and before (for instance, in much of the Old Testament), "nature"--and in particular the notion of the "bestial"--has gotten a raw deal. If, as Rousseau charges, we err by projecting back onto nature vices that have only been cultivated by society so, too, I would argue, we flatter ourselves by supposing that such virtues as a sense of justice are unique to us and wholly foreign to nature.

MPP3-181 HOBBS WAS WRONG--PEOPLE AREN'T NATURALLY VIOLENT AND SELFISH

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.108.

On the other hand, it is too easy to move from the natural violence of tooth and claw to the conclusion that we too are by nature part of that Darwinian panorama, except for the conventions of society and the rational control cultivated by society. But this seems wrong on at least two counts: First of all, it presumes a view of human nature that is as dubious as it is unflattering. I have already argued at length that we are not--contra Hobbes--naturally violent and selfish creatures who abstain from attacking one another only because of legal restraint and awe for the power of the state.

MPP3-182 HOBBS AND ROUSSEAU OVEREMPHASIZE THE SURVIVAL MOTIVE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.117.

But the question is based on the obviously fraudulent presupposition that every individual strives first and foremost for its own interests and survival. Hobbes marked this off as the one natural right that no state or power could abridge, and even Rousseau took individual self-preservation to be the preeminent natural sentiment. Moral philosophers have long struggled against the presumption that every human action--moral or not--is ultimately motivated by self-interest, and evolutionists used to take it as a matter of course that the struggle for individual survival and self-preservation is the first principle of biology. But moral philosophers have come to the conclusion, in various ways, that not all motivation is self-interested and that moral motivation, in particular, is not and perhaps must not be self-interested. Evolutionary biologists have similarly come to the conclusion that the struggle for survival and self-preservation, even if primary, does not take place on the level of the individual organism.

MPP3-183 THE CHARACTERISTICS HOBBS DESCRIBES AS NATURAL WERE LEARNED SOCIAL VICES

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.151-2.

Our so-called autonomy and individuality are not natural endowments at all but, quite the contrary, characteristics learned and cultivated in a particular kind of society, as are our rationality and our ability to negotiate contracts and other agreements with other people. Hobbesian greed and selfishness are not so much aspects of "human nature" as they are learned and cultivated social vices. (Rousseau was quite right when he diagnosed the Hobbesian "state of nature" as in fact a pathological projection of a certain sort of society, ascribing to nature the vices of Hobbes's own society.) If only Rousseau had followed through with his own observation and not himself ascribed so much to "natural man" that could only have been given him by society. It is true that we are naturally benign, as Rousseau so happily argued, but we are so not because we are indifferent to our fellow creatures but because we are already beholden to them and responsive to their behavior. Our "natural goodness" is nothing but reciprocal altruism in circumstances of plenty and in the absence of the more vicious status-games of the world Rousseau rightly so despised.

MPP3-184 HOBBS VIEW OF HUMAN NATURE ENCOURAGES A PASSION FOR VENGEANCE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.278.

How did our passion for retribution--our need for vengeance--come about? I think that my evolutionary speculations in Chapter 3 go a long way in answering this question. In that chapter, I was primarily concerned to account for our "natural" sympathies and our sense of fellowship with others, as opposed to the antagonistic, competitive view of the "state of nature" described by writers like Hobbes.

MPP3-185 THE FEAR OF DEATH ISN'T EVERYONE'S DOMINANT MOTIVE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.57.

Hobbes's intellectual audacity is remarkable, but in several respects problematic. He wished to demonstrate that for every human being, obedience to the sovereign is a necessary deduction from his (or her) very nature. For this he relies, crucially, on the postulate that every human being's strongest passion is necessarily aversion to death. But must it be? Was the Civil War due purely to men's failure to appreciate their true interest? What of those who might have claimed that their strongest passion was a desire for eternal bliss in a life after death, or to glorify God? Hobbes's answer is that God commands the laws of nature, and thereby obedience to the sovereign (HL, 217). But this really introduces into the argument an extraneous element out of keeping with its general tenor.

MPP3-186 HOBBS' VIEW OF HUMAN NATURE IS VERY ONE-SIDED

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.13.

(Hobbes is operating with a one-sided concept of human nature. People are not, in fact, simply acquisitive, fearful, violent, and egotistical individuals; they are also benevolent, compassionate, and friendly. Even assuming the truth of Hobbes's psychological egoism--a very far-fetched assumption--it does not follow that people are essentially and foremost acquisitive, fearful, and violent. What does follow is that sometimes an individual, or a group of individuals, might use violence to promote his or her own welfare, but this need not be a general rule. Thus Hobbes's assumption about human nature is at the least doubtful if not simply false. Fewer difficulties with his portrait of human nature would arise had he considered his portrait only a partial and not a complete characterization of humanity.

MPP3-187 HOBBS' ONE-SIDED VIEW OF HUMAN NATURE UNDERMINES HIS POLITICAL PHILOSOPHY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.13.

One of the basic problems of Hobbes's political philosophy is precisely his one-sided characterization of human nature as essentially antisocial. It is true that people sometimes struggle for what they want or need by using violence. It is also true that some people distrust others and that some are concerned with their reputations. Yet, from this it does not follow that these are the essential characteristics of human nature. What does follow is that various individuals act from various motives and various reasons in their everyday life. We cannot encapsulate human nature, as Hobbes tries to do' by reducing it to a certain number of antisocial traits and leaving out other traits.

MPP3-188 HOBBS NEGLECTS HUMANS' SOCIAL NATURE

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.319-20.

Hobbes offers the most unified and compelling psychological portrayal of economic man. But the society that with matchless consistency he generates from purely asocial motivations, is primarily an instrument for cutting the costs of human interaction, for eliminating the hostility found in the natural condition of humankind. It is true that when Hobbes catalogues the ills of this natural condition, he refers to the lack of arts, letters and society (that is social intercourse), of commodious building, navigation, and mechanical contrivances, but the emphasis is on the shortness and nastiness of life. Hobbes had little sense of the positive benefits of interaction, and no sense at all, or so it would seem, of the progressive benefits-of the prospect of, not merely an improved lot, but a continually improving lot, for human beings in a condition of society. The psychological grasp of asociality implicit in Hobbes's argument is thus not matched by a comparable degree of social or economic insight.

MPP3-189 HOBBS' THEORY FAILS BECAUSE IT'S BASED ON THE EXTREME CASE OF CIVIL WAR

Leo Strauss, political theorist, University of Chicago, *NATURAL RIGHT AND HISTORY*, 1953, p.196.

Hobbes's political doctrine is meant to be universally applicable and hence to be applicable also and especially in extreme cases. This indeed may be said to be the boast of the classic doctrine of sovereignty: that it gives its due to the extreme case, to what holds good in emergency situations, whereas those who question that doctrine are accused of not looking beyond the pale of normality. Accordingly, Hobbes built his whole moral and political doctrine on observations regarding the extreme case; for the experience on which his doctrine of the state of nature is based is the experience of civil war. It is in the extreme situation, when the social fabric has completely broken down, that there comes to sight the solid foundation on which every social order must ultimately rest: the fear of violent death, which is the strongest force in human life. Yet Hobbes was forced to concede that the fear of violent death is only "commonly" or in most cases the most powerful force. The principle which was supposed to make possible a political doctrine of universal applicability, then, is not universally valid and therefore is useless in what, from Hobbes's point of view, is the most important case-the extreme case. For how can one exclude the possibility that precisely in the extreme situation the exception will prevail?

MPP3-190 HOBBS' VIEW OF HUMAN LIFE IS IMPOVERISHED

Alasdair MacIntyre, Professor of Philosophy, Notre Dame, *A SHORT HISTORY OF ETHICS*, 1966, p.138.

This limited conception of motives, desires, and activity insures that most of the substance of human life goes unmentioned in Hobbes. We have a sovereign power so that our lives may continue securely; but what are we to do with our lives within the framework of order thus secured? Hobbes does say that men are inclined to peace rather than to continuance in a state of nature not only by the fear of death, but also by "desire of such things as are necessary to commodious living; and a hope by their industry to obtain them." But what is commodious living? Hobbes has already said that "there is no such finis ultimus, utmost aim, or summum bonum, greatest good, as is spoken of in the books of the old moral philosophers," and his reason for saying this is his view that human felicity consists in "a continual progress of the desire from one object to another, the attaining of the former being still but the way to the latter," and that men are driven on by "a perpetual and restless desire of power after power that ceaseth only in death." This is a picture in which men are driven from desire to desire without the question, What kind of life do I want? ever arising. Hobbes' conception of the possible objects of desire is as limited as his conception of motives.

MPP3-191 HOBBS OVERSTATES HUMAN EGOISM

Alasdair MacIntyre, Professor of Philosophy, Notre Dame, *A SHORT HISTORY OF ETHICS*, 1966, p.136.

It remains a lie and a culpable lie, although one that Hobbes needed to tell. For the root of his error is here. Human nature and human motives are not and cannot be what he says they are. According to Hobbes any regard for the welfare of others is secondary to a regard for, and indeed is only a means to, my own welfare. In fact, both in ourselves and in others we find other-regarding and self-regarding motives side by side. What could justify us in representing the former as a secondary offspring of the latter.

MPP3-192 HOBBS' DEPICTION OF HUMAN NATURE MAKES CIVIL SOCIETY IMPOSSIBLE

C.B. McPherson, Professor of Political Economy, University of Toronto, introduction to Thomas Hobbes' *LEVIATHAN*, 1968, p.61.

There may still be some doubt whether any obligation deduced from long-run individual self-interest can be strong enough to outweigh the contrary pressures of short-run individual self-interest. It is sometimes asked how Hobbes's men, moved as they were by deliberate calculations about what would serve their appetites, could be capable of steadily acknowledging obligation to a sovereign? This is sometimes put as the question, if men are so motivated by appetite as Hobbes described them, how could they be capable of contracting the obligation he said was possible and necessary? Or as Sir William Temple put it, 'Nor do I know, if men are like Sheep, why they need any government: Or if they are like wolves, how can they suffer it.'

MPP3-193 SOCIETY CAN'T FUNCTION ON THE BASIS OF RATIONAL SELF-INTEREST

C.B. McPherson, Professor of Political Economy, University of Toronto, introduction to Thomas Hobbes' *LEVIATHAN*, 1968, p.61-2.

If the obligation of individuals to the state is based only on their calculation of their own self-interest, how can it be sufficient to hold a society together, since the same self-interest can be expected to dictate a breach of that obligation whenever changed circumstances would seem to make that profitable? The extreme case is that of the individual's allegiance to the established sovereign in the event of civil war. Hobbes admits, as his logic requires him to do, that the subject's obligation to the sovereign lasts only 'as long, and no longer, than the power lasteth, by which he is able to protect them. For the right men have by Nature to protect themselves, when none else can protect them, can by no Covenant be relinquished.' Here, it may be argued, Hobbes's whole system is reduced to absurdity. For the power of the sovereign, and hence his ability to protect the subjects, rests on their continuous rational acknowledgement of the obligation to support him. Yet in the crucial case when he needs their support to the utmost, they are admitted to be free to withdraw their support if in their judgement he is no longer clearly able to protect them.

MPP3-194 GIVEN HOBBS' VIEW OF HUMAN NATURE, NO POLITICAL COMMUNITY WOULD BE POSSIBLE
Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.140.

The crucial feature in Hobbes's picture of man is not at all the realistic pessimism for which it has been praised in recent times. For if it were true that man is a being such as Hobbes would have him, he would be unable to found any body politic at all. Hobbes, indeed, does not succeed, and does not even want to succeed, in incorporating this being definitely into a political community. Hobbes's Man owes no loyalty to his country if it has been defeated and he is excused for every treachery if he happens to be taken prisoner. Those who live outside the Commonwealth (for instance, slaves) have no further obligation toward their fellow-men but are permitted to kill as many as they can; while, on the contrary, "to resist the Sword of the Commonwealth in defence of another man, guilty or innocent, no man hath Liberty," which means that there is neither fellowship nor responsibility between man and man. What holds them together is a common interest which may be "some Capitall crime, for which every one of them expecteth death"; in this case they have the right to "resist the Sword of the Commonwealth," to "joyn together, and assist, and defend one another. . . . For they but defend their lives."

MPP3-195 THE HOBBSIAN STATE WOULD BE TOTALLY UNSTABLE

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.140.

Thus membership in any form of community is for Hobbes a temporary and limited affair which essentially does not change the solitary and private character of the individual (who has "no pleasure, but on the contrary a great deal of grief in keeping company, where there is no power to overawe them all") or create permanent bonds between him and his fellow-men. It seems as though Hobbes's picture of man defeats his purpose of providing the basis for a Commonwealth and gives instead a consistent pattern of attitudes through which every genuine community can easily be destroyed. This results in the inherent and admitted instability of Hobbes's Commonwealth, whose very conception includes its own dissolution-"when in a warre (forraign, or intestine,) the enemies get a final Victory . . . then is the Commonwealth dissolved, and every man at liberty to protect himself"-an instability that is all the more striking as Hobbes's primary and frequently repeated aim was to secure a maximum of safety and stability.

MPP3-196 HOBBS FAILS TO DISTINGUISH STATE AND SOCIETY

Alasdair MacIntyre, Professor of Philosophy, Notre Dame, *A SHORT HISTORY OF ETHICS*, 1966, p.134.

To use the word social is to be reminded of one of the oddest of Hobbes' confusions, that he appears not to distinguish the state and society, to make political authority not dependent upon the prior existence of, but constitutive of, social life. There are of course situations where the disappearance of the state's power of repression may lead to the rise of anarchic violence. But there are and have been plenty of situations where an orderly social life continues without such a power being present. Indeed if one contrasts eighteenth-, nineteenth-, and twentieth-century urban life, where the state's repressive power is close at hand, with the moral life of those other periods where it is often absent or far away, one might draw the conclusion that the state's presence is a demoralizing factor. This would be-at any rate, so far as the argument has taken us already-as ill-founded, because as one-sided, a conclusion as Hobbes'. But it underlines Hobbes' error.

MPP3-197 HOBBS HAD TOO LIMITED AN UNDERSTANDING OF POLITICAL AUTHORITY

Alasdair MacIntyre, Professor of Philosophy, Notre Dame, *A SHORT HISTORY OF ETHICS*, 1966, p.138.

Hobbes equates "having a right to" with "having the power to" for at least two reasons. He saw correctly that authority is usually enforced by power, that authority often relies on the sanction of force. And he has such a limited view of human motives that he cannot provide any other explanation for acceptance of authority than the fear of such sanctions. But in fact an authority accepted only because men feared the consequences of not accepting it, or only because they feared the sanctions which it deployed, could not function with the effectiveness with which most political authorities do function. Political institutions only have the stability they have because most men most of the time grant a willing obedience to their authority, and men do this because they see their own desires and those the satisfaction of which the authority safeguards coinciding. So does Hobbes. But he has such a limited conception of human desires that he necessarily has a limited conception of political authority.

MPP3-198 HOBBS' THEORY UNDERMINES THE DISTINCTION BETWEEN GOOD AND BAD REGIMES

Leo Strauss, political theorist, University of Chicago, *NATURAL RIGHT AND HISTORY*, 1953, p.192-3.

As regards Hobbes's teaching on sovereignty in particular, its doctrinaire character is shown most clearly by the denials which it implies. It implies the denial of the possibility of distinguishing between good and bad regimes (kingship and tyranny, aristocracy and oligarchy, democracy and ochlocracy) as well as of the possibility of mixed regimes and of "rule of law." Since these denials are at variance with observed facts, the doctrine of sovereignty amounts in practice to a denial not of the existence, but of the legitimacy, of the possibilities mentioned: Hobbes's doctrine of sovereignty ascribes to the sovereign prince or to the sovereign people an unqualified right to disregard all legal and constitutional limitations according to their pleasure, and it imposes even on sensible men a natural law prohibition against censuring the sovereign and his actions. But it would be wrong to overlook the fact that the basic deficiency of the doctrine of sovereignty is shared, if to different degrees, by all other forms of natural public law doctrines as well. We merely have to remind ourselves of the practical meaning of the doctrine that the only legitimate regime is democracy.

MPP3-199 HOBBS CREATES AN INHERENT CONFLICT BETWEEN STATE AND INDIVIDUAL

Leo Strauss, political theorist, University of Chicago, *NATURAL RIGHT AND HISTORY*, 1953, p.197.

To speak in more specific terms, here are two politically important phenomena which would seem to show with particular clarity the limited validity of Hobbes's contention regarding the overwhelming power of the fear of violent death. In the first place, if the only unconditional moral fact is the individual's right of self-preservation, civil society can hardly demand from the individual that he resign that right both by going to war and by submitting to capital punishment. As regards capital punishment, Hobbes was consistent enough to grant that, by being justly and legally condemned to death, a man does not lose the right to defend his life by resisting "those that assault him": a justly condemned murderer retains-nay, he acquires-the right to kill his guards and everyone else who stands in his way to escape, in order to save dear life. But, by granting this, Hobbes in fact admitted that there exists an insoluble conflict between the rights of the government and the natural right of the individual to self-preservation. This conflict was solved in the spirit, if against the letter, of Hobbes by Beccaria, who inferred from the absolute primacy of the right of self-preservation the necessity of abolishing capital punishment.

MPP3-200 THE HOBBSIAN STATE WOULD EMBODY PERMANENT TYRANNY

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.144.

Hobbes's deep distrust of the whole Western tradition of political thought will not surprise us if we remember that he wanted nothing more nor less than the justification of Tyranny which, though it has occurred many times in Western history, has never been honored with a philosophical foundation. That the Leviathan actually amounts to a permanent government of tyranny, Hobbes is proud to admit: "the name of Tyranny signifieth nothing more nor lesse than the name of Sovereignty . . . ; I think the toleration of a professed hatred of Tyranny, is a Toleration of hatred to Commonwealth in generall. . . ."

MPP3-201 THE HOBBSIAN STATE IS DEHUMANIZING

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.146.

Hobbes was the true, though never fully recognized, philosopher of the bourgeoisie because he realized that acquisition of wealth conceived as a never-ending process can be guaranteed only by the seizure of political power, for the accumulating process must sooner or later force open all existing territorial limits. He foresaw that a society which had entered the path of never-ending acquisition had to engineer a dynamic political organization capable of a corresponding never-ending process of power generation. He even, through sheer force of imagination, was able to outline the main psychological traits of the new type of man who would fit into such a society and its tyrannical body politic. He foresaw the necessary idolatry of power itself by this new human type, that he would be flattered at being called a power-thirsty animal, although actually society would force him to surrender all his natural forces, his virtues and his vices, and would make him the poor meek little fellow who has not even the right to rise against tyranny, and who, far from striving for power, submits to any existing government and does not stir even when his best friend falls an innocent victim to an incomprehensible *raison d'etat*. For a Commonwealth based on the accumulated and monopolized power of all its individual members necessarily leaves each person powerless, deprived of his natural and human capacities. It leaves him degraded into a cog in the power-accumulating machine, free to console himself with sublime thoughts about the ultimate destiny of this machine, which itself is constructed in such a way that it can devour the globe simply by following its own inherent law.

MPP3-202 HOBBS' POLITICAL VIEWS LEAD TO TYRANNY

Richard Tuck, Lecturer in History, Cambridge University, *HOBBS*, 1989, p.95.

But such men were a relatively weak force; much more representative of the attitude to Hobbes, even among people who more than shared his religious heterodoxy, were the remarks of David Hume in his *History of England* (Hume was a supporter of the 'Rockingham Whigs', the administration which ousted Bute): In our time he is much neglected . . . Hobbes's politics are fitted only to promote tyranny, and his ethics to encourage licentiousness. Though an enemy to religion, he partakes nothing of the spirit of scepticism; but is as positive and dogmatical as if human reason, and his reason in particular, could attain a thorough conviction in these subjects.

MPP3-203 HOBBS GIVES THE STATE EXCESSIVE ARBITRARY POWER

Richard Tuck, Lecturer in History, Cambridge University, *HOBBS*, 1989, p.115.

So it should come as no surprise that his conclusions were also close to theirs: that the laws of one's country are constitutive of one's general morality, and that whatever is necessary for one's preservation must be morally acceptable. He was prepared to take this position to remarkable lengths; for example, in one of the most outspoken passages in his entire works, he claimed (as we have already seen) that 'upon the occasion of some strange and deformed birth, it shall not be decided by Aristotle, or the philosophers, whether the same be a man or no, but by the laws' (*Elements of Law* [I.10.8]). Even the definition of what a human being is was thus put entirely at the disposal of the sovereign: there can be no objective 'fact of the matter' about it. The question of what a human being is, is still an urgent one: witness the intense debate about abortion. But we still appoint philosophers to head commissions to decide these issues, and are unwilling to take the implications of radical scepticism in these areas seriously, for, on Hobbes's account, it assigns to the State a kind of arbitrary power over the most important matters in our lives.

MPP3-204 HOBBS' MODEL HAS NO CHECK AGAINST TYRANNY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.21.

In the Hobbesian model of absolute sovereignty, there are no safeguards against tyranny. Consequently, if we have an alternative model of sovereignty, such as the separation of powers, by which we can prevent tyranny and at the same time protect to some extent the well being of the people, then this seems a more reasonable and preferable model of sovereignty.

MPP3-205 ABUSES OF SOVEREIGN POWER ARE TO BE EXPECTED, GIVEN HOBBS' VIEW OF HUMAN NATURE
Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.21.

If, as Hobbes argues, people are contentious beings, and if it is only under an all-powerful sovereign that their safety can be secured, then who or what can guarantee that this sovereign would not abuse power? The answer to this question seems evident: nobody and nothing can prevent these abuses from happening because, according to Hobbes, the sovereign is the ultimate authority to determine what would and would not constitute an abuse of power. Hence the sovereign may always justify any arbitrary use of power. If subjects tire of the arbitrary use of power by the sovereign, they may, Hobbes argues, try to depose their ruler but only if they can reasonably expect to get away with it. This is hardly a solution, since once a sovereign is overthrown and a new Hobbesian sovereign emerges, the same abuses of power may occur again.

MPP3-206 THE CONTRACT CAN BE USED TO JUSTIFY TYRANNY

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.630.

The contract doctrine was capable of taking forms which justified tyranny. Hobbes, for example, held that there was a contract among the citizens to hand over all power to the chosen sovereign, but the sovereign was not a party to the contract, and therefore necessarily acquired unlimited authority. This theory, at first, might have justified Cromwell's totalitarian State; after the Restoration, it justified Charles II.

MPP3-207 HOBBS' SUBMISSIVE ATTITUDE ENCOURAGES TYRANNY

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.556.

Moreover the tendency of every government towards tyranny cannot be kept in check unless governments have some fear of rebellion. Governments would be worse than they are if Hobbes's submissive attitude were universally adopted by subjects. This is true in the political sphere, where governments will try, if they can, to make themselves personally irremovable; it is true in the economic sphere, where they will try to enrich themselves and their friends at the public expense; it is true in the intellectual sphere, where they will suppress every new discovery or doctrine that seems to menace their power. These are reasons for not thinking only of the risk of anarchy, but also of the danger of injustice and ossification that is bound up with omnipotence in government.

MPP3-208 LIMITED GOVERNMENT BETTER PRESERVES SECURITY

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.20.

Hence, it is simply false to argue, as Hobbes does, that the only possible way to secure Peace among people is by instituting an all-powerful sovereign or "Leviathan." There are other alternatives, such as limited sovereignty, which is understood as the separation of powers in the government. This seems a reasonable alternative. Historical experience indicates, as in the case of the United States, that limited sovereignty is a better and more effective tool to secure basic moral (human) rights than a government with absolute authority, which has a greater possibility of degenerating into a despotic dictatorship.

MPP3-209 TOTALITARIANISM IS A CONSTANT TEMPTATION

Hanna Arendt, political philosopher, THE ORIGINS OF TOTALITARIANISM, 1966, p.459.

The danger of the corpse factories and holes of oblivion is that today with populations and homelessness everywhere on the increase, masses of people are continuously rendered superfluous if we continue to think of our world in utilitarian terms. Political, social, and economic events everywhere are in a silent conspiracy with totalitarian instruments devised for making men superfluous. The implied temptation is well understood by the utilitarian common sense of the masses, who in most countries are too desperate to retain much fear of death. The Nazis and the Bolsheviks can be sure that their factories of annihilation which demonstrate the swiftest solution to the problem of overpopulation, of economically superfluous and socially rootless human masses, are as much of an attraction as a warning. Totalitarian solutions may well survive the fall of totalitarian regimes in the form of strong temptations which will come up whenever it seems impossible to alleviate political, social, or economic misery in a manner worthy of man.

MPP3-210 FASCISM IS OUR MOST LIKELY FUTURE

Kenneth Dolbeare, University of Massachusetts, AMERICAN IDEOLOGIES, 1976, p.228-9.

Fascism is not the only future contained within our present circumstances. It is only the most likely, given the economic imperatives, social dynamics, and ideological infrastructure of contemporary American society. But this result is not inevitable. The process of convergence and consolidation will take time, and there are many pieces to be fitted together. At every juncture and stage, there are multiple possibilities, some that will move us toward and some away from fascism.

MPP3-211 CONTEMPORARY CAPITALISM IS LIKELY TO EVOLVE INTO FASCISM

Kenneth Dolbeare, University of Massachusetts, AMERICAN IDEOLOGIES, 1976, p.223-4.

Modern fascism is the only way capitalism as we know it will survive, and no tactics-not even war or the threat of war-are too drastic in the light of this imperative. Fascism will be instituted by and for big business, gradually at first, from the top down. Under cover of apparent crisis and necessity, forces perceived as legitimate under the circumstances will act to consolidate it still further. All along the way, the process will be justified by intellectuals, certified as necessary by enlightened businessmen, and celebrated by politicians.

MPP3-212 PRECONDITIONS FOR FASCISM CURRENTLY EXIST

Kenneth Dolbeare, University of Massachusetts, AMERICAN IDEOLOGIES, 1976, p.224.

We believe that use of the concept of fascism today requires recognition that there can be functional equivalents of many of the features associated with the fascism of the 1930s. The essence of fascism is the nature of the constructed economic and social order and its totalistic social control. Assuming this essence is in place or under construction, a number of functional equivalents for earlier features might be imagined. There are a number of ways fascism in America could become reality.

MPP3-213 A NEW FASCISM COULD ARISE IN VARIOUS WAYS

Kenneth Dolbeare, University of Massachusetts, AMERICAN IDEOLOGIES, 1976, p.225.

Instead of a mass right-wing party, which served as a major means to political power for the Nazis, a modern fascism already in power would need only a means of mobilizing popular support. This could come through the routinely accorded legitimacy enjoyed by established institutions (Congress, the presidency), perhaps supplemented by symbolic manipulation from above. There are other alternatives. Instead of emphasizing the immediacy of an internal threat from the Left, (communism, socialism, etc.) other types of external crisis might serve the same purpose. These could be war or other dangers, energy or environmental crises, etc.-any event that serves to divert, mobilize the populace, and promote an atmosphere of willing sacrifice for and support of the existing power.

MPP3-214 THE "IT CAN'T HAPPEN HERE" ATTITUDE MUST BE REJECTED

Kenneth Dolbeare, University of Massachusetts, *AMERICAN IDEOLOGIES*, 1976, p.225.

It is of utmost importance that we free ourselves of both the "It can't happen here" mentality and the rigidly time-specific or exclusively ideological understanding of fascism. If we can realize that in this proposed "essence-plus-functional-equivalents" form, it is potentially applicable to the United States today, we shall have criteria with which to examine contemporary ideological trends. Once again, we do so because of the vital part that widespread popular acquiescence or helplessness plays in the process by which fascism arises and consolidates itself. To recognize its development in timely fashion, and to understand its roots in us, is to take the first steps toward an alternative.

MPP3-215 ENVIRONMENTAL RADICALISM COULD LEAD TO FASCISM

Kenneth Dolbeare, University of Massachusetts, *AMERICAN IDEOLOGIES*, 1976, p.228.

But futurism may be the apparently radical ideology that most fully serves the fascist cause. Its analysis and projections carry impressive authority, and then it either abandons its followers or delivers them up to developing fascism. On one hand, it offers paralytic doomsdayism. On the other, austerity, zero growth, and vastly centralized planning and control. Over all this, it enshrines the technological rationality that is really exaggerated empirical positivism, and denies any alternative to it.

MPP3-215A EVEN TEMPORARY ANARCHY IS BETTER THAN DESPOTIC

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.556.

The reason that Hobbes gives for supporting the State, namely that it is the only alternative to anarchy, is in the main a valid one. A State may, however, be so bad that temporary anarchy seems preferable to its continuance, as in France in 1789 and in Russia in 1917.

MPP3-216 DESPOTISM IS WORSE THAN ANARCHY BECAUSE IT IS MORE PERMANENT

George Woodcock, University of Washington, *ANARCHISM*, 1962, p.61.

Yet so rooted was his conviction of the life-destroying propensities of authority, that he would not wholly condemn even an anarchy conceived in negative terms. Extreme disorder, for this believer in an ordered life under the aegis of impartial reason, was infinitely more to be desired than extreme subordination. Anarchy is transitory, but despotism tends towards permanence. Anarchy awakens mind, diffuses energy and enterprise through the community, though it does not effect this in the best manner. . . . But in despotism mind is trampled into an equality of the most odious sort. Everything that promises greatness is destined to fall under the exterminating hand of suspicion and envy.

MPP3-217 TOTALITARIANISM DESTROYS HUMAN DIGNITY

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.458.

It is chiefly for the sake of this supersense, for the sake of complete consistency, that it is necessary for totalitarianism to destroy every trace of what we commonly call human dignity. For respect for human dignity implies the recognition of my fellow-men or our fellow-nations as subjects, as builders of worlds or cobuilders of a common world. No ideology which aims at the explanation of all historical events of the past and at mapping out the course of all events of the future can bear the unpredictability which springs from the fact that men are creative, that they can bring forward something so new that nobody ever foresaw it. What totalitarian ideologies therefore aim at is not the transformation of the outside world or the revolutionizing transmutation of society, but the transformation of human nature itself.

MPP3-218 THE CONCENTRATION CAMP SYSTEM DESTROYS HUMANITY

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.443.

It is the appearance of some radical evil, previously unknown to us, that puts an end to the notion of developments and transformations of qualities. Here, there are neither political nor historical nor simply moral standards but, at the most, the realization that something seems to be involved in modern politics that actually should never be involved in politics as we used to understand it, namely all or nothing-all, and that is an undetermined infinity of forms of human living-together, or nothing, for a victory of the concentration-camp system would mean the same inexorable doom for human beings as the use of the hydrogen bomb would mean the doom of the human race.

MPP3-219 TOTALITARIANISM DESTROYS HUMAN UNIQUENESS

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.438.

Total domination, which strives to organize the infinite plurality and differentiation of human beings as if all of humanity were just one individual is possible only if each and every person can be reduced to a neverchanging identity of reactions, so that each of these bundles of reactions can be exchanged at random for any other. The problem is to fabricate something that does not exist, namely, a kind of human species resembling other animal species whose only "freedom" would consist in "preserving the species." Totalitarian domination attempts to achieve this goal both through ideological indoctrination of the elite formations and through absolute terror in the camps; and the atrocities for which the elite formations are ruthlessly used become! as it were, the practical application of the ideological indoctrination-the testing ground in which the latter must prove itself-while the appalling spectacle of the camps themselves is supposed to furnish the "theoretical" verification of the ideology.

MPP3-220 TOTALITARIANISM SEEKS TO DESTROY HUMAN SPONTANEITY

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.438.

The camps are meant not only to exterminate people and degrade human beings, but also serve the ghastly experiment of eliminating, under scientifically controlled conditions, spontaneity itself as an expression of human behavior and of transforming the human personality into a mere thing, into something that even animals are not; for Pavlov's dogs which, as we know, was trained to eat not when it was hungry but when a bell rang, was a perverted animal.

MPP3-221 THE WORLD OF THE CONCENTRATION CAMP WAS THE EQUIVALENT OF HELL

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.446-7.

These analogies, repeated in many reports from the world of the dying, seem to express more than a desperate attempt at saying what is outside the realm of human speech. Nothing perhaps distinguishes modern masses as radically from those of previous centuries as the loss of faith in a Last Judgment: the worst have lost their fear and the best have lost their hope. Unable as yet to live without fear and hope, these masses are attracted by every effort which seems to promise a man-made fabrication of the Paradise they had longed for and of the Hell they had feared. Just as the popularized features of Marx's classless society have a queer resemblance to the Messianic Age, so the reality of concentration camps resembles nothing so much as medieval pictures of Hell.

MPP3-222 REPUDIATION OF INDIVIDUAL LEGAL RIGHTS LED TO THE CONCENTRATION CAMP

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.447.

In comparison with the insane end-result-concentration-camp society- the process by which men are prepared for this end, and the methods by which individuals are adapted to these conditions, are transparent and logical. The insane mass manufacture of corpses is preceded by the historically and politically intelligible preparation of living corpses. The impetus and what is more important, the silent consent to such unprecedented conditions are the products of those events which in a period of political disintegration suddenly and unexpectedly made hundreds of thousands of human beings homeless, stateless, outlawed and unwanted, while millions of human beings were made economically superfluous and socially burdensome by unemployment. This in turn could only happen because the Rights of Man, which had never been philosophically established but merely formulated, which had never been politically secured but merely proclaimed, have, in their traditional form, lost all validity. The first essential step on the road to total domination is to kill the juridical person in man.

MPP3-223 THE TOTALITARIAN STATE DESTROYS MORAL PERSONALITY

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.451.

The next decisive step in the preparation of living corpses is the murder of the moral person in man. This is done in the main by making martyrdom, for the first time in history, impossible: "How many people here still believe that a protest has even historic importance? This skepticism is the real masterpiece of the SS. Their great accomplishment. They have corrupted all human solidarity. Here the night has fallen on the future. When no witnesses are left, there can be no testimony. To demonstrate when death can no longer be postponed is an attempt to give death a meaning, to act beyond one's own death. In order to be successful, a gesture must have social meaning. There are hundreds of thousands of us here, all living in absolute solitude. That is why we are subdued no matter what happens."

MPP3-224 TOTALITARIANISM DESTROYED THE MEANING OF LIFE AND DEATH

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.452.

The camps and the murder of political adversaries are only part of organized oblivion that not only embraces carriers of public opinion such as the spoken and the written word, but extends even to the families and friends of the victim. Grief and remembrance are forbidden. In the Soviet Union a woman will sue for divorce immediately after her husband's arrest in order to save the lives of her children; if her husband chances to come back, she will indignantly turn him out of the house. The Western world has hitherto, even in its darkest periods, granted the slain enemy the right to be remembered as a self-evident acknowledgment of the fact that we are all men (and only men). It is only because even Achilles set out for Hector's funeral, only because the most despotic governments honored the slain enemy, only because the Romans allowed the Christians to write their martyrologies, only because the Church kept its heretics alive in the memory of men, that all was not lost and never could be lost. The concentration camps, by making death itself anonymous (making it impossible to find out whether a prisoner is dead or alive) robbed death of its meaning as the end of a fulfilled life. In a sense they took away the individual's own death, proving that henceforth nothing belonged to him and he belonged to no one. His death merely set a seal on the fact that he had never really existed.

MPP3-225 TOTALITARIANISM DESTROYED THE MORAL PERSON

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.452.

This attack on the moral person might still have been opposed by man's conscience which tells him that it is better to die a victim than to live as a bureaucrat of murder. Totalitarian terror achieved its most terrible triumph when it succeeded in cutting the moral person off from the individualist escape and in making the decisions of conscience absolutely questionable and equivocal. When a man is faced with the alternative of betraying and thus murdering his friends or of sending his wife and children, for whom he is in every sense responsible, to their death; when even suicide would mean the immediate murder of his own family-how is he to decide? The alternative is no longer between good and evil, but between murder and murder. Who could solve the moral dilemma of the Greek mother, who was allowed by the Nazis to choose which of her three children should be killed?

MPP3-226 THE TOTALITARIAN SYSTEM DESTROYED INDIVIDUALITY

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.454-5.

The killing of man's individuality, of the uniqueness shaped in equal parts by nature, will, and destiny, which has become so self-evident a premise for all human relations that even identical twins inspire a certain uneasiness creates a horror that vastly overshadows the outrage of the juridical-political person and the despair of the moral person. It is this horror that gives rise to the nihilistic generalizations which maintain plausibly enough that essentially all men alike are beasts. Actually the experience of the concentration camps does show that human beings can be transformed into specimens of the human animal, and that man's "nature" is only "human" insofar as it opens up to man the possibility of becoming something highly unnatural, that is, a man. After murder of the moral person and annihilation of the juridical person, the destruction of the individuality is almost always successful. Conceivably some laws of mass psychology may be found to explain why millions of human beings allowed themselves to be marched unresistingly into the gas chambers, although these laws would explain nothing else but the destruction of individuality. It is more significant that those individually condemned to death very seldom attempted to take one of their executioners with them, that there were scarcely any serious revolts, and that even in the moment of liberation there were very few spontaneous massacres of SS men. For to destroy individuality is to destroy spontaneity, man's power to begin something new out of his own resources, something that cannot be explained on the basis of reactions to environment and events. Nothing then remains but ghastly marionettes with human faces, which all behave like the dog in Pavlov's experiments, which all react with perfect reliability even when going to their own death, and which do nothing but react. This is the real triumph of the system: "The triumph of the SS demands that the tortured victim allow himself to be led to the noose without protesting, that he renounce and abandon himself to the point of ceasing to affirm his identity. And it is not for nothing. It is not gratuitously, out of sheer sadism, that the SS men desire his defeat. They know that the system which succeeds in destroying its victim before he mounts the scaffold . . . is incomparably the best for keeping a whole people in slavery. In submission. Nothing is more terrible than these processions of human beings going like dummies to their death. The man who sees this says to himself: 'For them to be thus reduced, what power must be concealed in the hands of the masters,' and he turns away, full of bitterness but defeated."

MPP3-227 OPPRESSIVE STATES ARE PRONE TO MASS MURDER

R.J. Rummel, Professor of Political Science, University of Hawaii, JOURNAL OF CONFLICT RESOLUTION, March 1995, p.3.

From 1900 to 1987, state, quasi.state, and stateless groups have killed in democide (genocide, massacres, extrajudicial executions, and the like) nearly 170,000,000 people. Case studies and quantitative analysis show that ethnic, racial, and religious diversity, economic development, levels of education and cultural differences do not account for this killing. Rather, democide is best explained by the degree to which a regime is empowered along a democratic to totalitarian dimension and, second the extent to which it is characteristically involved in war or rebellion. Combining these results with those that show that democracies do not make war on each other, the more democratic two nations are the less foreign violence between them, and that the more democratic a regime the less internal violence, strongly suggests that democracy is a general method of nonviolence.

MPP3-228 GOVERNMENT MURDERS FAR MORE THAN DIE IN WAR

R.J. Rummel, Professor of Political Science, University of Hawaii, JOURNAL OF CONFLICT RESOLUTION, March 1995, p.3-4.

Political regimes-governments-have probably murdered nearly 170,000,000 of their own citizens and foreigners in this century-about four times the number killed in all international and domestic wars and revolutions (Rummel 1994). Why? I will offer both a theory and empirical results on this question and then sketch the variety of tests of the theory that were conducted. But first, I will define what I mean by government murder and, in doing this, propose an appropriate concept. A concept that has provided yeoman service in denoting government murder is genocide. But this concept hardly covers the variety and extent of ruthless murder carried out by governments. To be more specific, in international conventions and the general literature, genocide has been defined in part as the intentional killing by government of people because of their race, religion, ethnicity, or other indelible group membership. Cold-blooded government killing, however, extends beyond genocide so defined: as starving civilians to death by a blockade; assassinating supposed sympathizers of antigovernment guerrillas; purposely creating a famine; executing prisoners of war; shooting political opponents; or murdering by quota (as carried out by the Soviets, Chinese communists, and North Vietnamese).

MPP3-229 DEMICIDE IS INTENTIONAL MURDER BY GOVERNMENT

R.J. Rummel, Professor of Political Science, University of Hawaii, JOURNAL OF CONFLICT RESOLUTION, March 1995, p.4.

To cover all such murder as well as genocide and politicide, I use the concept democide. This is the intentional killing of people by government. It excludes the killing of those with weapons in their hands or those indirectly killed as a result of military action; it excludes judicial executions for what are normally considered capital crimes, such as murder and treason (unless such are clearly excuses for the executions, as the Stalin show trials in the 1930s). Democide is meant to define the killing by states as the concept of murder defines individual killing in domestic society. Here intentionality (premeditation) is critical. This also includes practical intentionality. If a government causes deaths through a reckless and depraved indifference to human life, the deaths were as though intended, as in the deadly Soviet forced labor camps.

MPP3-230 NUMEROUS FACTORS MAKE DEMOCRACIES LESS PRONE TO DEMICIDE

R.J. Rummel, Professor of Political Science, University of Hawaii, JOURNAL OF CONFLICT RESOLUTION, March 1995, p.4.

The theoretical hypothesis is that the more democratic freedom a nation has, the less likely its government will commit foreign or domestic democide. In brief summary, the theory is that through democratic institutions social conflicts that might become violent are resolved by voting, negotiation, compromise, and mediation. The success of these procedures is enhanced and supported by the restraints on decision makers of competitive elections, the cross-pressures resulting from the natural pluralism of democratic-spontaneous-societies, and the development of a democratic culture and norms that emphasizes rational debate, toleration, negotiation of differences, conciliation, and conflict resolution. Moreover, democratic leaders see others, even political opponents, as within the same moral universe, as equally nonviolent, as disposed to negotiate differences peacefully.

MPP3-231 GOVERNMENT VIOLENCE DIRECTLY CORRELATES WITH OPPRESSION

R.J. Rummel, Professor of Political Science, University of Hawaii, JOURNAL OF CONFLICT RESOLUTION, March 1995, p.5.

There is thus a scale of political regimes from the most democratic to the most totalitarian, from freedom in terms of political and civil rights and liberties to an absolute power under which such rights and liberties do not exist. And we should find empirically that the more democratic the less violence in foreign and domestic affairs, the more totalitarian the more violence. So far this equation between the scales of power and violence has been empirically supported. We find that democracies do not (or rarely) make war on each other, that the more democratic and less totalitarian two regimes the less foreign violence between them, and that democracies have the least domestic violence (Rummel 1984, 1985, forthcoming-a). By this theory, power also should be directly predictive of democide such that the less democratic a regime along the democratic to totalitarian scale of power, the more likely it will commit democide.

MPP3-232 RUMMEL'S RESULTS ARE BASED ON EXTENSIVE STATISTICAL ANALYSIS

R.J. Rummel, Professor of Political Science, University of Hawaii, JOURNAL OF CONFLICT RESOLUTION, March 1995, p.6-7.

I have gone through five research stages to test the hypothesis that democracy is causally and inversely related to democide. Specifically for this test, I collected data on all democide for all regimes for the period from 1900 to 1987, for which estimates in English were available in the literature. Second, I delineates the dimensionality of these data through factor analysis. Third, attending now to the hypothetical independent variable, I determined various ways of measuring democracy over the same years for different regimes. I then used a factor analysis to define the prime indicator of the theoretical democracy-totalitarianism continuum. Fourth, I collected data on a number of control variables, particularly those defining cross-national sociocultural diversity, culture, war and rebellion, wealth, and power. I also separately factor analyzed these data to uncover their major indicators and reduce the number of variables and their multicollinearity in the tests. Finally, I then applied factor analysis, interactive multiple regression analysis, canonical analyses, and time series regression to test whether of all indicators the democracy-totalitarian one best accounted for democide, as it should. It did, regardless of the controls or type of tests.

MPP3-233 RUMMEL'S DATA BASE IS EXTENSIVE

R.J. Rummel, Professor of Political Science, University of Hawaii, JOURNAL OF CONFLICT RESOLUTION, March 1995, p.6.

These data are based on almost 8,200 estimates of war, domestic violence, genocide, mass murder, and other relevant data that I recorded from over 1,000 sources, which include general works, specialized studies, human rights reports, journal articles, and news sources.

MPP3-234 DEMOCIDE IS EXCLUSIVELY RELATED TO PATTERNS OF REGIME POWER

R.J. Rummel, Professor of Political Science, University of Hawaii, JOURNAL OF CONFLICT RESOLUTION, March 1995, p.21.

The result so far is that for state regimes, in general, there is virtually no relationship of democide to cross-national diversity culture, religion, regional variation, economics, education, health, transportation, demography, and geography. Overall, 83 measures were analyzed, 24 independent patterns delineated, their best indicators selected, and all these indicators used to define the relationships between the democide committed by regimes and their attributes and context. As a result, we can say that the dominant pattern of democide, that centrally involving domestic democide, is exclusively related to patterns of power and the likelihood of rebellion against a regime. This so far has been a positive test of the hypothesis that democracy is inversely related to democide.

MPP3-235 TOTALITARIAN REGIMES ARE MOST PRONE TO COMMIT MASS MURDER

R.J. Rummel, Professor of Political Science, University of Hawaii, JOURNAL OF CONFLICT RESOLUTION, March 1995, p.25.

Among a variety of social diversity (e.g., race, ethnicity, religion, language), socioeconomic, cultural, geographic, and other indicators, the best way to account for and predict democide is by the degree to which a regime is totalitarian along a democratic-totalitarian scale. That is, the extent to which a regime controls absolutely all social, economic, and cultural groups and institutions, the degree to which its elite can rule arbitrarily, largely accounts for the magnitude and intensity of genocide and mass murder. The best assurances against democide are democratic openness, political competition, leaders responsible to their people, and limited government. In other words, power kills, and absolute power kills absolutely. That power kills is the primary and, for domestic democide, singular general explanation of democide. This is true even when we consider how regimes differ in their underlying ethnic, religious, and racial diversity. It is also true, in general, when we consider their cultural region or whether they are Christian, Muslim, or European. It is true when taking into account different levels of education or economic development. It is true for differences in sheer size. And it is true even for the trend of overall democide through time (not shown).

MPP3-236 TOTALITARIAN GOVERNMENT IS INHERENTLY EXPANSIONIST

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.415.

Evidence that totalitarian governments aspire to conquer the globe and bring all countries on earth under their domination can be found repeatedly in Nazi and Bolshevik literature. Yet these ideological programs, inherited from pretotalitarian movements (from the supranationalist antisemitic parties and the Pan-German dreams of empire in the case of the Nazis, from the international concept of revolutionary socialism in the case of the Bolsheviks) are not decisive. What is decisive is that totalitarian regimes really conduct their foreign policy on the consistent assumption that they will eventually achieve this ultimate goal, and never lose sight of it no matter how distant it may appear or how seriously its "ideal" demands may conflict with the necessities of the moment. They therefore consider no country as permanently foreign, but, on the contrary, every country as their potential territory.

MPP3-237 DEMOCRACIES ARE LESS WAR PRONE

R.J. Rummel, Professor of Political Science, University of Hawaii, *JOURNAL OF CONFLICT RESOLUTION*, March 1995, p.25.

As mentioned earlier, we now have solid empirical evidence that democracies do not (or rarely) wage war on each other; the more democratic two regimes the less violence between them; and the more democratic the less domestic collective violence. Now we find also that as a regime is less democratic its democide increases exponentially. Tying all these results together, then, the final conclusion is that democracy is a general method of nonviolence.

MPP3-238 CONCENTRATED POWER INCREASES THE RISK OF WAR

Bertrand Russell, British philosopher, *PROPOSED ROADS TO FREEDOM*, 1919, p.146.

Not only does the concentration of power tend to cause wars, but, equally, wars and the fear of them bring about the necessity for the concentration of power. So long as the community is exposed to sudden dangers, the possibility of quick decision is absolutely necessary to self-preservation. The cumbrous machinery of deliberative decisions by the people is impossible in a crisis, and therefore so long as crises are likely to occur, it is impossible to abolish the almost autocratic power of governments. In this case, as in most others, each of two correlative evils tends to perpetuate the other. The existence of men with the habit of power increases the risk of war, and the risk of war makes it impossible to establish a system where no man possesses great power.

MPP3-239 STATE OPPRESSION DESTROYS SCIENCE

Bertrand Russell, British philosopher, *PROPOSED ROADS TO FREEDOM*, 1919, p.208.

As for the progress of science, that depends very largely upon the degree of intellectual liberty existing in the new society. If all science is organized and supervised by the State, it will rapidly become stereotyped and dead. Fundamental advances will not be made, because, until they have been made, they will seem too doubtful to warrant the expenditure of public money upon them. Authority will be in the hands of the old, especially of men who have achieved scientific eminence; such men will be hostile to those among the young who do not flatter them by agreeing with their theories. Under a bureaucratic State Socialism it is to be feared that science would soon cease to be progressive and acquired a medieval respect for authority.

MPP3-240 STATE OPPRESSION DESTROYS HUMAN CREATIVITY

Bertrand Russell, British philosopher, *PROPOSED ROADS TO FREEDOM*, 1919, p.175.

Art springs from a wild and anarchic side of human nature; between the artist and the bureaucrat there must always be a profound mutual antagonism, an age-long battle in which the artist, always outwardly worsted, wins in the end through the gratitude of mankind for the joy that he puts into their lives. If the wild side of human nature is to be permanently subjected to the orderly rules of the benevolent, uncomprehending bureaucrat, the joy of life will perish out of the earth, and the very impulse to live will gradually wither and die. Better a thousandfold the present world with all its horrors than such a dead mummy of a world. Better Anarchism, with all its risks, than a State Socialism that subjects to rule what must be spontaneous and free if it is to have any value.

MPP3-241 THE LEVIATHAN CAN'T PROVIDE PEACE

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.146-7.

By Victory or Death," the Leviathan can indeed overcome all political limitations that go with the existence of other peoples and can envelop the whole earth in its tyranny. But when the last war has come and every man has been provided for, no ultimate peace is established on earth: the power-accumulating machine, without which continual expansion would not have been achieved, needs more material to devour in its never-ending process. If the last victorious Commonwealth cannot proceed to "annex the planets," it can only proceed to destroy itself in order to begin anew the never-ending process of power generation.

MPP3-242 THE HOBBSIAN STATE WOULD BE IN CONTINUAL WAR WITH OTHER STATES

Hanna Arendt, political philosopher, *THE ORIGINS OF TOTALITARIANISM*, 1966, p.142.

Since power is essentially only a means to an end a community based solely on power must decay in the calm of order and stability; its complete security reveals that it is built on sand. Only by acquiring more power can it guarantee the status quo; only by constantly extending its authority and only through the process of power accumulation can it remain stable. Hobbes's Commonwealth is a vacillating structure and must always provide itself with new props from the outside; otherwise it would collapse overnight into the aimless, senseless chaos of the private interests from which it sprang. Hobbes embodies the necessity of power accumulation in the theory of the state of nature, the "condition of perpetual war" of all against all, in which the various single states still remain vis-a-vis each other like their individual subjects before they submitted to the authority of a Commonwealth. This ever-present possibility of war guarantees the Commonwealth a prospect of permanence because it makes it possible for the state to increase its power at the expense of other states.

MPP3-243 HOBBSIAN ABSOLUTISM CAN'T PRODUCE PEACE

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.209.

Unlike Hobbes, we take it that this reason limits government even if it also empowers it (if it does at all). We take this because his argument that the State must be unlimited in its powers is fallacious and, indeed, incoherent. If peace consists in our all being able to do as we wish, then a government that won't let us do so is violating peace, and is therefore illegitimate if the sole justification for government is to preserve the peace.

MPP3-244 STRONGER STATES ARE MORE ABLE TO FIGHT WARS

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.557.

Another point in which Hobbes's doctrine is unduly limited is in regard to the relations between different States. There is not a word in *Leviathan* to suggest any relation between them except war and conquest, with occasional interludes. This follows, on his principles, from the absence of an international government, for the relations of States are still in a state of nature, which is that of a war of all against all. So long as there is international anarchy, it is by no means clear that increase of efficiency in the separate States is in the interest of mankind, since it increases the ferocity and destructiveness of war. Every argument that he adduces in favour of government, in so far as it is valid at all, is valid in favour of international government. So long as national States exist and fight each other, only inefficiency can preserve the human race. To improve the fighting quality of separate States without having any means of preventing war is the road to universal destruction.

MPP3-245 HOBBS FAILED TO RECOGNIZE CONFLICTING INTERESTS

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.556-7.

Without criticizing Hobbes's metaphysics or ethics, there are two points to make against him. The first is that he always considers the national interest as a whole, and assumes, tacitly, that the major interests of all citizens are the same. He does not realize the importance of the clash between different classes, which Marx makes the chief cause of social change. This is connected with the assumption that the interests of a monarch are roughly identical with those of his subjects. In time of war there is a unification of interests, especially if the war is fierce; but in time of peace the clash may be very great between the interests of one class and those of another. It is not by any means always true that, in such a situation, the best way to avert anarchy is to preach the absolute power of the sovereign. Some concession in the way of sharing power may be the only way to prevent civil war. This should have been obvious to Hobbes from the recent history of England.

MPP3-246 HOBBS' ETHICAL VIEWS ARE IMPOVERISHED

Richard Tuck, Lecturer in History, Cambridge University, *HOBBS*, 1989, p.114-5.

As I have stressed, Hobbes's philosophy dealt with just these issues, and ended with broadly the same conclusion. Instead of scepticism, he offered science; but when one looks closer, one finds that his science is of an extremely exiguous kind. By clearing away all that he thought was doubtful, he was left with a bare a priori materialism, according to which the universe must consist of material objects causally interacting with one another, but the real character of these objects and their interactions is unknowable. Similarly in ethics: by clearing away all the complicated ethical theories of his orthodox predecessors (whether Aristotelians or humanists), he was left with nothing but the bare principle that we are morally entitled to preserve ourselves. Hobbes was left with little more to stand on as a guide to living than the sceptics like Montaigne, for they too had always acknowledged the practical force of the principle of self-preservation.

MPP3-247 HOBBS' ETHICS COMMIT THE NATURALISTIC FALLACY

Richard Tuck, Lecturer in History, Cambridge University, HOBBS, 1989, p.95-6.

Hume, in his *Treatise of Human Nature* (1739-40), was critical of all his natural law predecessors on the grounds that they had mistakenly tried to answer the sceptic by pointing to the actual universality of certain beliefs and practices-notably, the propensity to defend oneself and the belief that self-defence is morally legitimate. As Hume emphasized, no evidence of that kind could be relevant to the formation of anyone's own moral attitudes: it cannot follow from the fact that everyone else thinks or acts in a particular way, that I should do likewise. So the whole enterprise of modern natural law theory, with its emphasis on the facts of human psychology and culture, was itself vulnerable to a new kind of sceptical critique which denied the relevance of facts to ethical thinking. Not only Hobbes, but also Grotius, Pufendorf, and Locke, shared in this new vulnerability. A similar point was made, though less explicitly, by Rousseau in his *Social Contract* (1762); as he said, men in a 'state of nature' could not be thought of as possessing moral rights or being under moral duties: morality was an invention of men in political communities, and could be authoritative only if those communities were properly founded democratic republics. Naturalistic ethics was thus a contradiction in terms.

MPP3-248 MORALITY AND SELF-INTEREST AREN'T IDENTICAL

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.22.

The concepts of moral obligation and of self-interest are two radically different concepts, and neither presupposes or implies the other. It is possible to talk about moral obligations without mentioning self-interest and vice versa. It is also possible and sometimes true that a moral obligation is contrary to self-interest. This is precisely what we understand by the nature of morality. If our fulfillment of moral obligations were to be parasitic upon the promotion of our self-interest, the concept of moral obligation would be otiose. But the concept is not otiose, since there are circumstances in which one can say that persons are morally obliged to do A rather than B even though A is not in their self-interest.

MPP3-249 A HOBBSIAN CONTRACT WOULD BE AN ACT OF INSANITY

Jeremy Waldron, Professor of Law, University of California, Berkeley, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.54.

There is no need to go into details; one example will do. Locke's opposition to absolutism is based on the idea that government is founded on individual consent and that there are clear limits on what individuals will or may give their consent to. 'A Rational Creature cannot be supposed, when free, to put himself into Subjection to another, for his own harm'. Locke argues that the attributes of Hobbesian or *jure divino* absolutism are not what rational creatures can intelligibly be supposed to have consented to. Such an absolutism, leaving them worse off than they would have been in the state of nature, is not a possible subject for a deliberately conceived and explicitly set out charter of cooperation and trust formed by individuals bargaining together under conditions of juridical freedom and equality. Agreement to such terms could not be construed as genuine consent, but would have to be taken as a temporary act of insanity or irrationality from which no binding obligation could plausibly be inferred.

MPP3-250 HOBBS' DETERMINISM UNDERMINES HIS CONTRACTUALISM

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.57.

It has also been suggested by some commentators - notably Patrick Riley in a recent book (Riley 1982, pp.9-11,15-16 and chapter 2) that Hobbes's synthesis of contract theory and scientific determinism is an uneasy one. The fundamental premise of traditional contract theory is that men are bound by their promise. Hobbes agrees with this premise. But is he really entitled to? The orthodox notion of this moral obligation is that it arises from the fact that a promise is an exercise of a person's free choice. Hobbes speaks often enough of liberty and freedom, but he means thereby only the absence of physical and legal restriction, not the absence of physical necessitation (HL, 261-3). It is dubious whether this allows for a sufficient genuineness of choice to found a moral obligation.

MPP3-251 HOBBS' CONTRACT CAN'T BE HYPOTHETICAL

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.58.

Many commentators have urged that, to the contrary, the state of nature is a kind of fiction or hypothetical model, showing what the condition of men would be like (or is like) in the absence of government, and the contract is a depiction of the terms that would (or should) be acceptable to all men in such a condition, and therefore should be acceptable to all men quite generally. There is some warrant for this interpretation in Hobbes's text, but overall it seems to me clear that his argument requires that the state of nature and the contract be (as for his predecessors) genuine historical phenomena. Not only does Hobbes refer to the state of nature, more than once, as being 'before the erection of a Commonwealth', and by similar phrases, and likewise to 'the pacts and covenants, by which the parts of [the] Body Politic were first made', and so on; even more importantly, he continually relies on the actuality of promise as the foundation of men's political obligation. Thus: 'Every subject in a Commonwealth, hath covenanted to obey the Civil Law . . . And therefore obedience to the Civil Law is also part of the Law of Nature' (HL, 202,81-82,314, emphases added). Hobbes even says (exaggerating somewhat), that there is 'no obligation on any man, which ariseth not from some act of his own', hence our political obligations and liberties depend on 'what rights we pass away, when we make a commonwealth' (HL, 268). It is very clear that, to Hobbes, these obligations depend not only on the advantages of political society, but also on our having performed one specific 'act of our own', the social contract.

MPP3-252 HOBBS WRONGLY FAILED TO RECOGNIZE THAT DUTIES TO KEEP PROMISES MUST PRECEDE THE CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.72.

Yet Hobbes was wrong to suppose that in this state there was no justice or injustice, no binding moral law. On the contrary, since man is on his own a helpless and vulnerable creature, dependent on the mutual assistance of his fellows, 'it follows that ... he must be sociable'. The 'laws of this sociability', which teach how to be 'a good member of human society' are, Pufendorf says, natural laws. These laws enjoin, among other things, the keeping of promises and agreements. And, Pufendorf adds, here anticipating many a modern critic of Hobbes, if the obligation to keep agreements did not precede the establishment of government, how could there be any obligation to obey rulers established by compact? What would 'prevent subjects from throwing off obedience and destroying the state at their pleasure? ... For it would be idle to hope that so great a multitude of men could hold together by the force of mere violence and fear' (POH, 89,91,18-19,48; PJN, 1139).

MPP3-253 HOBBS' CONTRACT IS A USELESS FICTION

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.26.

According to Hobbes, "the end of Obedience is Protection." However, if the subjects of a commonwealth are obliged to obey the sovereign as long as they are protected, why bother to use the concept of a contract to establish the subjects' political obligation to the sovereign? The coherence of Hobbes's political philosophy is unaffected by eliminating the contract from it because his concept of "power" is sufficient to establish the subjects' political obligation to obey the sovereign. Hobbes's concept of the social contract is therefore a useless fiction employed to persuade the public that, no matter how tyrannical and unjust a sovereign might be, they still have an obligation to obey so long as they are protected.

MPP3-254 HOBBS' SOCIAL CONTRACT IS INTERNALLY INCONSISTENT

Alasdair MacIntyre, Professor of Philosophy, Notre Dame, *A SHORT HISTORY OF ETHICS*, 1966, p.136-7.

The Hobbesian contract is the foundation of social life in the sense that prior to the contract there are no shared rules or standards; indeed, the story of the contract functions as some kind of explanation of how men came to share social norms. But any exchange of words, written or spoken, between men which it would be appropriate to characterize as a contract or agreement or making of promises can only be so characterized in virtue of there already existing some acknowledged and shared rule according to which the use of the form of words in question is understood by both parties to be a binding form of words. Apart from such an already acknowledged and accepted convention, there could be nothing which could be correctly called a contract, agreement, or promise. There could perhaps be expressions of intention; but in a Hobbesian state of nature there would be every reason to suspect that these were designed to mislead. The only available standards for interpreting the utterances of others would prevent any conception of agreement. Thus Hobbes makes two incompatible demands of the original contract: he wishes it to be the foundation of all shared and common standards and rules; but he also wishes it to be a contract, and for it to be a contract, there must already exist shared and common standards of the kind which he specifies cannot exist prior to the contract. The concept of an original contract is therefore ruined by internal self-contradiction and cannot be used even to frame a metaphor of a coherent kind.

MPP3-255 HOBBS' VIEW OF THE SOCIAL CONTRACT IS HISTORICALLY INCOHERENT

Alasdair MacIntyre, Professor of Philosophy, Notre Dame, *A SHORT HISTORY OF ETHICS*, 1966, p.136.

What justifies Hobbes is his view of the contract as intervening between the state of nature and social life. But what justifies his view of the contract? Not any historical or anthropological evidence that man ever is or was like this. Hobbes does in passing refer to the American Indians, but his whole argument is based on a method that makes him independent of historical evidence. He is resolving timeless human nature into its timeless elements, not recounting an evolutionary progress. The story of the contract must then be read as an extended metaphor; but it can only function, even as a metaphor, if it is an intelligible story, if it satisfies certain elementary requirements of logical coherence. This it fails to do.

MPP3-256 APPOINTING A SOVEREIGN FAILS IN THE STATE OF NATURE

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.139.

The Hobbesian solution may seem all well and good, perhaps. But there are two crucial shortcomings. The first is: how do we get a suitable Enforcer appointed? In our hypothetical state of nature nobody already has the kind of power needed; that power must be "handed over" by those concerned. But you don't just "hand over" power: instead, you make an agreement that gives someone the power. Terrific--but that agreement would have to be, genuinely, an agreement--the very sort of thing that can't be done in the state of nature on Hobbes's own reasoning!

MPP3-257 HOBBS HAS TOO NARROW A CONCEPT OF JUSTICE AND MORALITY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.21-2.

The traditional concept of justice is broader than Hobbes's contractual concept. Justice cannot be defined only in terms of contractual relations because one can legitimately argue that some contracts are unjust, such as a contract in which one or both parties are under duress. Hobbes also has a narrow concept of morality, which he defines in terms of self-interest. But it is doubtful that these sometimes antithetical concepts can be reconciled. If, whenever a moral obligation conflicts with an individual's self-interest, the latter takes precedence over the former, the concept of moral obligation would be useless and morality itself reduced to a set of prudential rules of conduct. This is not what we normally understand by morality. The concept of morality is broader than the concept of self-interest. When we are morally obliged, there is something we ought to do, whether it is to our advantage or not.

MPP3-258 HOBBS MISUNDERSTANDS THE ORIGINS OF JUSTICE

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.45.

Then consider Hobbes's fundamental doctrine about the origin of justice. We come to have duties of justice by virtue of what he calls the "transferring of rights". But unfortunately, as M.T. Dalgarno has pointed out the sort of "right" Hobbes is talking about here isn't actually transferred, for it is this so-called liberty-right, the right consisting in the lack of obligation to do anything, and you don't transfer this, because the person to whom you transfer it doesn't end up with something that you had before and he didn't. Since everybody has this so-called "right" to do everything, the other person always already has it. What you in fact do is to assume an obligation by laying down this antecedent liberty. Naturally if I "give up" a nonobligation I end up with an obligation. But plainly this is just double-talk for assuming an obligation.

MPP3-259 PROTECTION ISN'T SUFFICIENT TO JUSTIFY POLITICAL OBLIGATION

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.26-7.

Protection, however, though necessary, is not sufficient to justify political obligation. Protection is to political obligation as life is to human rights. Without life, human beings would not be able to exercise their rights and pursue their interests. But life in itself is not sufficient to guarantee the exercise of rights; for this something else is needed. An analogous situation exists in the case of "protection." Moral agents might be politically obliged to obey a sovereign only if he provides a reasonably safe society in which they can exercise their rights and pursue their interests. But once protection and safety are achieved, something else is needed to acquire political obligations. Sovereigns who systematically infringe upon their subjects' rights and interests are not worthy of their respect and obedience, even if they have voluntarily consented to obey. On the other hand, if sovereigns protect their subjects and treat them fairly, they are worthy of respect as well.

MPP3-260 HOBBS' CONCEPT OF POLITICAL OBLIGATION IS DEFECTIVE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.27.

Hobbes's concept of political obligation is also inadequate for other reasons. For instance, he argues that when we recognize or consent to a certain sovereign, we are in fact responsible for all acts of that sovereign. Yet that is arguably false. If we presently recognize a certain political authority or sovereign, it does not follow that we are responsible for all or even some of the sovereign's present and future acts. For example, we might have recognized the sovereign's authority for reasons that were later on betrayed. If so, one might argue, our obligations to the sovereign would no longer be binding. If this is true, then Hobbes's concept of political obligation is defective.

MPP3-261 HOBBS DESTROYS THE MORAL BASIS OF NATIONAL DEFENSE

Leo Strauss, political theorist, University of Chicago, *NATURAL RIGHT AND HISTORY*, 1953, p.197.

As regards war, Hobbes, who proudly declared that he was "the first of all that fled" at the outbreak of the Civil War, was consistent enough to grant that "there is allowance to be made for natural timorousness." And as if he desired to make it perfectly clear to what lengths he was prepared to go in opposing the lupine spirit of Rome, he continues as follows: "When armies fight, there is on one side, or both, a running away: yet when they do it not out of treachery, but fear, they are not esteemed to do it unjustly, but dishonourably." But, by granting this, he destroyed the moral basis of national defense.

MPP3-262 ENVIRONMENTAL SOLUTIONS REQUIRE GOVERNMENT BUT NOT LEVIATHAN

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.313.

If we use de Tocqueville's language, however, matters become much clearer. We desperately need more government—that is, stronger checks on the competitive overexploitation of the ecological commons and therefore on human self-aggrandizement. But it does not necessarily follow from this that we need more administration. On the contrary, or so it seems to me, given the appalling record of the administrative state in this century, the better solution is to be found in the other direction. We need a form of government that is effective in obliging humankind to live within its ecological means but that does not require us to erect an ecological Leviathan (which, as many of my critics rightly pointed out, simply would not work in the long run).

MPP3-263 PRO-ENVIRONMENTALIST POLITICS NEED NOT BE ANTI-DEMOCRATIC

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.315.

Neither of these conditions now exists in the United States. Thus, I too believe that democracy can be part of the long-term solution to our ecological predicament, but only if it is genuine democracy—democracy that is fundamentally Jeffersonian and Thoreauvian in spirit and practice. It is, in fact, precisely toward such an ecological democracy that most of the final chapter points. In sum, therefore, those who see in this work an anti-democratic justification for increased state power to enforce ecological imperatives have fundamentally misunderstood the argument.

MPP3-264 ENVIRONMENTAL PROTECTION NEED NOT BE TYRANNICAL

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.205.

Similarly, Hardin makes it clear that the problem is to "legislate temperance," not to institute iron discipline. He acknowledges that this may require the use of administrative law, with the consequent risk of abuse of power by the administrators. However, he believes that the application of his formula of "mutual coercion, mutually agreed upon by the majority of the people affected," would be an adequate defense against bureaucratic tyranny, for we would be democratically coercing ourselves to behave responsibly (Hardin 1968, p. 1247).

MPP3-265 HOBBSIAN INDIVIDUALISM IS THE SOURCE OF THE ENVIRONMENTAL CRISIS

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.312-3.

In sum, far from being the solution, Hobbes is rather the essence of the problem. The current environmental problematique is a direct outgrowth of the system of individualistic and economic politics that evolved out of the social contract theory elaborated in Leviathan. Thus we shall not begin to deal with our problems constructively until we acknowledge that we must reassess our whole world view and way of life. Reforms intended merely to sustain the current political system will only deepen the crisis in the long run and, what is worse, feed the forces that are already pushing us in the direction of Leviathan.

MPP3-266 THE STATE OF NATURE IS A STATE OF FREEDOM AND EQUALITY

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.8.

To understand political power right, and derive it from its original, we must consider, what state all men are naturally in, and that is, a state of perfect freedom 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. 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, unless the lord and master of them all should, by any manifest declaration of his will, set one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and sovereignty.

MPP3-267 THE STRONGEST RULE IN THE STATE OF NATURE

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.66.

Thirdly, In the state of nature there often wants power to back and support the sentence when right, and to give it due execution. They who by any injustice offended, will seldom fail, where they are able, by force to make good their injustice; such resistance many times makes the punishment dangerous, and frequently destructive, to those who attempt it.

MPP3-268 LOCKE'S STATE OF NATURE ISN'T THE EQUIVALENT OF THE HOBBSIAN STATE OF WAR

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.31.

In these two passages Locke is not, as C. B. Macpherson maintains, reducing the state of nature to the Hobbesian state of war. Macpherson misses the point when he contends that "the difference between the state of nature and the Hobbesian state of war has virtually disappeared." There is a radical difference between Locke's concept of the state of nature, where the precepts of natural law, including the natural rights to life, liberty, and property, ought to be respected, and Hobbes's concept of the state of nature, where the fundamental law of nature is to preserve one's life at all costs and the fundamental natural right is one's power to preserve that life.

MPP3-269 LOCKE ACKNOWLEDGES THE INSECURITY OF THE STATE OF NATURE

C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's SECOND TREATISE OF GOVERNMENT, 1980, p.xiv.

If he had kept to that picture of a peaceable state of nature there would still have been some case for setting up government, for there would be the inconvenience of every man having to be his own judge and policeman, but it would not need to be a very strong government. However, Locke did not keep to that picture. As early as ~21 he asserted that one great reason for men quitting the state of nature was that in it "every the least difference" is apt to end in the state of war; and later, when he had to explain why men would ever leave such a free and equal condition as the state of nature, the reason he gave was that in it each was "constantly exposed to the invasion of others", his life and property "very unsafe, very insecure", and his existence "full of fears and continual dangers".

MPP3-270 REASON SUPPORTS THE SANCTITY OF LIFE, LIBERTY, AND PROPERTY

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.9.

The state of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions: for men being all the workmanship of one omnipotent, and infinitely wise maker; all the servants of one sovereign master, sent into the world by his order, and about his business; they are his property, whose workmanship they are, made to last during his, not one another's pleasure: and being furnished with like faculties, sharing all in one community of nature, there cannot be supposed any such subordination among us, that may authorize us to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for our's.

MPP3-271 PEOPLE HAVE AN OBLIGATION TO PRESERVE THE LIFE, LIBERTY, AND PROPERTY OF OTHERS

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.9.

Every one, as he is bound to preserve himself, and not to quit his station wilfully, so by the like reason, when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind, and may not, unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another.

MPP3-272 THE CONTRACT IS JUSTIFIED BY NATURAL FREEDOM AND EQUALITY

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.52.

Men being, as has been said, by nature, all free, equal, and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent. The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any, that are not of it. This any number of men may do, because it injures not the freedom of the rest; they are left as they were in the liberty of the state of nature. When any number of men have so consented to make one community or government, they are thereby presently incorporated, and make one body politic, wherein the majority have a right to act and conclude the rest.

MPP3-273 LOCKE'S DEFENSE OF NATURAL RIGHTS SHARPLY DISTINGUISHES HIM FROM HOBBS

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.33.

One ought not to forget (and in this respect Macpherson is careless) that there is an essential difference between Hobbes's and Locke's political philosophies. Hobbes is a revolutionary in political philosophy, since he tries to ground it on new bases: self-interest and power. Locke, on the other hand, is a faithful disciple of the Christian medieval tradition of natural law. Thus, even though Locke is an ethical hedonist in morals, he is a staunch defender of natural rights--rights we possess in virtue of our nature or humanity.

MPP3-274 ATTEMPTS TO LIMIT FREEDOM CONSTITUTE AN ACT OF WAR

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.14-5.

To be free from such force is the only security of my preservation; and reason bids me look on him, as an enemy to my preservation, who would take away that freedom which is the fence to it; so that he who makes an attempt to enslave me, thereby puts himself into a state of war with me. He that, in the state of nature, would take away the freedom that belongs to any one in that state, must necessarily be supposed to have a design to take away every thing else, that freedom being the foundation of all the rest; as he that, in the state of society, would take away the freedom belonging to those of that society or common-wealth, must be supposed to design to take away from them every thing else, and so be looked on as in a state of war.

MPP3-275 THE STATE OF NATURE IS DISTINCT FROM THE STATE OF WAR

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.15.

And here we have the plain difference between the state of nature and the state of war, which however some men have confounded, are as far distant, as a state of peace, good will, mutual assistance and preservation, and a state of enmity, malice, violence and mutual destruction, are one from another. Men living together according to reason, without a common superior on earth, with authority to judge between them, is properly the state of nature. But force, or a declared design of force, upon the person of another, where there is no common superior on earth to appeal to for relief, is the state of war: and it is the want of such an appeal gives a man the right of war even against an aggressor, tho' he be in society and a fellow subject.

MPP3-276 BIAS IN JUDGING ONE'S OWN CASE JUSTIFIES LIMITED GOVERNMENT

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.12-3.

I easily grant, that civil government is the proper remedy for the inconveniences of the state of nature, which must certainly be great, where men may be judges in their own case, since it is easy to be imagined, that he who was so unjust as to do his brother an injury, will scarce be so just as to condemn himself for it: but I shall desire those who make this objection, to remember, that absolute monarchs are but men; and if government is to be the remedy of those evils, which necessarily follow from men's being judges in their own cases, and the state of nature is therefore not to be endured, I desire to know what kind of government that is, and how much better it is than the state of nature, where one man, commanding a multitude, has the liberty to be judge in his own case, and may do to all his subjects whatever he pleases, without the least liberty to any one to question or controul those who execute his pleasure? and in whatsoever he doth, whether led by reason, mistake or passion, must be submitted to? much better it is in the state of nature, wherein men are not bound to submit to the unjust will of another: and if he that judges, judges amiss in his own, or any other case, he is answerable for it to the rest of mankind.

MPP3-277 PEOPLE ENTER CIVIL SOCIETY TO AVOID THE STATE OF WAR

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.16.

To avoid this state of war (wherein there is no appeal but to heaven, and wherein every the least difference is apt to end, where there is no authority to decide between the contenders) is one great reason of men's putting themselves into society, and quitting the state of nature: for where there is an authority, a power on earth, from which relief can be had by appeal, there the continuance of the state of war is excluded, and the controversy is decided by that power.

MPP3-278 POLITICAL SOCIETIES ARE FORMED FOR MUTUAL PRESERVATION

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.65-6.

If man in the state of nature be so free, as has been said; if he be absolute lord of his own person and possessions, equal to the greatest, and subject to no body, why will he part with his freedom? why will he give up this empire, and subject himself to the dominion and controul of any other power? To which it is obvious to answer, that though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others: for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure. This makes him willing to quit a condition, which, however free, is full of fears and continual dangers: and it is not without reason, that he seeks out, and is willing to join in society with others, who are already united, or have a mind to unite, for the mutual preservation of their lives, liberties and estates, which I call by the general name, property.

MPP3-279 PRESERVATION OF PROPERTY IS THE CHIEF REASON FOR FORMING POLITICAL SOCIETY

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.66.

The great and chief end, therefore, of men's uniting into common-wealths, and putting themselves under government, is the preservation of their property. To which in the state of nature there are many things wanting.

MPP3-280 OBJECTIVE JUDGMENTS OF DISPUTES IS IMPOSSIBLE IN THE STATE OF NATURE

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.66.

First, There wants an established, settled, known law, received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies between them: for though the law of nature be plain and intelligible to all rational creatures; yet men being biassed by their interest, as well as ignorant for want of study of it, are not apt to allow of it as a law binding to them in the application of it to their particular cases. Secondly, In the state of nature there wants a known and indifferent judge, with authority to determine all differences according to the established law: for every one in that state being both judge and executioner of the law of nature, men being partial to themselves, passion and revenge is very apt to carry them too far, and with too much heat, in their own cases; as well as negligence, and unconcernedness, to make them too remiss in other men's.

MPP3-281 FREEDOM FROM ARBITRARY POWER IS ESSENTIAL TO SELF-PRESERVATION

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.17.

This freedom from absolute, arbitrary power, is so necessary to, and closely joined with a man's preservation, that he cannot part with it, but by what forfeits his preservation and life together: for a man, not having the power of his own life, cannot, by compact, or his own consent, enslave himself to any one, nor put himself under the absolute, arbitrary power of another, to take away his life, when he pleases.

MPP3-282 ABSOLUTE MONARCHY IS INCONSISTENT WITH CIVIL SOCIETY

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.48.

Hence it is evident, that absolute monarchy, which by some men is counted the only government in the world, is indeed inconsistent with civil society, and so can be no form of civil-government at all: for the end of civil society, being to avoid, and remedy those inconveniences of the state of nature, which necessarily follow from every man's being judge in his own case, by setting up a known authority, to which every one of that society may appeal upon any injury received, or controversy that may arise, and which every one of the society ought to obey; where-ever any persons are, who have not such an authority to appeal to, for the decision of any difference between them, there those persons are still in the state of nature; and so is every absolute prince, in respect of those who are under his dominion.

MPP3-283 GIVING THE SOVEREIGN ABSOLUTE POWER IS SUICIDAL

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.50.

For if it be asked, what security, what fence is there, in such a state, against the violence and oppression of this absolute ruler? the very question can scarce be borne. They are ready to tell you, that it deserves death only to ask after safety. Betwixt subject and subject, they will grant, there must be measures, laws and judges, for their mutual peace and security: but as for the ruler, he ought to be absolute, and is above all such circumstances; because he has power to do more hurt and wrong, it is right when he does it. To ask how you may be guarded from harm, or injury, on that side where the strongest hand is to do it, is presently the voice of faction and rebellion: as if when men quitting the state of nature entered into society, they agreed that all of them but one, should be under the restraint of laws, but that he should still retain all the liberty of the state of nature, increased with power, and made licentious by impunity. This is to think, that men are so foolish, that they take care to avoid what mischiefs may be done them by pole-cats, or foxes; but are content, nay, think it safety, to be devoured by lions.

MPP3-284 ARBITRARY POWER UNDERMINES THE BASIS FOR THE SOCIAL CONTRACT

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.72.

Absolute arbitrary power, or governing without settled standing laws, can neither of them consist with the ends of society and government, which men would not quit the freedom of the state of nature for, and tie themselves up under, were it not to preserve their lives, liberties and fortunes, and by stated rules of right and property to secure their peace and quiet. It cannot be supposed that they should intend, had they a power so to do, to give to any one, or more, an absolute arbitrary power over their persons and estates, and put a force into the magistrate's hand to execute his unlimited will arbitrarily upon them. This were to put themselves into a worse condition than the state of nature, wherein they had a liberty to defend their right against the injuries of others, and were upon equal terms of force to maintain it, whether invaded by a single man, or many in combination. Whereas by supposing they have given up themselves to the absolute arbitrary power and will of a legislator, they have disarmed themselves, and armed him, to make a prey of them when he pleases; he being in a much worse condition, who is exposed to the arbitrary power of one man, who has the command of 100,000, than he that is exposed to the arbitrary power of 100,000 single men; no body being secure, that his will, who has such a command, is better than that of other men, though his force be 100,000 times stronger.

MPP3-285 DESPOTICAL GOVERNMENT IS INCONSISTENT WITH CIVIL SOCIETY

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.90-1.

He, that shall consider the distinct rise and extent, and the different ends of these several powers, will plainly see, that paternal power comes as far short of that of the magistrate, as despotical exceeds it; and that absolute dominion, however placed, is so far from being one kind of civil society, that it is as inconsistent with it, as slavery is with property. Paternal power is only where minority makes the child incapable to manage his property; political, where men have property in their own disposal; and despotical, over such as have no property at all.

MPP3-286 GIVING ABSOLUTE POWER TO A SOVEREIGN UNDERMINES THE PURPOSE OF THE CONTRACT

C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's *SECOND TREATISE OF GOVERNMENT*, 1980, p.xv.

Secondly, to hand over absolute arbitrary power would be contrary to the very purpose for which the society was established, that is, the protection of the life, liberty and estate of each member: if they handed over their natural rights and powers to an absolute and arbitrary government they would have less protection than they had in the state of nature where each could at least take protective action for himself.

MPP3-287 LOCKE OPPOSES ARBITRARY GOVERNMENT

C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's *SECOND TREATISE OF GOVERNMENT*, 1980, p.xx.

His argument against arbitrary government has attracted most attention, and it is indeed important. Men, being so appetitive and contentious, have no choice but to hand over all their natural rights and powers, including their jurisdiction over their own properties, to a sovereign civil society ([REWRITE](#) 120), but it would contradict the purpose for which they did so if they were to authorize an absolute or arbitrary government ([REWRITE](#) 137). Hence Locke's insistence that the right of taxation must rest with the majority of the people, or with the majority of their elected representatives (which means, as we have seen, the majority of those elected by the property owners). Apart from this right of taxation, which only the majority of their representatives may exercise, no government can ever have any right to take any part of any man's property without his own consent ([REWRITE](#) 138). Even absolute power, which must sometimes be granted (as to military commanders over their subordinates), is not arbitrary power: it gives the power of life and death but not a power over a soldier's property (139).

MPP3-288 GOVERNMENT POWER IS LIMITED

C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's *SECOND TREATISE OF GOVERNMENT*, 1980, p.xx.

Not only are the powers of any government thus limited: the whole power of any constituted legislature, and therefore of any other part of a government, is revocable: the legislative power (which must be supreme within any frame of government) "being only a fiduciary power to act for certain ends, there remains still in the people a supreme power to remove or alter the legislative, when they find the legislative act contrary to the trust reposed in them" ([REWRITE](#) 149, cf. [REWRITE](#) 222). The authority of any government is conditional on its performing the functions for which it was entrusted with power.

MPP3-289 ABSOLUTE MONARCHY IS INCONSISTENT WITH CIVIL SOCIETY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.62-3.

'Absolute monarchs are but men', Locke reminds us, and great as are the inconveniences of the state of nature due to men's being judges in their own case, yet they would have done better to remain in that state than, when quitting it, to agree 'that all of them but one should be under the restraint of laws, but that he should still retain all the liberty of the state of nature, increased with power, and made licentious by impunity. This is to think that men are so foolish that they take care to avoid what mischiefs may be done them by polecats or foxes, but are content, nay think it safely, to be devoured by lions.' This is a deservedly famous piece of rhetoric. But Locke has a subtler and no less effective argument: absolute monarchy is actually inconsistent with civil society, for the absolute ruler remains judge in his own case - between him and his subjects there is no common, impartial judge, and a common impartial judge is precisely the institution that distinguishes civil society from the state of nature (L, 9,47,45).

MPP3-290 EVEN IN THE STATE OF NATURE, FAIR PUNISHMENT IS PROPORTIONATE

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.10.

And thus, in the state of nature, one man comes by a power over another; but yet no absolute or arbitrary power, to use a criminal, when he has got him in his hands, according to the passionate heats, or boundless extravagancy of his own will; but only to retribute to him, so far as calm reason and conscience dictate, what is proportionate to his transgression, which is so much as may serve for reparation and restraint: for these two are the only reasons, why one man may lawfully do harm to another, which is that we call punishment.

MPP3-291 THERE IS A NATURAL RIGHT TO PUNISH CRIMINALS

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.10.

In transgressing the law of nature, the offender declares himself to live by another rule than that of reason and common equity, which is that measure God has set to the actions of men, for their mutual security; and so he becomes dangerous to mankind, the tie, which is to secure them from injury and violence, being slighted and broken by him. Which being a trespass against the whole species, and the peace and safety of it, provided for by the law of nature, every man upon this score, by the right he hath to preserve mankind in general, may restrain, or where it is necessary, destroy things noxious to them, and so may bring such evil on any one, who hath transgressed that law, as may make him repent the doing of it, and thereby deter him, and by his example others, from doing the like mischief. And in the case, and upon this ground, every man hath a right to punish the offender, and be executioner of the law of nature.

MPP3-292 VICTIMS OF CRIME HAVE A RIGHT OF REPARATION

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.11.

Besides the crime which consists in violating the law, and varying from the right rule of reason, whereby a man so far becomes degenerate, and declares himself to quit the principles of human nature, and to be a noxious creature, there is commonly injury done to some person or other, and some other man receives -damage by his transgression: in which case he who hath received any damage, has, besides the right of punishment common to him with other men, a particular right to seek reparation from him that has done it: and any other person, who finds it just, may also join with him that is injured, and assist him in recovering from the offender so much as may make satisfaction for the harm he has suffered.

MPP3-293 CAPITAL PUNISHMENT IS LEGITIMATE

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.11-2.

And thus it is, that every man, in the state of nature, has a power to kill a murderer, both to deter others from doing the like injury, which no reparation can compensate, by the example of the punishment that attends it from every body, and also to secure men from the attempts of a criminal, who having renounced reason, the common rule and measure God hath given to mankind, has, by the unjust violence and slaughter he hath committed upon one, declared war against all mankind, and therefore may be destroyed as a lion or a tyger, one of those wild savage beasts, with whom men can have no society nor security: and upon this is grounded that great law of nature, Whoso sheddeth man's blood, by man shall his blood be shed. And Cain was so fully convinced, that every one had a right to destroy such a criminal, that after the murder of his brother, he cries out, Every one that findeth me, shall slay me; so plain was it writ in the hearts of all mankind.

MPP3-294 PEOPLE HAVE A RIGHT TO THE FRUITS OF THEIR LABOR

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.19.

Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature hath placed it in, it hath by this labour something annexed to it, that excludes the common right of other men: for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.

MPP3-295 APPROPRIATION FROM THE COMMONS IS NEEDED FOR SURVIVAL

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.19.

He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. No body can deny but the nourishment is his. I ask then, when did they begin to be his? when he digested? or when he eat? or when he boiled? or when he brought them home? or when he picked them up? and it is plain, if the first gathering made them not his, nothing else could. That labour put a distinction between them and common: that added something to them more than nature, the common mother of all, had done; and so they became his private right. And will any one say, he had no right to those acorns or apples, he thus appropriated, because he had not the consent of all mankind to make them his? Was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him.

MPP3-296 PROPERTY RIGHTS EXTEND ONLY TO WHAT WON'T BE WASTED

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.20-1.

It will perhaps be objected to this, that if gathering the acorns, or other fruits of the earth, &c. makes a right to them, then any one may ingross as much as he will. To which I answer, Not so. The same law of nature, that does by this means give us property, does also bound that property too. God has given us all things richly, 1 Tim. vi. 12. is the voice of reason confirmed by inspiration. But how far has he given it us? To enjoy. As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in: whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy. And thus, considering the plenty of natural provisions there was a long time in the world, and the few spenders; and to how small a part of that provision the industry of one man could extend itself, and ingross it to the prejudice of others; especially keeping within the bounds, set by reason, of what might serve for his use; there could be then little room for quarrels or contentions about property so established.

MPP3-297 APPROPRIATION OF PROPERTY DOESN'T INJURE OTHERS

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.21.

God, when he gave the world in common to all mankind commanded man also to labour, and the penury of his condition required it of him. God and his reason commanded him to subdue the earth, i. e. improve it for the benefit of life, and therein lay out something upon it that was his own, his labour. He that in obedience to this command of God, subdued, tilled and sowed any part of it, thereby annexed to it something that was his property, which another had no title to, nor could without injury take from him. Nor was this appropriation of any parcel of sand, by improving it, any prejudice to any other man, since there was still enough, and as good left; and more than the yet unprovided could use. So that, in effect, there was never the less left for others because of his inclosure for himself: for he that leaves as much as another can make use of, does as good as take nothing at all. No body could think himself injured by the drinking of another man, though he took a good draught, who had a whole river of the same water left him to quench his thirst: and the case of land and water, where there is enough of both, is perfectly the same.

MPP3-298 PROPERTY RIGHTS INCREASE OVERALL WELFARE

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.23-4.

To which let me add, that he who appropriates land to himself by his labour, does not lessen, but increase the common stock of mankind: for the provisions serving to the support of human life, produced by one acre of inclosed and cultivated land, are (to speak much within compass) ten times more than those which are yielded by an acre of land of an equal richness lying waste in common. And therefore he that incloses land, and has a greater plenty of the conveniencies of life from ten acres, than he could have from an hundred left to nature, may truly be said to give ninety acres to mankind: for his labour now supplies him with provisions out of ten acres, which were but the product of an hundred lying in common. I have here rated the improved land very low, in making its product but as ten to one, when it is much nearer an hundred to one: for I ask, whether in the wild woods and uncultivated waste of America, left to nature, without any improvement, tillage or husbandry, a thousand acres yield the needy and wretched inhabitants as many conveniencies of life, as ten acres of equally fertile land do in Devonshire, where they are well cultivated?

MPP3-299 THE VALUE OF LAND IS MAINLY DUE TO ITS IMPROVEMENT BY LABOR

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.25.

Nor is it so strange, as perhaps before consideration it may appear, that the property of labour should be able to over-balance the community of land: for it is labour indeed that puts the difference of value on every thing; and let any one consider what the difference is between an acre of land planted with tobacco or sugar, sown with wheat or barley, and an acre of the same land lying in common, without any husbandry upon it, and he will find, that the improvement of labour makes the far greater part of the value. I think it will be but a very modest computation to say, that of the products of the earth useful to the life of man nine tenths are the effects of labour: nay, if we will rightly estimate things as they come to our use, and cast up the several expences about them, what in them is purely owing to nature, and what to labour, we shall find, that in most of them ninety-nine hundredths are wholly to be put on the account of labour.

MPP3-300 PRIVATE PROPERTY BENEFITS ALL BY MASSIVELY INCREASING PROSPERITY

C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's *SECOND TREATISE OF GOVERNMENT*, 1980, p.xvii.

In the first three editions of the Treatise Locke simply left it that the introduction of money would lead naturally to extensive commerce, which would make it profitable for individuals to - appropriate more land than they could use the product of, so that all the land would be appropriated, leaving none for others, and that this was justified because all had consented to the use of money. In later editions he added a new argument (in REWRITE 37): land which is privately appropriated is ten times as productive as land left in common, so even when the land is all appropriated there is more produce for everybody. There is not enough and as good land left for others, but there is enough and as good (indeed more and better) produce for them. The original requirement had been that private appropriation should leave enough to meet everyone's equal right to subsistence, and that requirement was still satisfied after all the land has been taken up.

MPP3-301 LAW IS ESSENTIAL FOR FREEDOM

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.32.

So that, however it may be mistaken, the end of law is not to abolish or restrain, but to preserve and enlarge freedom: for in all the states of created beings capable of laws, where there is no law, there is no freedom: for liberty is, to be free from restraint and violence from others; which cannot be, where there is no law: but freedom is not, as we are told, a liberty for every man to do what he lists: (for who could be free, when every other man's humour might domineer over him?) but a liberty to dispose, and order as he lists, his person, actions, possessions, and his whole property, within the allowance of those laws under which he is, and therein not to be subject to the arbitrary will of another, but freely follow his own.

MPP3-302 RULE OF LAW IS NEEDED TO INFORM THE PUBLIC AND CONSTRAIN GOVERNMENT

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.72-3.

And therefore whatever form the common-wealth is under, the ruling power ought to govern by declared and received laws, and not by extemporary dictates and undetermined resolutions: for then mankind will be in a far worse condition than in the state of nature, if they shall have armed one, or a few men with the joint power of a multitude, to force them to obey at pleasure the exorbitant and unlimited decrees of their sudden thoughts, or unrestrained, and till that moment unknown wills, without having any measures set down which may guide and justify their actions: for all the power the government has, being only for the good of the society, as it ought not to be arbitrary and at pleasure, so it ought to be exercised by established and promulgated laws; that both the people may know their duty, and be safe and secure within the limits of the law and the rulers too kept within their bounds, and not be tempted, by the power they have in their hands, to employ it to such purposes, and by such measures, as they would not have known, and own not willingly.

MPP3-303 WHERE LAW ENDS, TYRANNY BEGINS

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.103.

Where-ever law ends, tyranny begins, if the law be transgressed to another's harm; and whosoever in authority exceeds the power given him by the law, and makes use of the force he has under his command, to compass that upon the subject, which the law allows not, ceases in that to be a magistrate; and, acting without authority, may be opposed, as any other man, who by force invades the right of another. This is acknowledged in subordinate magistrates. He that hath authority to seize my person in the street, may be opposed as a thief and a robber, if he endeavours to break into my house to execute a writ, notwithstanding that I know he has such a warrant, and such a legal authority, as will empower him to arrest me abroad.

MPP3-304 MEANINGFUL COMMUNITY REQUIRES MAJORITY RULE

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.52.

For when any number of men have, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority: for that which acts any community, being only the consent of the individuals of it, and it being necessary to that which is one body to move one way; it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority: or else it is impossible it should act or continue one body, one community, which the consent of every individual that united into it, agreed that it should; and so every one is bound by that consent to be concluded by the majority. And therefore we see, that in assemblies, impowered to act by positive laws, where no number is set by that positive law which impowers them, the act of the majority passes for the act of the whole, and of course determines, as having, by the law of nature and reason, the power of the whole.

MPP3-305 THE CONTRACT IMPLIES SUBMISSION TO MAJORITY RULE

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.52-3.

And thus every man, by 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, and to be concluded by it; or else this original compact, whereby he with others incorporates into one society, would signify nothing, and be no compact, if he be left free, and under no other ties than he was in before in the state of nature. For what appearance would there be of any compact? what new engagement if he were no farther tied by any decrees of the society, than he himself thought fit, and did actually consent to? This would be still as great a liberty, as he himself had before his compact, or any one else in the state of nature hath, who may submit himself, and consent to any acts of it if he thinks fit.

MPP3-306 SINCE UNANIMITY IS IMPOSSIBLE, MAJORITY RULE MUST PREVAIL

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.53.

For if the consent of the majority shall not, in reason, be received as the act of the whole, and conclude every individual; nothing but the consent of every individual can make any thing to be the act of the whole: but such a consent is next to impossible ever to be had, if we consider the infirmities of health, and avocations of business, which in a number, though much less than that of a common-wealth, will necessarily keep many away from the public assembly. To which if we add the variety of opinions, and contrariety of interests, which unavoidably happen in all collections of men, the coming into society upon such terms would be only like Cato's coming into the theatre, only to go out again. Such a constitution as this would make the mighty Leviathan of a shorter duration, than the feeblest creatures, and not let it outlast the day it was born in: which cannot be supposed, till we can think, that rational creatures should desire and constitute societies only to be dissolved for where the majority cannot conclude the rest, there they cannot act as one body, and consequently will be immediately dissolved again.

MPP3-307 LOCKE'S MAJORITY RULE PRINCIPLE IS THE MOST REASONABLE ONE AVAILABLE

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.40.

It is important to notice that Locke uses the principle of majority rule as a procedural and normative principle. This principle derives its moral force from the fact that each person, according to Locke, has an equal right to liberty, which means that no one by nature has any authority over anyone else. Yet, it can be argued against Locke that the fact that we all have equal rights to liberty does not tell us which principle of decision-making ought to be adopted. It is conceivable that people could voluntarily consent to be governed by the will of a single person or a group of persons rather than by majority rule, provided that this person or group of persons does not violate their natural rights. But, according to Locke, this is not a legitimate alternative because, by trying to avoid anarchy, we are leaving the door open for tyranny. That the majority will tyrannize the minority is less likely than the opposite. That being the case, the principle of majority rule seems to be a more reasonable principle to adopt than any other alternative.

MPP3-308 CONSENT IS THE ONLY BASIS FOR LAWFUL GOVERNMENT

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.53.

Whosoever therefore out of a state of nature unite into a community, must be understood to give up all the power, necessary to the ends for which they unite into society, to the majority of the community, unless they expressly agreed in any number greater than the majority. And this is done by barely agreeing to unite into one political society, which is all the compact that is, or needs be, between the individuals, that enter into, or make up a commonwealth. And thus that, which begins and actually constitutes any political society, is nothing but the consent of any number of freemen capable of a majority to unite and incorporate into such a society. And this is that, and that only, which did, or could give beginning to any lawful government in the world.

MPP3-309 ALL PEACEFUL GOVERNMENTS BEGAN WITH CONSENT

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.60-1.

Thus we may see how probable it is, that people that were naturally free, and by their own consent either submitted to the government of their father, or united together out of different families to make a government, should generally put the rule into one man's hands, and chuse to be under the conduct of a single person, without so much as by express conditions limiting or regulating his power, which they thought safe enough in his honesty and prudence; though they never dreamed of monarchy being *Jure Divino*, which we never heard of among mankind, till it was revealed to us by the divinity of this last age; nor ever allowed paternal power to have a right to dominion, or to be the foundation of all government. And thus much may suffice to shew, that as far as we have any light from history, we have reason to conclude, that all peaceful beginnings of government have been laid in the consent of the people. I say peaceful, because I shall have occasion in another place to speak of conquest, which some esteem a way of beginning of governments.

MPP3-310 THE ORIGINAL CONTRACT CAN'T BIND POSTERITY

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.62.

It is true, that whatever engagements or promises any one has made for himself, he is under the obligation of them, but cannot, by any compact whatsoever, bind his children or posterity: for his son, when a man, being altogether as free as the father, any act of the father can no more give away the liberty of the son, than it can of any body else: he may indeed annex such conditions to the land, he enjoyed as a subject of any common-wealth, as may oblige his son to be of that community, if he will enjoy those possessions which were his father's; because that estate being his father's property, he may dispose, or settle it, as he pleases.

MPP3-311 CHILDREN ARE BORN SUBJECT TO NO GOVERNMENT

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.63.

It is plain then, by the practice of governments themselves, as well as by the law of right reason, that a child is born a subject of no country or government. He is under his father's tuition and authority, till he comes to age of discretion; and then he is a freeman, at liberty what government he will put himself under, what body politic he will unite himself to: for if an Englishman's son, born in France, be at liberty, and may do so, it is evident there is no tie upon him by his father's being a subject of this kingdom; nor is he bound up by any compact of his ancestors. And why then hath not his son, by the same reason, the same liberty, though he be born any where else? Since the power that a father hath naturally over his children, is the same, where-ever they be born, and the ties of natural obligations, are not bounded by the positive limits of kingdoms and commonwealths.

MPP3-312 RESIDENCE IMPLIES TACIT CONSENT TO A GOVERNMENT

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.64.

The difficulty is, what ought to be looked upon as a tacit consent, and how far it binds, i.e. how far any one shall be looked on to have consented, and thereby submitted to any government, where he has made no expressions of it at all. And to this I say, that every man, that hath any possessions, or enjoyment, of any part of the dominions of any government, doth thereby give his tacit consent, and is as far forth obliged to obedience to the laws of that government, during such enjoyment, as any one under it; whether this his possession be of land, to him and his heirs for ever, or a lodging only for a week; or whether it be barely travelling freely on the highway; and in effect, it reaches as far as the very being of any one within the territories of that government.

MPP3-313 LEGISLATIVE POWER NEVER EXTENDS BEYOND THE COMMON GOOD

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.68.

But though men, when they enter into society, give up the equality, liberty, and executive power they had in the state of nature, into the hands of the society, to be so far disposed of by the legislative, as the good of the society shall require; yet it being only with an intention in every one the better to preserve himself, his liberty and property; (for no rational creature can be supposed to change his condition with an intention to be worse) the power of the society, or legislative constituted by them, can never be supposed to extend farther, than the common good; but is obliged to secure every one's property, by providing against those three defects above mentioned, that made the state of nature so unsafe and uneasy.

MPP3-314 THE LEGITIMATE ROLE OF GOVERNMENT IS TO PROMOTE PEACE, SAFETY AND THE PUBLIC GOOD
John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.68.

And so whoever has the legislative or supreme power of any common-wealth, is bound to govern by established standing laws, promulgated and known to the people, and not by extemporary decrees; by indifferent and upright judges, who are to decide controversies by those laws; and to employ the force of the community at home, only in the execution of such laws, or abroad to prevent or redress foreign injuries, and secure the community from inroads and invasion. And all this to be directed to no other end, but the peace, safety, and public good of the people.

MPP3-315 PRESERVATION OF SOCIETY IS THE SUPREME GOOD

C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's SECOND TREATISE OF GOVERNMENT, 1980, p.69.

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; the first and fundamental positive law of all common-wealths is the establishing of the legislative power; as the first and fundamental natural law, which is to govern even the legislative itself, is the preservation of the society, and (as far as will consist with the public good) of every person in it.

MPP3-316 LEGISLATIVE POWER CAN'T BE ABSOLUTE OR ARBITRARY

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.70.

Though the legislative, whether placed in one or more, whether it be always in being, or only by intervals, though it be the supreme power in every common-wealth; yet, First, It is not, nor can possibly be absolutely arbitrary over the lives and fortunes of the people: for it being but the joint power of every member of the society given up to that person, or assembly, which is legislator; it can be no more than those persons had in a state of nature before they entered into society, and gave up to the community: for no body can transfer to another more power than he has in himself; and no body has an absolute arbitrary power over himself, or over any other, to destroy his own life, or take away the life or property of another.

MPP3-317 LEGISLATIVE AUTHORITY EXTENDS ONLY TO PROMOTING THE PUBLIC GOOD

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.70-1.

A man, as has been proved, cannot subject himself to the arbitrary power of another; and having in the state of nature no arbitrary power over the life, liberty, or possession of another, but only so much as the law of nature gave him for the preservation of himself, and the rest of mankind; this is all he doth, or can give up to the common-wealth, and by it to the legislative power, so that the legislative can have no more than this. Their power, in the utmost bounds of it, is limited to the public good of the society. It is a power, that hath no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the subjects. The obligations of the law of nature cease not in society, but only in many cases are drawn closer, and have by human laws known penalties annexed to them, to enforce their observation. Thus the law of nature stands as an eternal rule to all men, legislators as well as others. The rules that they make for other men's actions, must, as well as their own and other men's actions, be conformable to the law of nature, i. e. to the will of God, of which that is a declaration, and the fundamental law of nature being the preservation of mankind, no human sanction can be good, or valid against it.

MPP3-318 THE PEOPLE HAVE A RIGHT OF REVOLUTION AGAINST UNJUST GOVERNMENTS

John Locke, SECOND TREATISE OF GOVERNMENT, (Hackett Edition), 1690, p.111.

Whensoever therefore the legislative shall transgress this fundamental rule of society; and either by ambition, fear, folly or corruption, endeavour to grasp themselves, or put into the hands of any other, an absolute power over the lives, liberties, and estates of the people; by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty, and, by the establishment of a new legislative, (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society.

MPP3-319 THE PEOPLE SHOULD ONLY REVOLT AGAINST A LONG TRAIN OF ABUSES

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.13-4.

Secondly, I answer, such revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty, will be born by the people without mutiny or murmur. But if a long train of abuses, prevarications and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under, and see whither they are going; it is not to be wondered, that they should then rouse themselves, and endeavour to put the rule into such hands which may secure to them the ends for which government was at first erected; and without which, ancient names, and specious forms, are so far from being better, that they are much worse, than the state of nature, or pure anarchy; the inconveniences being all as great and as near, but the remedy farther off and more difficult.

MPP3-320 THE RIGHT OF REVOLUTION STEMS FROM THE RIGHT TO SELF-PRESERVATION

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.115.

But if they, who say it lays a foundation for rebellion, mean that it may occasion civil wars, or intestine broils, to tell the people they are absolved from obedience when illegal attempts are made upon their liberties or properties, and may oppose the unlawful violence of those who were their magistrates, when they invade their properties contrary to the trust put in them; and that therefore this doctrine is not to be allowed, being so destructive to the peace of the world: they may as well say, upon the same ground, that honest men may not oppose robbers or pirates, because this may occasion disorder or bloodshed. If any mischief come in such cases, it is not to be charged upon him who defends his own right, but on him that invades his neighbours. If the innocent honest man must quietly quit all he has, for peace sake, to him who will lay violent hands upon it, I desire it may be considered, what a kind of peace there will be in the world, which consists only in violence and rapine; and which is to be maintained only for the benefit of robbers and oppressors.

MPP3-321 LOCKE UPHOLDS A RIGHT OF REVOLUTION
C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's *SECOND TREATISE OF GOVERNMENT*, 1980, p.xx.

Locke thus asserts a right of revolution. And he turns the tables on those who would deny that right by arguing that when a government has acted contrary to its trust by invading the lives, liberties or estates of the subjects, it is the government, not those subjects who resist it, who are guilty of rebellion: by denying the natural law limits on its power the government does "bring back again the state of war" (the literal meaning of the Latin verb *rebellare*), and may justly be resisted or expelled by force (REWRITE REWRITE 226-7).

MPP3-322 LOCKE'S CONTRACT IS AMONG THE PEOPLE NOT BETWEEN THE PEOPLE AND GOVERNMENT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.40-1.

The members of a commonwealth always retain supreme power to alter the political body they have chosen. For Locke, ultimate sovereignty resides with the people (popular sovereignty) since, even though civil society was created by a contract, no such contract exists between the people and their government. According to him, the relationship between the people and their government is fiduciary rather than contractual. Therefore, whenever the government betrays their trust, the people have a natural right to change it. It follows, therefore, that the idea of government by consent involves the natural right to revolution.

MPP3-323 REASON IS KEY TO FREEDOM

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.35.

The freedom then of man, and liberty of acting according to his own will, is grounded on his having reason, which is able to instruct him in that law he is to govern himself by, and make him know how far he is left to the freedom of his own will. To turn him loose to an unrestrained liberty, before he has reason to guide him, is not the allowing him the privilege of his nature to be free; but to thrust him out amongst brutes, and abandon him to a state as wretched, and as much beneath that of a man, as their's.

MPP3-324 PEOPLE CONTINUOUSLY INTERACT IN A STATE OF NATURE

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.13.

It is often asked as a mighty objection, where are, or ever were there any men in such a state of nature? To which it may suffice as an answer at present, that since all princes and rulers of independent governments all through the world, are in a state of nature, it is plain the world never was, nor ever will be, without numbers of men in that state. I have named all governors of independent communities, whether they are, or are not, in league with others: for it is not every compact that puts an end to the state of nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politic; other promises, and compacts, men may make one with another, and yet still be in the state of nature. The promises and bargains for truck, between the two men in the desert island, mentioned by Garcilasso de la Vega, in his history of Peru; or between a Swiss and an Indian, in the woods of America, are binding to them, though they are perfectly in a state of nature, in reference to one another: for truth and keeping of faith belongs to men, as men, and not as members of society.

MPP3-325 THE LACK OF HISTORICAL RECORDS DOESN'T DISPROVE THE CONTRACT

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.54.

And if we may not suppose men ever to have been in the state of nature, because we hear not much of them in such a state, we may as well suppose the armies of Salmanasser or Xerxes were never children, because we hear little of them, till they were men, and embodied in armies. Government is every where antecedent to records, and letters seldom come in amongst a people till a long continuation of civil society has, by other more necessary arts, provided for their safety, ease, and plenty: and then they begin to look after the history of their founders, and search into their original, when they have outlived the memory of it: for it is with common-wealths as with particular persons, they are commonly ignorant of their own births and infancies: and if they know any thing of their original, they are beholden for it, to the accidental records that others have kept of it.

MPP3-326 THERE ARE HISTORICAL EXAMPLES OF SOCIAL CONTRACTS

John Locke, *SECOND TREATISE OF GOVERNMENT*, (Hackett Edition), 1690, p.54-5.

He must shew a strange inclination to deny evident matter of fact, when it agrees not with his hypothesis, who will not allow, that the beginning of Rome and Venice were by the uniting together of several men free and independent one of another, amongst whom there was no natural superiority or subjection. And if Josephus Acosta's word may be taken, he tells us, that in many parts of America there was no government at all. There are great and apparent conjectures, says he, that these men, speaking of those of Peru, for a long time had neither kings nor common-wealths, but lived in troops, as they do this day in Florida, the Chiriquanas, those of Brazil, and many other nations, which have no certain kings, but as occasion is offered, in peace or war, they choose their captains as they please. If it be said, that every man there was born subject to his father, or the head of his family; that the subjection due from a child to a father took not away his freedom of uniting into what political society he thought fit, has been already proved. But be that as it will, these men, it is evident, were actually free; and whatever superiority some politicians now would place in any of them, they themselves claimed it not, but by consent were all equal, till by the same consent they set rulers over themselves. So that their politic societies all began from a voluntary union, and the mutual agreement of men freely acting in the choice of their governors, and forms of government.

MPP3-327 LOCKE'S GRADUALIST ACCOUNT OF THE ORIGINS OF GOVERNMENT IS HISTORICALLY PLAUSIBLE

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.56.

Fortunately, the contract story is not the only account Locke offers of political and social development. As we have seen, he presents also a gradualist, anthropological account, and that does not seem to be subject to anything like the same difficulties. To begin with, it is much more plausible as a historical or prehistorical account. Though political anthropology was a young science when Locke was writing - indeed, he can claim to be one of its pathfinders - his understanding of the processes of social and political growth is not spectacularly different from some of the more plausible theories put forward today. The gradualist idea of a shift from inchoate patriarchal authority to formal political institutionalization offers a much better account of the anthropological data than the idea of a dramatic shift from a pre-political state of nature to an explicitly political civil society. And the dynamic of political development in Locke's anthropology - economic growth and increase in economic contention - seems more plausible than the other idea of man's juridical aspirations in the state of nature.

MPP3-328 THE SOCIAL CONTRACT IS AN ONGOING PROCESS, NOT A SINGLE EVENT

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.66.

There is one final complication to clear up. I have argued that contractarian categories can be applied to the events charted in Locke's political anthropology, meaning not that the whole sequence of events can be read as a single consensual exercise, but that each particular step in the anthropological development can be read as a consensual event.

MPP3-329 LOCKE'S STATE OF NATURE IS PRIMARILY A LOGICAL ABSTRACTION

C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's *SECOND TREATISE OF GOVERNMENT*, 1980, p.iii.

Locke, like Hobbes, introduces the "natural" condition of mankind not as an historical condition existing before the emergence of civil society but as a logical abstraction from the essential nature of man. Though Locke does say later that it may also have been an historically prior condition (as in REWRITE REWRITE 100-112 of the Second Treatise), he presents it first as a logical deduction from the supposed nature of man and the supposed intentions of the Creator, which in turn are deduced from the observable biological needs of man.

MPP3-330 THE CONTRACT DEVICE ISN'T SUPERFLUOUS IN LOCKE'S SYSTEM

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.98.

Hannah Pitkin, in a well-known paper which discusses Locke's difficulties in giving a plausible account of 'tacit' consent, concludes that what matters to Locke is not really whether one has consented or contracted to obey a government, but whether the government deserves one's consent. And this, in turn, is determined by the law of nature, which government has a duty to respect and enforce. Governments should be obeyed if, and only if, they protect their subjects' lives, liberty and property, which are their natural rights- a fact known to us by reason, Locke claims, and not dependent on any contract. So the contract and consent which bulk so large in his theory are, it appears, superfluous (Pitkin, 1965, pp.995-9). I believe this analysis fails to grasp the specific significance of the idea of the contract in Locke's theory and (I would like to suggest) in all contract theories. It does not follow from the fact that the law of nature imposes such-and-such obligations, or creates certain rights, that anyone has an obligation to obey an individual or organization that seeks to enforce that natural law. There might be innumerable such individuals or organizations, whose competing efforts would produce precisely the negative features of the Lockean state of nature. What Locke's contractarian argument seeks to show is that every individual has an interest in agreeing to the establishment of a single, exclusive, centralised agency of law-enforcement: the state. It is from this argument, which appeals to the self-interest of all individuals, not (or not only) to the law of nature, that Locke would derive political obligation and its limits. In this respect he is typical of contract theorists in general.

MPP3-331 THE CONTRACT IS CRUCIAL TO LOCKE'S POLITICAL PHILOSOPHY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.41.

I conclude, then, that the social contract in Locke's political philosophy is of paramount importance because he, unlike Hobbes, grounds political obligation on consent. Political authority is legitimate, according to Locke, only if people consent to it and only if it does not violate their natural rights. indeed, the contract, in Locke's view, justifies a general obligation to obey the law and hence legitimizes the authority of the government.

MPP3-332 LOCKE'S VIEW OF HUMAN NATURE ISN'T CONTRADICTIONARY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.34.

But the alleged contradiction between the state of nature, described by Locke--sometimes as a peaceful state and sometimes as a state of war--is not a contradiction at all. Locke, contrary to Macpherson's contentions, does not reduce the state of nature to a state of war but maintains only that a state of war might exist in the state of nature, since if a dispute occurs between two or more, persons in this state, there would not be any legitimate authority to whom they could appeal to settle their disputes.

MPP3-333 LOCKE'S VIEW OF HUMAN NATURE IS SUPERIOR TO HOBBS'

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.35.

Locke, in contrast, does not present a one-sided concept of human nature. Like Hobbes, he presupposes that people are motivated by self-interest, but unlike Hobbes, he also presupposes that human nature is potentially both contentious and peaceful. Since Locke unlike Hobbes, is within the Christian natural law tradition, he emphasizes the natural human condition of individuals as free and rational moral agents. This is partly why the notion of consent plays such an important role in his political philosophy. For Locke people are essentially free: they can choose to abide by the principles of natural law, which are discoverable by reason, or they can choose to ignore them.

MPP3-334 LOCKE PLACES PRIMARY EMPHASIS ON LIBERTY, NOT PROPERTY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.35-6.

What characterizes human nature in Locke's political philosophy is neither the right to own substantial amounts of property nor possessiveness (as Macpherson argues), but the freedom to choose among different ways of life within the parameters of the natural law and its corresponding natural rights. The aim of Locke's political philosophy is to show that people are essentially free to choose their way of life, provided they do not interfere with other people's natural rights. Thus it seems that the fundamental natural right in Locke's political philosophy is neither the right to life nor the right to property but the right to liberty. In order to exercise his natural right to liberty, a person needs to be alive and to be able to acquire certain goods to satisfy basic needs. A person has a natural right, therefore, to those goods that satisfy basic needs, such as food, clothing, and shelter, as well as intangible goods, such as education, work, and self-respect.

MPP3-335 FOR LOCKE, LIBERTY RIGHTS JUSTIFY PROPERTY RIGHTS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.37.

Locke's labor theory of property is parasitic upon his view of the natural right to liberty. Since people have the capacity for acquiring different objects, and moreover, since this capacity is a by-product of their freedom (and this is extremely valuable in the moral sense because it is a necessary condition for ascribing moral agency), it follows that, according to Locke, the natural right to own property is a consequence of the natural right to liberty. The latter not only explains the acquisition of property, but justifies it.

MPP3-336 LOCKE'S STATE ISN'T JUST DESIGNED TO PROTECT BOURGEOIS PROPERTY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.32.

One should not be misled by Locke's use of the term "property" in this passage. He uses it in two ways. Sometimes he refers to property in the narrow sense, as all sorts of material goods, especially land. At other times he refers to property in a broader sense, as the life, liberty, and material goods of individuals. In the passage above, Locke uses the term "property" in the broad sense. Thus, civil society and government are not instituted, as Macpherson maintains, to protect only "bourgeois property," or what in Locke's terminology amounts to "possessions" or "estate," that is, property in the narrow sense. On the contrary, civil society and government are instituted, according to Locke, to protect property in the broad sense: life, liberty, and estate (material goods).

MPP3-337 LOCKE ADMITS A RIGHT TO TAXATION

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.65.

It is to be noted, too, that the contract somewhat modifies the pre-existing natural property right. For, as Locke acknowledges, government cannot be carried on without financial resources, and 'tis fit every one who enjoys his share of the protection should pay out of his estate his proportion for the maintenance of it'. How to reconcile this truth with the inalienable natural right to property? Locke's answer is that the necessary taxation of the subject 'must be with his own consent, i.e. the consent of the majority, giving it either by themselves or their representatives chosen by them' (L, 72-3). Locke sees a representative assembly as a much more stringent requirement for tax-raising purposes than for legislation.

MPP3-338 LOCKE'S VIEW OF ECONOMIC JUSTICE ENJOYS WIDE SUPPORT

Rex Martin, Professor of Philosophy, University of Kansas, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.246.

The notion of economic justice we have extracted from Locke's theory (the increasing-standard-of-living criterion, with the proviso added that none is to be made worse off) would command a surprisingly wide assent today. It is deeply rooted in existing theory; for there is in effect already something of a consensus about economic justice. We can point to a single, common, underlying idea of economic justice which can be found in Locke, in Adam Smith, and in Marx. The root idea here, put very crudely now, is that the arrangement of economic institutions requires, if it is to be just, that all contributors benefit or, at least, that none is to be left worse off. Thus, the root idea requires that if some individuals (say, those in the top 20 per cent) improve their standard of living (measured in terms of real income and wealth), others should do so as well; no group, not even those least well-off, should be left behind. All should continually improve their lot in life together. None at least is to be left worse off.

MPP3-339 THE LOCKEAN APPROACH TO GOVERNMENT HAS MOST BENEFITED HUMANITY

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.647.

Enlightened self-interest is, of course, not the loftiest of motives, but those who decry it often substitute, by accident or design, motives which are much worse, such as hatred, envy, and love of power. On the whole, the school which owed its origin to Locke, and which preached enlightened self-interest, did more to increase human happiness, and less to increase human misery, than was done by the schools which despised it in the name of heroism and self-sacrifice. I do not forget the horrors of early industrialism, but these, after all, were mitigated within the system. And I set against them Russian serfdom, the evils of war and its aftermath of fear and hatred, and the inevitable obscurantism of those who attempt to preserve ancient systems when they have lost their vitality.

MPP3-340 LOCKE'S DEPICTION OF THE STATE OF NATURE IS CONTRADICTORY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.60.

Locke thus denies that the state of nature is a state of war. What defines the state of nature, he says, is that men live together without a 'common judge with authority' over them; but this state is (or at least should be) a state of 'peace, good will, mutual assistance and preservation'. Yet Locke admits that, given the lack of a common judge, 'the state of war once begun continues' and that escaping from 'this state of war...is one great reason of men's putting themselves into society and quitting the state of nature' (L, 11-12). Locke has here attempted an impossible amalgam of the Hobbesian account with a contrary stoic-derived 'golden age' conception of the state of nature - the latter being quite unsuited to a contract theory of government. In the end, therefore, he has not succeeded in disagreeing with Hobbes on this point.

MPP3-341 LOCKE FAILS TO EFFECTIVELY JUSTIFY A NATURAL LAW

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.148-9.

Many philosophers, such as Aquinas and John Locke, have held that there is a "natural law". This idea was not clarified by these philosophers, although that they had fairly explicit ideas about its content. Aquinas, for example, held that natural law (like all law) had to be for the "common good". And Locke in particular held that the natural law forbids all to refrain from injuring others in their "life, health, liberty, and possessions". Their lack of articulation of the concept of natural law, however, has left them short of adherents among contemporary philosophers trained in the analytic tradition. Insofar as they simply appeal to natural law without further explication or defense, they are liable to all of the charges I have laid to the door of intuitionism in all its forms.

MPP3-342 LOCKE'S VIEW OF HUMAN NATURE WAS FUNDAMENTALLY AMBIGUOUS

C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's *SECOND TREATISE OF GOVERNMENT*, 1980, p.xiv.

This ambiguity about the state of nature simply reflects Locke's fundamental ambiguity about human nature. In the first picture men generally are naturally reasonable enough to impose on themselves individually the moral rules needed to curb their contentious appetites. In the second picture they are not: the greater part are "no strict observers of equity and justice" ([REWRITE](#) 123), and none can secure themselves individually. Locke needed both these inconsistent assumptions about human nature in order to make his case, which was that individuals must be understood to have agreed to give up their natural rights and powers to an all-powerful civil society, but that the civil society (themselves when so united) could not conceivably have delegated absolute or arbitrary power to any government, but must be understood to have retained the right to alter the frame of government whenever they (acting by a majority of themselves) so desired.

MPP3-343 LOCKE ENTRENCHED CLASS DISTINCTIONS TO UPHOLD PRIVATE PROPERTY

C.B. Macpherson, Professor of Political Economy, University of Toronto, introduction to Locke's *SECOND TREATISE OF GOVERNMENT*, 1980, p.xviii-xix.

This creates a further problem. If there was the class-division before the institution of civil society and government, and if the purpose of instituting them was the protection of this unequal property, why would those without property agree to enter civil society and thus give up their natural right of protecting themselves? They would have good reason to do so if they were to become full members of civil society, for then they would be the majority. But if they were full members they might use their majority power to legislate a levelling of property. Locke did not see this as a problem for he never intended them to be full members. He took for granted that the right to vote in elections to the legislature was to be confined to the propertied class. Representation of cities and counties should be in proportion to the amount they contributed in taxes (~ 157-8), and taxpayers were assumed to be those who had "estate" ([REWRITE](#) 140). But while the non-propertied were not to have any voice in making the laws they were to be fully bound by the laws: everyone is obliged, whether "his possession be of land, to him and his heirs for ever, or a lodging only for a week; or whether it be barely travelling freely on the highway" ([REWRITE](#) 119). Both the exclusion of those without estate from the law-making process, and their subjection to the law, were required by the very purpose of civil government, the protection of life, liberty and estate.

MPP3-344 LOCKE FAILS TO JUSTIFY MAJORITY RULE

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.632-3.

The question of taxation might be supposed to raise difficulties for Locke, but he perceives none. The expense of government, he says, must be borne by the citizens, but with their consent, i.e., with that of the majority. But why, one asks, should the consent of the majority suffice? Every man's consent, we were told, is necessary to justify the government in taking any part of his property. I suppose his tacit consent to taxation in accordance with majority decision is presumed to be involved in his citizenship, which, in turn, is presumed to be voluntary. All this is, of course, sometimes quite contrary to the facts. Most men have no effective liberty of choice as to the State to which they shall belong, and very few have liberty, nowadays, to belong to no State. Suppose, for example, you are a pacifist, and disapprove of war. Wherever you live, the government will take some of your property for warlike purposes. With what justice can you be compelled to submit to this? I can imagine many answers, but I do not think any of them are consistent with Locke's principles. He thrusts in the maxim of majority rule without adequate consideration, and offers no transition to it from his individualistic premisses, except the mythical social contract.

MPP3-345 LOCKE'S HISTORICAL EXAMPLES DON'T EXPLAIN THE ORIGIN GOVERNMENT

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.58.

Much the same is true of the instances that Locke cites of contractualist foundation. For the deliberate institution of government by free and equal individuals, we are given the classical stories of the origins of Rome and Venice, and the founding of the Italian city of Terentum by a group of Spartan exiles under Palantus in the eighth century BC. And we are told that 'no Examples are so frequent in History. . . as those of Men withdrawing themselves . . . from the Jurisdiction they were born under, and the Family or Community they were bred up in, and setting up new Governments in other places'. But these cases are just not particularly telling, since they involve, not the foundation of a state by people who till then had had no experience of the political, but the foundation of a new state by exiles from an old one. As an account of the original development of the political, they tell us nothing at all.

MPP3-346 LOCKE'S HISTORICAL SUPPORT FOR THE CONTRACT ISN'T COMPELLING

Jeremy Waldron, Professor of Law, University of California, Berkeley, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.57-8.

We have seen already how sensitive Locke was to the historical implausibility of the contract account, to the 'mighty objection' often raised that history reveals no instances of 'a Company of Men, independent and equal one amongst another, that met together, and in this way began and set up a government'. He responds to the difficulty in a number of ways. Sometimes he writes as though the challenge was purely and simply to produce 'instances' of people in the state of nature, or 'instances' of the explicit contractual founding of a political society. Thus, he writes sometimes as though the production of a single counter-example would suffice to refute the objection, as though he were trying to establish nothing more than the bare logical possibility of the contractarian hypothesis. 'To those that say there were never any men in the State of Nature', he responds by adducing Garcilaso de la Vega's account of the two men of different nationalities who found it necessary to bargain together for subsistence goods after they had been shipwrecked fortuitously on the same desert island. But of course no example could be less apt if Locke's intention here is to offer a historical instance of what things were like in the first great era of human history or pre-history. Pedro Serrano and the other shipwreck victim are not merely stuck in the most bizarre and exceptional circumstances, but they are themselves castaways from civilization and their ability to contract with one another, as much as their ability to survive in these peculiar circumstances, arguably derives from their previous socialization. If anything, the Garcilaso case favours something like a Filmerian anthropology - as a classic example of the exception that proves the rule.

MPP3-347 LOCKE DEFINITELY BELIEVED IN A HISTORICAL CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.60.

In Locke's case there is no room for doubt that he believed the state of nature to be a historical phase however brief - prior to government (L, 9,51-2 and passim). That apart, his account of the contrast gives every appearance of aiming to correct Hobbes's version.

MPP3-348 LOCKE ASSUMES AN ACTUAL, HISTORICAL CONTRACT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.29.

Locke, unlike Hobbes, Rousseau, and Kant, uses the concept of the state of nature in a historical sense. He thinks of it as a historical fact set at some point in the distant past. Like Hobbes, he argues that the concept of the state of nature amounts to the absence of any political society; however, he does not think that the absence of a political society precludes all other forms of social relations.

MPP3-349 RESIDENCE DOESN'T CREATE A DUTY OF POLITICAL OBLIGATION

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.38.

According to Locke, a legitimate government is any government that respects natural rights. If this is the case, then there is a general obligation to obey such a government as long as we openly or tacitly consent to it, provided it does not violate natural rights. It does not seem to follow, however, that because we live in a particular community we consent to all the rules and norms of this community. What follows is that we should, as a matter of prudential consideration (self-interest), consent to at least some of its rules and norms. Otherwise, we would not be able to live in such a community because we would be permanently ostracized by the rest of its members, or we would be physically eliminated either by being jailed or executed. If we do not follow certain rules of survival, such as not killing innocent people or not stealing from them, we would not last long as members of a community. But, I would argue against Locke, even if we were to live under a legitimate government (one that respects important natural or moral rights) we would not have a general obligation to obey it. The reason is that even a legitimate government is not infallible and can sometimes make unjust rules. Thus, the fact that we live under its jurisdiction is not morally sufficient to obligate us to consent to all of its rules. We, as moral agents, have a greater obligation not to consent to unjust rules.

MPP3-350 FOR LOCKE, THE ONLY WAY TO REFUSE CONSENT IS VOLUNTARY EXILE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.66-7.

These confusions aside, Locke's extension of the concept of consent to include 'the very being of any one within the territories' of a government has attracted much criticism. If consent is understood as broadly as this, is there any way in which a person could withhold his consent? Is Locke really allowing individuals any freedom of choice in the matter, after all? The answer is that, for Locke, there is only one way to refuse consent to an established government's authority and that is, to keep out of its territory, or if in it, to leave it.

MPP3-351 LOCKE LACKS AN EFFECTIVE MEANS FOR RESOLVING DISPUTES OF PEOPLE AND RULER

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.84.

For his part, Locke argued that the judge of whether a ruler had breached his trust should be 'the people', but without specifying any possible way in which it could exercise this role. So Locke's solution to the problem of adjudication is scarcely satisfactory, while those of the papalists and Calvinists seem too much like special pleading.

MPP3-352 LOCKE FAILS TO ESTABLISH AN ADEQUATE PROCESS FOR DETERMINING THE COMMON GOOD

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.631-2.

The power of the government by contract, we are told, never extends beyond the common good. A moment ago I quoted a sentence as to the powers of government, ending "and all this only for the public good." It seems not to have occurred to Locke to ask who was to be the judge of the common good. Obviously if the government is the judge it will always decide in its own favour. Presumably Locke would say that the majority of the citizens is to be the judge. But many questions have to be decided too quickly for it to be possible to ascertain the opinion of the electorate; of these peace and war are perhaps the most important. The only remedy in such cases is to allow to public opinion or its representatives some power--such as impeachment--of subsequently punishing executive officers for acts that are found to have been unpopular. But often this is a very inadequate remedy.

MPP3-353 LOCKE'S PHILOSOPHY IS ANTIQUATED

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.640.

Locke's political philosophy was, on the whole, adequate and useful until the industrial revolution. Since then, it has been increasingly unable to tackle the important problems. The power of property, as embodied in vast corporations, grew beyond anything imagined by Locke. The necessary functions of the State--for example, in education--increased enormously. Nationalism brought about an alliance, sometimes an amalgamation, of economic and political power, making war the principal means of competition. The single separate citizen has no longer the power and independence that he had in Locke's speculations. Our age is one of organization, and its conflicts are between organizations, not between separate individuals. The state of nature, as Locke says, still exists as between States. A new international Social Contract is necessary before we can enjoy the promised benefits of government. When once an international government has been created, much of Locke's political philosophy will again become applicable, though not the part of it that deals with private property.

MPP3-354 THE CONDITIONS FOR LOCKEAN LIBERALISM NO LONGER EXIST

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.204.

Thanks to the Great Frontier, Locke and Smith found that there was so much abundance in the state of nature that a Hobbesian war of all against all was unlikely; every person could take away some kind of prize, and competition would be socially constructive rather than destructive, with the "invisible hand" producing the greatest good for the society as a whole. Thus government was required only to keep the game honest--a mere referee, needing only modest powers and minimal institutional machinery--and individuals could be left alone to pursue happiness as they defined it without hindrance by society or the state. The frontier is gone now, and we have encountered the limits of the commons. However, the physical disappearance of the frontier was for a long time mitigated by technology, which allowed us to graze more cows on the same amount of pasture. Now we have reached the limits of technology: The cows are standing almost shoulder to shoulder, many are starving, and the manure is piling up faster than the commons can absorb it. All that remains is to alter the rational, self-seeking behavior of the individuals and groups that use the commons. This must be done by collective means, for the dynamic of the tragedy of the commons is so powerful that individuals are virtually powerless to extricate themselves unaided from its remorseless working. Our political institutions must indeed force us to be free.

MPP3-355 HUMANS IN THE STATE OF NATURE ARE NATURALLY GOOD

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.20.

In the *Discours sur l'inegalite* Rousseau 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.

MPP3-356 HOBBS' DEPICTION OF THE STATE OF NATURE WAS OVERLY BLOODTHIRSTY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.77.

Rousseau grants to Hobbes that natural men were actuated by self-interest, and may occasionally have quarrelled; but without 'very bloody consequences', for their natural self-love was mitigated by an equally natural compassion for their fellows. Above all, natural man had yet to develop the vice of amour propre (Rousseau's term, roughly, for what Hobbes called 'glory'), that is, the desire for superiority over others, which is a product of society. He thus, says Rousseau, acted in accord with the maxim, 'Do good to yourself with as little evil as possible to others', and as a result the state of nature, contrary to Hobbes, was 'the best calculated to promote peace' among men (R, 66,69,68,65).

MPP3-357 HOBBS' STATE OF NATURE ACTUALLY REFLECTS SOCIAL CORRUPTION

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.76.

Rousseau's view of human history as a history of moral degeneration enables him at once to contradict the account of human nature given by writers such as Hobbes (though Hobbes is not attacked by name until later): writers who, 'constantly dwelling on wants, avidity, oppression, desires and pride [have] transferred to the state of nature ideas which were acquired in society; so that, in speaking of the savage, they described the social man' (R. 45,65). Hobbes, Rousseau implies, has read into the nature of man features of his character which are actually the result of a long process of social corruption.

MPP3-358 SOCIETY BREEDS CONFLICT AND OPPRESSION

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.21.

The cultivation of the earth leads to the enclosure of land, and this necessarily gives rise to the idea of property. As Rousseau puts it in a famous sentence: 'The first man who, after fencing off a piece of land, took it upon himself to say "This belongs to me" and found people simple-minded enough to believe him, was the true founder of civil society. Rousseau explains what he means in this way: once men begin to claim possessions, the inequality of men's talents and skills leads to an inequality of fortunes. Wealth enables some men to enslave others; the very idea of possession excites men's passions, and provokes conflict. Society breeds war.

MPP3-359 PROPERTY OFFERS A BASIC SOURCE OF CORRUPTION

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.78.

A second 'great revolution' accelerated the process - the development of settled agriculture. One concomitant of such cultivation was private property in land; another was division of labour, since it called for specialized production of metal tools; a third was trade; and the upshot of all these was a huge development of inequality, economic and social, among men. This diagnosis does not in fact contradict Locke; but Rousseau differs vastly from Locke in his evaluation of the whole process. To Rousseau, it is a process of moral corruption, in which men became one another's enemies, vainglorious, ambitious, the rich 'imperious and cruel' to the poor, the poor 'sly and artful' towards the rich. 'Usurpations by the rich, robbery by the poor, and the unbridled passions of both ... filled men with avarice, ambition and vice . . . There arose perpetual conflicts, which never ended but in battles and bloodshed. The new-born state of society thus gave rise to a horrible state of war' (R. 83 6,87-8). This was the state of affairs that Hobbes mistook for the state of nature.

MPP3-360 HISTORICALLY, THE STATE WAS FORMED AS A CONSPIRACY OF THE RICH

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.78-9.

From this point on, Rousseau's theory of government in the 1755 Discourse is, up to a point, traditional. The 'horrible state of war' made government necessary. But this is not, for Rousseau, the whole story. Not everyone had equal need of government; the principal sufferers from the state of war were the rich, those with property to lose. It was therefore the rich who took the initiative in introducing government; and while, indeed, government was the outcome of a general agreement, that agreement was achieved only by cunning on the part of the rich. '[The rich man] readily devised plausible arguments to make [the Poor] close with his design. "Let us join", said he, "to guard the weak from oppression, to restrain the ambitious, and secure to every man the possession of what belongs to him ... let us collect [our forces] in a supreme power which may govern us by wise laws, protect and defend all the members of the association, repulse their common enemies, and maintain eternal harmony among us".' The result, Rousseau suggests, was that 'All ran headlong to their chains, in hopes of securing their liberty; for they had just wit enough to perceive the advantages of political institutions, without experience enough to enable them to foresee the dangers . . .' This event 'bound new fetters on the poor, and gave new powers to the rich, irretrievably destroyed natural liberty, eternally fixed the law of property and inequality . . . and subjected [almost] all mankind to perpetual labour, slavery and wretchedness' (R. 88,89).

MPP3-361 ALL LEGITIMATE AUTHORITY IS BASED ON CONTRACT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.53.

Since no man has any natural authority over his fellows, and since force alone bestows no right, all legitimate authority among men must be based on covenants.

MPP3-362 SINCE THE SOCIAL ORDER ISN'T NATURAL, IT MUST BE BASED ON CONTRACT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.50.

But the social order is a sacred right which serves as a basis for all other rights. And as it is not a natural right, it must be one founded on covenants.

MPP3-363 DUTY IS ONLY OWED TO LEGITIMATE POWER

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.53.

'Obey those in power.' If this means 'yield to force' the precept is sound, but superfluous; it has never, I suggest, been violated. All power comes from God, I agree; but so does every disease, and no one forbids us to summon a physician. If I am held up by a robber at the edge of a wood, force compels me to hand over my purse. But if I could somehow contrive to keep the purse from him, would I still be obliged in conscience to surrender it? After all, the pistol in the robber's hand is undoubtedly a power. Surely it must be admitted, then, that might does not make right, and that the duty of obedience is owed only to legitimate powers. Thus we are constantly led back to my original question.

MPP3-364 MAJORITY RULE RESTS ON AN ORIGINAL UNANIMOUS CONTRACT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.59.

Indeed, if there were no earlier agreement, then how, unless the election were unanimous, could there be any obligation on the minority to accept the decision of the majority? What right have the hundred who want to have a master to vote on behalf of the ten who do not? The law of majority-voting itself rests on a covenant, and implies that there has been on at least one occasion unanimity.

MPP3-365 CONSENT IS ESSENTIAL FOR LEGITIMATE GOVERNMENT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.152.

There is only one law which by its nature requires unanimous assent. This is the social pact: for the civil association is the most voluntary act in the world; every man having been born free and master of himself, no one else may under any pretext whatever subject him without his consent. To assert that the son of a slave is born a slave is to assert that he is not born a man.

MPP3-366 RESIDENCE IMPLIES CONSENT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.153.

If, then, there are opposing voices at the time when the social pact is made, this opposition does not invalidate the contract; it merely excludes the dissentients; they are foreigners among the citizens. After the state is instituted, residence implies consent: to inhabit the territory is to submit to the sovereign.

MPP3-367 THE FIRST LAW IS SELF-PRESERVATION

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.50.

This common liberty is a consequence of man's nature. Man's first law is to watch over his own preservation; his first care he owes to himself; and as soon as he reaches the age of reason, he becomes the only judge of the best means to preserve himself; he becomes his own master.

MPP3-368 THE WILL TO SURVIVE IS THE ULTIMATE SOURCE OF THE SOCIAL CONTRACT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.59-60.

Assume that men reach a point where the obstacles to their preservation in a state of nature prove greater than the strength that each man has to preserve himself in that state. Beyond this point, the primitive condition cannot endure, for then the human race will perish if it does not change its mode of existence. Since men cannot create new forces, but merely combine and control those which already exist, the only way in which they can preserve themselves is by uniting their separate powers in a combination strong enough to overcome any resistance, uniting them so that their powers are directed by a single motive and act in concert.

MPP3-369 THE SOCIAL CONTRACT ENHANCES INDIVIDUAL SECURITY

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.77-8.

Granted these distinctions, it becomes manifestly false to assert that individuals make any real renunciation by the social contract; indeed, as a result of the contract they find themselves in a situation preferable in real terms to that which prevailed before; instead of an alienation, they have profitably exchanged an uncertain and precarious life for a better and more secure one; they have exchanged natural independence for freedom, the power to destroy others for the enjoyment of their own security; they have exchanged their own strength which others might overcome for a right which the social union makes invincible. Their very lives, which they have pledged to the state, are always protected by it; and even when they risk their lives to defend the state, what more are they doing but giving back what they have received from the state? What are they doing that they would not do more often, and at greater peril, in the state of nature, where every man is inevitably at war and at the risk of his life, defends whatever serves him to maintain life? Assuredly, all must now fight in case of need for their country, but at least no one has any longer to fight for himself. And is there not something to be gained by running, for the sake of the guarantee of safety, a few of those risks we should each have to face alone if we were deprived of that assurance?

MPP3-370 FREEDOM IS THE ESSENCE OF HUMANITY

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.55.

To renounce freedom is to renounce one's humanity, one's rights as a man and equally one's duties. There is no possible quid, pro quo for one who renounces everything; indeed such renunciation is contrary to man's very nature; for if you take away all freedom of the will, you strip a man's actions of all moral significance.

MPP3-371 THE SOCIAL CONTRACT ABOLISHES INDIVIDUAL RIGHTS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.60-1.

These articles of association, rightly understood, are reducible to a single one, namely the total alienation by each associate of himself and all his rights to the whole community. Thus, in the first place, as every individual gives himself absolutely, the conditions are the same for all, and precisely because they are the same for all, it is in no one's interest to make the conditions onerous for others. Secondly, since the alienation is unconditional, the union is as perfect as it could be, and no individual associate has any longer any rights to claim; for if rights were left to individuals, in the absence of any higher authority to judge between them and the public, each individual, being his own judge in some causes, would soon demand to be his own judge in all; and in this way the state of nature would be kept in being, and the association inevitably become either tyrannical or void.

MPP3-372 THE SOCIAL CONTRACT INVOLVES SUBMISSION TO THE GENERAL WILL

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.61.

Finally, since each man gives himself to all, he gives himself to no one; and since there is no associate over whom he does not gain the same rights as others gain over him, each man recovers the equivalent of everything he loses, and in the bargain he acquires more power to preserve what he has. If, then, we eliminate from the social pact everything that is not essential to it, we find it comes down to this: 'Each one of us puts into the community his person and all his powers under the supreme direction of the general will; and as a body, we incorporate every member as an indivisible part of the whole.'

MPP3-373 THE SOCIAL CONTRACT CREATES A DUTY OF MUTUAL AID

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.63.

As soon as the multitude is united thus in a single body, no one can injure any one of the members without attacking the whole; still less injure the whole without each member feeling it. Duty and self-interest thus equally oblige the two contracting parties to give each other mutual aid; and the same men should seek to bring together in this dual relationship, all the advantages that flow from it.

MPP3-374 REQUIRING INDIVIDUALS' PRIVATE WILLS TO CONFORM TO THE GENERAL WILL FORCES THEM TO BE FREE

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.63-4.

For every individual as a man may have a private will contrary to, or different from, the general will that he has as a citizen. His private interest may speak with a very different voice than that of the public interest; his absolute and naturally independent existence may make him regard what he owes to the common cause as a gratuitous contribution, the loss of which would be less painful for others than the payment is onerous for him; and fancying that the artificial person which constitutes the state is a mere rational entity (since it is not a man), he might seek to enjoy the rights of a citizen without doing the duties of a subject. The growth of this kind of injustice would bring about the ruin of the body politic. Hence, in order that the social pact shall not be an empty formula, it is tacitly implied in that commitment - which alone can give force to all others - that whoever refuses to obey the general will shall be constrained to do so by the whole body, which means nothing other than that he shall be forced to be free; for this is the condition which, by giving each citizen to the nation, secures him against all personal dependence, it is the condition which shapes both the design and the working of the political machine, and which alone bestows justice on civil contracts - without it, such contracts would be absurd, tyrannical and liable to the grossest abuse.

MPP3-375 BY ENTERING CIVIL SOCIETY, HUMANS ACQUIRE MORAL FREEDOM

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.65.

We might also add that man acquires with civil society, moral freedom, which alone makes man the master of himself; for to be governed by appetite alone is slavery, while obedience to a law one prescribes to oneself is freedom.

MPP3-376 ROUSSEAU'S AUTHORITARIANISM WAS A PRODUCT OF HIS TIME; HIS CONCERN FOR INDIVIDUAL LIBERTY WAS GENUINE

Jeremy Jennings, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.116-7.

The conclusion drawn by Keohane is therefore unambiguous. 'Many of Rousseau's authoritarian passages', she writes, 'were restatements of hoary arguments in French absolutist thought'. And nowhere was this more so than with the concept of the general will, replete with the injunction that sovereignty could be neither divided nor restricted coupled with the total alienation of each individual and of all his rights to the community. Rousseau's innovation was to deny that this sovereign will could be indefinitely identified with one individual, thus opening up the way for its all-important redescription as the real will of all those citizens who made up the membership of the political body. In this fashion was the theory of absolute monarchy transformed into the radically democratic alternative of absolute popular sovereignty. The misunderstanding is to believe that in either case a concern for the liberty of the individual was absent.

MPP3-377 UNLIKE HOBBS, ROUSSEAU SOUGHT TO PRESERVE LIBERTY

Jeremy Jennings, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.117.

The implications of these ideas upon Rousseau's conception of contract were necessarily profound, and this because the 'fundamental problem' he thus set himself was nothing less than that of squaring the circle: how to find a form of association which will defend the person and goods of each member with the collective force of all and under which each individual, while uniting himself with the others, obeys no one but himself and remains as free as before. The contrast with the position endorsed by Hobbes could not have been more stark. As Hobbes perceived it, the human condition was so bleak that men could escape from the war of all against all only by agreeing to transfer lock, stock and barrel their natural right to govern and to arbitrate in disputes to the single sovereign power of Leviathan, preserving only their right to self-preservation. The trade-off was a straightforward one: life and an element of liberty in exchange for obedience to the sword. For Rousseau there was to be no trade-off, there were to be no losses, only gains. Men, he believed, could have both liberty and law if they were able to construct a society where they ruled themselves.

MPP3-378 LIBERTY REMAINS A FUNDAMENTAL VALUE FOR ROUSSEAU

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.47.

Metaphysical freedom, however, is a special case of natural freedom because it is natural in two different senses: (1) it can be exercised in the state of nature, and (2) it is an essential aspect of human nature regardless of one's station in the state of nature or in society. This kind of freedom is, I believe, the ground for the natural right to liberty in Rousseau's political philosophy. If so, this freedom is of paramount importance, since liberty, according to Rousseau, is a fundamental value that one ought not to give up because, in doing so, one is giving up one's moral agency.

MPP3-379 MORAL FREEDOM IS OBEDIENCE TO SELF-PRESCRIBED RULES

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.54.

or Rousseau independence, unlike liberty, consists in acting as one pleases without respect for others, whereas liberty is the ability to act according to self-prescribed rules that respect the rights of others. That being the case, the self-prescribed rules of an individual in a society must not conflict with the self-prescribed rules of others in this society. Otherwise liberty and independence would be synonymous. Freedom as independence is basically egoistic. This kind of freedom creates conflicts among individuals. For example, one is free in this sense only when one is able to satisfy wants and desires without any regard for other people's wants or desires. On the other hand, one is morally free only when one's self-prescribed rules are compatible with those of others.

MPP3-380 ACTS CONTRARY TO THE GENERAL WILL DON'T DISPLAY FREEDOM

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.55.

We obey ourselves only when we act according to the preservation and promotion of the general will, since this will is simply an extension of individual wills as they aspire to generality or the common good. Whenever the citizens act contrary to the general will, they are acting for the sake of their egoistic wants and desires. In this sense, according to Rousseau, they are not morally free. They are slaves of their passions and appetites. They are morally free only when they act according to self-prescribed laws, that is to say, when they act according to the general will. Hence, Rousseau argues, whenever the citizens' actions are incompatible with the general will they must be forced to be free, which is to say that they must be constrained by the law to act according to the general will. But since the citizens consent to abide by the general will when they become participants in the social contract, and since this contract guarantees that all have a free and equal voice in the making of the law, it follows that they are not in fact constrained. Where there is consent there cannot be coercion, since a necessary condition of coercion is the absence of consent.

MPP3-381 FREEDOM FOR ROUSSEAU IS OBEDIENCE TO RATIONAL MORAL DUTIES

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.55-6.

The above distinction corresponds to Rousseau's distinction between a will that is particular and a will that is general. When we are motivated by our selfish interests, our wills are particular. As a result we are unfree, according to Rousseau, because we are the slaves of our passions. On the other hand, when we are motivated by a will that is general, we are concerned with the common good or general welfare. At this level, active or practical rationality is operating. We are operating with a concept of a moral order. Therefore, it is at this level that we are morally free. This anticipates Kant's notions of freedom as respect for the moral law and practical rationality. According to both Rousseau and Kant, we are morally free insofar as we perform our duties for duty's sake and we are rational to the extent that we are moral.

MPP3-382 ROUSSEAU REJECTS EGOISTIC FREEDOM

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.56.

Rousseau is rejecting the notion of freedom as (he maximization of our selfish wants and desires--the result of egoism or amour propre. On the contrary, his concept of freedom as respect for the moral law is radically different from this egoistic concept of freedom. Since this law is discovered and instituted by the general will, it follows that we are free' in Rousseau's sense, only if and so long as we act according to the general will. The freedom of the citizen consists, as Fetscher argues, "in his not being dependent on any single man and his whim. but dependent solely upon the law," which is a law that each citizen helps to establish.

MPP3-383 ROUSSEAU UPHOLDS THE BASIC RIGHTS TO LIFE AND LIBERTY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.57.

He defends the natural rights to life and liberty, although, unlike Locke, he considers the right to property to be a conventional rather than a natural right. Moreover, in *The Social Contract* he argues against the institution of slavery and defends the natural right to liberty on these grounds: To renounce one's liberty is to renounce one's quality as a man. the rights and also the duties of humanity.... Such a renunciation is incompatible with man's nature, for to take away all freedom from his will is to take away all morality from his action. Rousseau's contract is intended to guarantee both the enjoyment of civil and political freedom and the right to private property. It guarantees, among other things, the right to have an equal voice in the making of laws and hence the right to vote. Moreover, the right to political freedom derives from the natural right to liberty.

MPP3-384 SINCE SOVEREIGNTY ALWAYS REMAINS WITH THE PEOPLE, TYRANNY IS IMPOSSIBLE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.59.

Thus Rousseau unlike Locke, does not postulate a right to revolution against tyranny. He does not need this right because sovereignty remains always with the people. In Rousseau's Republic, tyranny or any sort of gross injustice on the part of the sovereign would be impossible. The general will of the people can never be unjust, "since no one is unjust to himself." The sovereign therefore is always what "it ought to be."

MPP3-385 HUMAN FREEDOM FLOURISHES IN CIVIL SOCIETY

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.28.

Now Rousseau not only rejects Hobbes's claim that men must choose between being free and being ruled, he positively asserts that it is only through living in civil society that men can experience their fullest freedom.

MPP3-386 HUMANS FULFILL THEIR NATURE ONLY IN CIVIL SOCIETY

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.28.

Nevertheless, according to Rousseau, it is only by leaving the state of nature and becoming a social being in the fullest sense, that is to say, in becoming a citizen, that man can realize his own nature as man.

MPP3-387 THE STATE OF NATURE PROVIDES ONLY CRUDE FREEDOM

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.28.

in the *Social Contract* he still says that men have freedom in the state of nature, but he treats it as freedom of a crude and lesser kind. Such freedom is no more than independence. And while he does not accept Hobbes's picture of man in the state of nature as an aggressive and rapacious being, Rousseau (having read Hobbes) speaks less of the innocence and more of the brutishness of man in a state of nature. Man in the state of nature, as he is depicted in the *Social Contract*, is a 'stupid and unimaginative animal'; it is only by coming into a political society that he becomes 'an intelligent being and a man'.

MPP3-388 ROUSSEAU IS COMMITTED TO POSITIVE FREEDOM

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.41.

An even more serious criticism of Rousseau can, I think, be levelled against his whole theory of liberty. On the one hand, he belongs to a certain tradition of moral philosophers who argue that to be free is not to be left to do what you want to do but to be enabled to do what you ought to do. Everything that Rousseau says about freedom being inseparable from justice, and about the necessary connexion between liberty and virtue, puts him in this school of morality. This theory of freedom, which has its origins in religious thought, claims to offer a superior, higher, more true and exalted analysis of what freedom is. Rousseau stands squarely in this tradition when he speaks of the higher, and more specifically moral freedom that men attain when they quit the state of nature and enter civil society.

MPP3-389 COERCION CAN REINFORCE AN INDIVIDUAL'S OWN TRUE WILL

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.35.

Rousseau does not say that men can be forced to be free in the sense that a whole community may be forced to be free; he says that a man may be forced to be free, and he is thinking here of the occasional individual who, as a result of being enslaved by his passions, disobeys the voice of the law, or of the general will, within him. The general will is something inside each man as well as in society as a whole, so that the man who is coerced by the community for a breach of the law, is, in Rousseau's view of things, being brought back to an awareness of his own true will. Thus in penalizing a law breaker, society is literally correcting him, 'teaching him a lesson' for which, when he comes to his senses, the offender should be grateful. Legal penalties are a device for helping the individual in his own struggle against his own passions, as well as a device for protecting society against the anti-social depredations of law-breakers.

MPP3-390 IN THE SOCIAL CONTRACT, ROUSSEAU IS PRIMARILY CONCERNED WITH PRESERVING LIBERTY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.80.

Rousseau remains; in *The Social Contract*, much concerned about equality. But a new concern is even more apparent - that of liberty. The problem of the social compact, Rousseau says, in a much quoted passage, 'is to find a form of association which will defend and protect with the whole common force the person 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'. And his solution to the problem is his celebrated (and perplexing) concept of the general will: each associate 'puts his person and all his power under the supreme direction of the general will'. Each associate would thus become a member of a collective body, capable of acting through an assembly of the associates, who would thus collectively exercise sovereign political authority, the right to make laws governing the state (R. 174, 175, 192).

MPP3-391 IN ROUSSEAU'S CONTRACT, PEOPLE EXCHANGE PRIVATE LIBERTY FOR POLITICAL LIBERTY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.80-1.

If Rousseau will not allow the individual citizen of his ideal state any inalienable natural rights, how then is his liberty - so prized by Rousseau - to be safeguarded? This is a vexed question indeed, which cannot be adequately discussed here. According to Rousseau, the ideal social contract constitutes an exchange of 'natural liberty' for 'civil liberty', and civil liberty means, essentially, rule by a sovereign body in which each citizen has an equal share, and which thus expresses the 'general will' (R. 178). This latter definition of liberty is not as eccentric as it may seem - the notion of a 'free constitution', current in the eighteenth and even the nineteenth century and stemming from classical times (in the literature of which Rousseau was himself steeped), meant, more or less, simply a non-monarchical state governed according to law. In terms of Benjamin Constant's famous contrast, Rousseau suggests that men, by the ideal social contract, exchange the 'liberty of the moderns' for the 'liberty of the ancients'.

MPP3-392 THE COMMON WILL ASSURES THAT THE INTERESTS OF ALL WILL BE RESPECTED

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.81.

Rousseau tries to narrow the gap through his concept of the general will. While his discussion of the whole matter is far from lucid, it appears that he thinks that, if the sovereign law-making body consists of all citizens equally, and makes laws that apply to all citizens equally, it is likely to respect and further their common interests, that is the interests that all equally share, and in this sense to embody the will of each citizen as a citizen (though not necessarily his will in so far as it is not general, that is, represents interests not shared by all citizens). Thus Rousseau feels able to claim that enforcing laws made by such a sovereign is (in a famous or notorious phrase) forcing the individual 'to be free'.

MPP3-393 INDIVIDUAL RIGHTS ARE SUBORDINATE TO COMMUNITY RIGHTS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.68.

It may also happen that men begin to unite before they possess anything, and spreading over a territory large enough for them all, proceed to enjoy it in common, or, alternatively, divide it among themselves either equally or in shares determined by the sovereign. In whatever manner this acquisition is made, the right of any individual over his own estate is always subordinate to the right of the community over everything; for without this there would be neither strength in the social bond nor effective force in the exercise of sovereignty.

MPP3-394 SOCIETY CAN'T EXIST WITHOUT A COMMON GOOD

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.69.

The first and most important consequence of the principles so far established is that the general will alone can direct the forces of the state in accordance with that end which the state has been established to achieve - the common good; for if conflict between private interests has made the setting up of civil societies necessary, harmony between those same interests has made it possible. It is what is common to those different interests which yields the social bond; if there were no point on which separate interests coincided, then society could not conceivably exist. And it is precisely on the basis of this common interest that society must be governed.

MPP3-395 THE PUBLIC INTEREST IS DISTINCT FROM THE SUM OF PRIVATE

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.72-3.

There is often a great difference between the will of all [what all individuals want] and the general will; the general will studies only the common interest while the will of all studies private interest, and is indeed no more than the sum of individual desires. But if we take away from these same wills, the pluses and minuses which cancel each other out, the sum of the difference is the general will.

MPP3-396 THE BODY POLITIC HAS ABSOLUTE OVER ITS MEMBERS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.74.

If the state, or the nation, is nothing other than a legal person the life of which consists in the union of its members and if the most important of its cares is its own preservation, it must have a universal and compelling power to move and dispose of each part in whatever manner is beneficial to the whole. Just as nature gives each man an absolute power over all his own limbs, the social pact gives the body politic an absolute power over all its members; and it is this same power which, directed by the general will, bears, as I have said, the name of sovereignty.

MPP3-397 THE STATE HAS POWER OVER INDIVIDUAL LIVES

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.78-9.

The purpose of the social treaty is the preservation of the contracting parties. Whoever wills the end wills also the means, and certain risks, even certain casualties are inseparable from these means. Whoever wishes to preserve his own life at the expense of others must give his life for them when it is necessary. Now, as citizen, no man is judge any longer of the danger to which the law requires him to expose himself, and when the prince says to him: 'It is expedient for the state that you should die', then he should die, because it is only on such terms that he has lived in security as long as he has and also because his life is no longer the bounty of nature but a gift he has received conditionally from the state.

MPP3-398 ROUSSEAU REJECTS NATURAL RIGHTS TO LIBERTY AND PROSPERITY

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.33-4.

Rousseau does not think that men have in the state of nature the kind of natural rights which Locke supposes - the right, for example, to property. For Rousseau there is only possession in the state of nature; property (by definition, rightful possession) comes - into being only when law comes into being. Nor does Rousseau think, like Locke, of liberty as one of men's rights. Indeed he says, quite as emphatically as Locke, that men cannot alienate their liberty. If Locke and Rousseau were thinking in the same terms, it would be a contradiction for Rousseau to say, as he does, that the social contract entails the total alienation of rights, and that men cannot alienate their liberty. In truth, what Rousseau is saying is that instead of surrendering their liberty by the social contract, they convert their liberty from independence into political and moral freedom, and this is part of their transformation from creatures living brutishly according to impulse into men living humanly according to reason and conscience.

MPP3-399 NATURAL JUSTICE IS INEFFECTIVE

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.80-1.

There is undoubtedly a universal justice which springs from reason alone, but if that justice is to be admitted among men it must be reciprocal. Humanly speaking, the laws of natural justice, lacking any natural sanction, are unavailing among men. In fact, such laws merely benefit the wicked and injure the just, since the just respect them while others do not do so in return. So there must be covenants and positive laws to unite rights with duties and to direct justice to its object. In the state of nature, where everything is common, I owe nothing to those to whom I have promised nothing, and I recognize as belonging to others only those things that are of no use to me. But this is no longer the case in civil society, where all rights are determined by law.

MPP3-400 IN CIVIL SOCIETY, PEOPLE EXCHANGE NATURAL FOR LEGAL RIGHTS

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.33.

On the other hand, Rousseau seems to be entirely at one with Hobbes when he says that under the pact by which men enter into civil society everyone makes a total alienation of all his rights. However, it must be remembered that Rousseau regarded this alienation as a form of exchange, and an advantageous one; men give up their natural rights in exchange for civil rights; the total alienation is followed by a total restitution; and the bargain is a good one because what men surrender are rights of dubious value, unlimited by anything but an individual's own powers, rights which are precarious and without a moral basis; in return men acquire rights that are limited but legitimate and invincible. The rights they alienate are rights based on might; the rights they acquire are rights based on law.

MPP3-401 RIGHTS INCREASE INEQUALITY

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.21-2.

The effect of the establishment of political societies is both to institutionalize and increase inequalities. The establishment of such things as property rights and titles of nobility sets the seal of law on inequality. But 'even without the intervention of government, inequality of credit and authority became unavoidable among private persons as soon as their union in the same society led them to compare themselves one to another'. In the end society reaches a point where men come to be satisfied with themselves rather than the testimony of other people than on their own. Where the savage 'lives within himself', the social man 'lives constantly outside himself, and only knows how to live in the opinion of others; he acquires, so to speak, the consciousness of his own existence only from the judgement of others'.

MPP3-402 CIVIL TRANQUILITY ISN'T WORTH THE PRICE OF DESPOTISM

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.54.

It will be said that a despot gives his subjects the assurance of civil tranquillity. Very well, but what does it profit them, if those wars against other powers which result from a despot's ambition, if his insatiable greed, and the oppressive demands of his administration, cause more desolation than civil strife would cause? What do the people gain if their very condition of civil tranquillity is one of their hardships? There is peace in dungeons, but is that enough to make dungeons desirable? The Greeks lived in peace in the cave of Cyclops awaiting their turn to be devoured.

MPP3-403 HOBBS' THEORY INSTITUTIONALIZES TYRANNY

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.51.

According to Grotius, therefore, it is doubtful whether humanity belongs to a hundred men, or whether these hundred men belong to humanity, though he seems throughout his book to lean to the first of these views, which is also that of Hobbes. These authors show us the human race divided into herds of cattle, each with a master who preserves it only in order to devour its members. Just as a shepherd possesses a nature superior to that of his flock, so do those shepherds of men, their rulers, have a nature superior to that of their people. Or so, we are told by Philo, the Emperor Caligula argued, concluding, reasonably enough on this same analogy, that kings were gods or alternatively that the people were animals. The reasoning of Caligula coincides with that of Hobbes and Grotius. Indeed Aristotle, before any of them, said that men were not at all equal by nature, since some were born for slavery and others born to be masters.

MPP3-404 FREEDOM IS MORE IMPORTANT THAN PEACE

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.131.

In ancient times, Greece flourished at the height of the cruellest wars; blood flowed in torrents, but the whole country was thickly populated. 'It appeared,' says Machiavelli, 'that in the midst of murder, proscription and civil wars, our republic became stronger than ever; the civil virtue of the citizens, their morals, and their independence, served more effectively to strengthen it than all their dissensions may have done to weaken it.' A little disturbance gives vigour to the soul, and what really makes the species prosper not peace but freedom.

MPP3-405 ROUSSEAU OPPOSED ENLIGHTENED DESPOTISM

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.25.

The political views of the philosophes were as distasteful to Rousseau as were most of their opinions. Like their master, Francis Bacon, they believed in strong government; the doctrine of planning called for a ruler with enough power to put plans into effect; and just as Bacon himself once dreamed of converting James I to his way of thinking and then using magnified royal prerogative to enact his proposals, so the philosophes of the eighteenth century based their hopes for success on influencing powerful monarchs to do what they suggested. The current name for this was *le despotisme éclairé*; to Rousseau, the champion of freedom, any kind of despotism was anathema, and the so-called enlightened sort seemed rather worse than others.

MPP3-406 ROUSSEAU REJECTS DESPOTISM RATHER THAN EMBRACING IT

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.34-5.

There is no more haunting paragraph in the whole of the Social Contract than that in which Rousseau speaks of forcing a man to be free. But it would be wrong to put too much weight on these words, in the manner of those who consider Rousseau, whether early-fascist or early-communist, at all events a totalitarian. Rousseau is nothing so simple. He is authoritarian, but the authority he favours is explicitly distinguished from mere power; it is based on conscious and vocal assent, and is offered as something wholly consistent with liberty. There is no necessary antithesis, as some writers assume, between liberty and authority as such; for authority is a form of potency which rests on the credence and acceptance of those who respect it, and Rousseau insists that if authority is to be legitimate the credence and acceptance must be both universal and unconstrained. There is no resemblance between Rousseau's republic and the actual systems of twentieth century totalitarian states, where the various devices of party rule, government by edict, brain-washing and secret police are manifestations of what Rousseau regarded as despotism and vigorously condemned. Indeed for those who seek the theoretical ancestry of present-day totalitarian ideology, the optimistic despotism of the philosophes may well be worth as much attention as the pessimistic republicanism of Rousseau.

MPP3-407 THE SOCIAL CONTRACT ESTABLISHES EQUALITY OF RIGHTS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.76.

Whichever way we look at it, we always return to the same conclusion: namely that 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 the general will, binds or favours all the citizens equally, so that the sovereign recognizes only the whole body of the nation and makes no distinction between any of the members who compose it.

MPP3-408 RELATIVE EQUALITY IS NEEDED TO PREVENT TYRANNY

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.96.

Do you want coherence in the state? Then bring the two extremes as close together as possible; have neither very rich men nor beggars, for these two estates, naturally inseparable, are equally fatal to the common good, from the one class come friends of tyranny, from the other, tyrants. It is always these two classes which make commerce of the public freedom: the one buys, the other sells.

MPP3-409 THE SOCIAL CONTRACT CREATES EQUALITY

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.68.

I shall end this chapter - and Book I - with an observation which might serve as a basis for the whole social system: namely, that the social pact, far from destroying natural equality, substitutes, on the contrary, a moral and lawful equality for whatever physical inequality that nature may have imposed on mankind; so that however unequal in strength and intelligence, men become equal by covenant and by right.

MPP3-410 ROUSSEAU IS A RADICAL POLITICAL EGALITARIAN

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.44.

Stephen Ellenburg, in his book, *Rousseau's Political Philosophy*, offers a good characterization of Rousseau's position as nonindividualist and egalitarian. Ellenburg argues that Rousseau is neither a traditional liberal individualist nor a collectivist. For Rousseau the individual and society are necessarily interdependent: one cannot exist apart from the other. Rousseau's individual realizes his nature in and through society. Moreover, Rousseau is, as Ellenburg indicates, a radical political egalitarian because he defends the principle of absolute self-government. For Rousseau, individuals are free only if they can govern themselves. Therefore, according to Rousseau, any form of representative government would be considered a form of political subservience.

MPP3-411 INEQUALITY IS THE MAINS SOURCE OF SOCIAL CORRUPTION

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.45-6.

Rousseau tries to explain this paradox by arguing that inequality is the main, although not the only, source of corruption in society. Natural individuals differ in their physical abilities and mental capacities (natural inequalities). Thus when they start a process of social interaction their natural inequalities necessarily lead them to the development of social and economic differences (artificial inequalities). These artificial inequalities, together with the development of metallurgy and agriculture and the emergence of private property with its division of labor, bring about the corruption of people in society.

MPP3-412 EXCESSIVE ECONOMIC INEQUALITIES LEAD TO POLITICAL INEQUALITIES

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.49-50.

Significantly, however, Rousseau does not condemn inequality in general; he simply condemns those artificial inequalities, such as the excessive economic ones, that bring about political inequalities. For political equality, he argues, two basic conditions must be fulfilled: (1) the ascription of equal rights and duties to all citizens before the law, and (2) an equal opportunity for all citizens to change or modify the laws under which they live regardless of their differences in power, property, or prestige. Moreover, he condemns any kind of artificial inequality which might lead to forms of political inequality. This is why Rousseau advocates a simple way of life rather than the great accumulation of wealth. What is most necessary and perhaps the most difficult in the government is rigorous integrity in dispensing justice to all and especially in protecting the poor against the tyranny of the rich. The greatest evil is already done when there are poor people to defend and rich men to keep in check. It is only at intermediate levels of wealth that the full force of the law is exerted. It is one of the most important items of business for the government to prevent extreme inequality of fortunes, not by appropriating treasures from their owners, but by denying everyone the means of acquiring them, and not by building hospitals for the poor but by protecting citizens from becoming poor.

MPP3-413 EQUALITY IS NEEDED FOR JUSTICE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.50.

Rousseau opposes great accumulations of wealth because it brings about political inequalities. Those with greater wealth also have greater access to political power and, therefore, they have greater freedom. They have the freedom to influence and perhaps even oppress those who have less political power. This is unjust, Rousseau contends. Justice is only possible when people enjoy political equality and have an equal opportunity to enact or change the laws.

MPP3-414 JUSTICE REQUIRES A CLASSLESS SOCIETY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.51-2.

For Rousseau private property must serve a social function. It is permissible only if and so long as it promotes the well-being of the community. Political justice is possible, according to him, only if economic justice is also possible, and vice versa; one cannot exist without the other. Although we can conceive of political justice in abstraction, apart from and independent of economic justice, and vice versa, in reality both forms of justice are intertwined. They are in fact directly proportional to one another. Accordingly, Rousseau argues that "the social state is advantageous to men only when all have something and none have too much." Justice in general is possible only in a classless society.

MPP3-415 EQUALITY IS NEEDED FOR A GOOD SOCIAL CONTRACT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.52.

I agree with Iring Fetscher's interpretation of Rousseau on this point. He contends that, according to Rousseau, a necessary condition for the fulfillment of a "good" social contract is a degree of social and political equality among the citizens. Without this, the contract and hence the institution of political society would be unjust, for when there is conflict as a result of great socio-economic and political inequalities, a social contract is used simply as a subterfuge to end the conflict and perpetuate the status quo.

MPP3-416 ROUSSEAU EFFECTIVELY PRESERVES EQUALITY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.81-2.

A noteworthy feature of Rousseau's theory is that it shows him to be unique among the many social contract theorists who have postulated man's liberty and equality in a state of nature in that he wishes to preserve both their liberty and their equality in the civil state. His ideal constitution does indeed preserve this equality, thus making Rousseau the great exponent of what may be called the 'democratic' social contract (though he himself uses the term 'democracy' in a different sense).

MPP3-417 ROUSSEAU WAS A PASSIONATE CRITIC OF INEQUALITY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.76.

We can start from a point on which the two texts explicitly agree with each other, and with a long line of social contract theorists, that in the state of nature men were free and equal - no man has, by nature, any legitimate authority over any other (R. 39,166,169). The *Discourse* of 1755, as its full title indicates, is an account of how this primitive natural equality of men came to be destroyed. But it is no mere neutral account, but rather a passionate indictment of actual inequality. The growth of inequality is for Rousseau at the same time the growth of human corruption, and Rousseau's denunciation of both is an expression of his revulsion against eighteenth century European society as he knew it. This is the point of view from which he considers the question of government.

MPP3-418 EQUALITY NEED NOT BE ABSOLUTE

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.96.

I have already explained what civil freedom is; as for equality, this word must not be taken to imply that degrees of power and wealth should be absolutely the same for all, but rather that power shall stop short of violence and never be exercised except by virtue of authority and law, and, where wealth is concerned, that no citizen shall be rich enough to buy another and none so poor as to be forced to sell himself; this in turn implies that the more exalted persons need moderation in goods and influence and the humbler persons moderation in avarice and covetousness.

MPP3-419 ROUSSEAU DOESN'T CONDEMN ALL INEQUALITY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.50.

Rousseau is not, however, against all kinds of inequalities; he defends the view that inequalities of rank and prestige are just if they are proportional to natural inequalities. In this sense, he is not a radical egalitarian. But he is a radical egalitarian in the political sense, because he believes that all citizens ought to have the same rights and duties before the law and an equal opportunity to participate in enacting or changing it. In short, he is a radical political egalitarian but not a radical economic egalitarian. For Rousseau, natural as well as artificial inequalities are inevitable in civil society because people, once united in civil society, "are forced to make comparisons among themselves" and to take account of their differences in "wealth, rank, power and personal merit." Of these differences, wealth is the most important because it can buy rank and power in society.

MPP3-420 PROPERTY RIGHTS DERIVE FROM THE SOCIAL CONTRACT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.67-8.

What is unique about the alienation entailed by the social contract is that the community in accepting the goods of an individual is far from depriving him of them; on the contrary it simply assures him of their lawful possession; it changes usurpation into valid right and mere enjoyment into legal ownership. Since every owner is regarded as a trustee of the public property, his rights are respected by every other member of the state, and protected with its collective force against foreigners; men have, by a surrender which is advantageous to the public and still more to themselves, acquired, so to speak, all that they have given up - a paradox which is easily explained by the distinction between the rights which the sovereign has and which the owner has over the same property, as will be seen later.

MPP3-421 ROUSSEAU STILL RESPECTS PRIVATE PROPERTY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.50-1.

Although Rousseau is against amassing great wealth, he is not against private property per se. In fact he considers the right to private property "the most sacred of all the citizens' rights." Nor does he advocate that all citizens have the same degree of wealth. On the contrary, he writes: With regard to equality, we must not understand by this word that the degrees of power and wealth should be absolutely the same; but that, as to power, it should fall short of all violence, and never be exercised except by virtue of station and of the laws; while, as to wealth, no citizen should be rich enough to be able to buy another, and none poor enough to be forced to sell himself. Rousseau is searching for the middle ground or the golden mean between the very rich and the very poor.

MPP3-422 UNDER THE SOCIAL CONTRACT, THE INTERESTS OF THE SOVEREIGN AND THE SUBJECT ARE IDENTICAL

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.63.

Now, as the sovereign is formed entirely of the individuals who compose it, it has not, nor could it have, any interest contrary to theirs; and so the sovereign has no need to give guarantees to the subjects, because it is impossible for a body to wish to hurt all of its members, and, as we shall see, it cannot hurt any particular member. The sovereign by the mere fact that it is, is always all that it ought to be.

MPP3-423 ROUSSEAU'S INNOVATION WAS TO MAKE SOVEREIGNTY A PERMANENT POSSESSION OF THE PEOPLE

Jeremy Jennings, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.117.

What marked Rousseau out from his predecessors was that they, unlike him, saw active sovereignty as being only the people's temporary possession, as something that was to be handed over to the appropriate authority as soon as possible, only rarely (and in some cases never) to be reclaimed. Pufendorf, for example, even went so far as to define the handing over of the right to govern by a defeated people as a meaningful form of consent. Not only was Rousseau unwilling to grant that sovereignty could be given away either under duress or by tacit agreement but also he even opposed its voluntary and unforced transfer. Sovereignty, in short, was not like a piece of property that could be freely disposed of: it was an inalienable possession, part of the individual's very humanity. Rousseau's contribution, as Robert Derathe has argued, was therefore to attribute not only the origin but also the exercise of sovereignty to the people.

MPP3-424 MAJORITY RULE MUST PREVAIL UNDER THE CONTRACT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.153-4.

Apart from this original contract, the votes of the greatest number always bind the rest; and this is a consequence of the contract itself. Yet it may be asked how a man can be at once free and forced to conform to wills which are not his own. How can the opposing minority be both free and subject to laws to which they have not consented? I answer that the question is badly formulated. The citizen consents to all the laws, even to those that are passed against his will, and even to those which punish him when he dares to break any one of them. The constant will of all the members of the state is the general will; it is through it that they are citizens and free. When a law is proposed in the people's assembly, what is asked of them is not precisely whether they approve of the proposition or reject it, but whether it is in conformity with the general will which is theirs; each by giving his vote gives his opinion on this question, and the counting of votes yields a declaration of the general will. When, therefore, the opinion contrary to my own prevails, this proves only that I have made a mistake, and that what I believed to be the general will was not so. If my particular opinion had prevailed against the general will, I should have done something other than what I had willed, and then I should not have been free.

MPP3-425 FOR ROUSSEAU, SOVEREIGNTY IS ABSOLUTE BUT LIMITED

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.38.

Rousseau borrows from Hobbes the argument that sovereignty is an absolute power; it cannot be divided and remain sovereign; and it cannot be subject to 'fundamental laws' and remain sovereign. At the same time Rousseau takes from Locke and the jurists the notion that sovereignty is limited. Sovereignty is absolute, but not unlimited. The limits are those imposed by natural law and by the considerations of public good. 'Sovereignty does not pass the bounds of public advantage.' As an example of what Rousseau means by a natural law limitation, we may note his argument in the *Social Contract* that no agreement to enter into slavery could be a valid one because any agreement which is wholly to the advantage of one party and wholly to the disadvantage of the other is void in natural law.

MPP3-426 IN ROUSSEAU'S SOCIAL CONTRACT, SOVEREIGNTY REMAINS WITH THE PEOPLE

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.29-30.

In this argument, we can detect a striking departure from the 'social contract' theorists who preceded Rousseau. The jurists and Hobbes and Locke all rejected the well-established theories that sovereignty was based- on nature or on divine right, and they all argued in one way or another, that sovereignty derived its authority from the assent of the people. But these earlier theorists also held that sovereignty was transferred from the people to the ruler as a result of the social contract. Rousseau is original in holding that no such transfer of sovereignty need or should take place: sovereignty not only originates in the people; it ought to stay there.

MPP3-427 ROUSSEAU CHAMPIONS DEMOCRACY AND POPULAR SOVEREIGNTY

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.31.

Rousseau is undoubtedly a democrat in the sense that 'democracy' means legislative rule by the whole body of the citizens; but as he himself used the word in another sense, it might be less confusing to speak of him as a 'republican' or champion of 'popular sovereignty'. One of the reasons why he distinguishes so carefully between the legislative sovereign body and the executive or administrative body is his consciousness of the abiding danger to the legislative which the administrative body constitutes.

MPP3-428 CITIZENS HAVE A DUTY OF OBEDIENCE, THE SOVEREIGN HAS A DUTY NOT TO UNNECESSARILY IMPOSE ON CITIZENS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.74-5.

We have agreed that each man alienates by the social pact only that part of his power, his goods and his liberty which is the concern of the community; but it must also be admitted that the sovereign alone is judge of what is of such concern. Whatever services the citizen can render the state, he owes whenever the sovereign demands them; but the sovereign, on its side, may not impose on the subjects any burden which is not necessary to the community; the sovereign cannot, indeed, even will such a thing, since according to the law of reason no less than to the law of nature nothing is without a cause.

MPP3-429 THE SOVEREIGN HAS NO RIGHT TO IMPOSE UNEQUAL BURDENS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.77.

From this it is clear that the sovereign power, wholly absolute, wholly sacred, wholly inviolable as it is, does not go beyond and cannot go beyond the limits of the general covenants; and thus that every man can do what he pleases with such goods and such freedom as is left to him by these covenants; and from this it follows that the sovereign has never any right to impose greater burdens on one subject than on another, for whenever that happens a private grievance is created and the sovereign's power is no longer competent.

MPP3-430 PUBLIC AUTHORITY ONLY EXTENDS TO PROMOTING GENERAL WELFARE

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.185

But leaving aside considerations of politics, let us return to those of right; and settle the principles which govern this important question. The right which the social pact gives the sovereign over the subjects does not, as I have said, go beyond the boundaries of public utility. Subjects have no duty to account to the sovereign for their beliefs except when those beliefs are important to the community.

MPP3-431 PEOPLE ARE FREE TO DO WHAT DOESN'T INJURE OTHERS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.185.

'In the republic,' says the M(ontesquieu) d'A(ristotle), 'everyone is perfectly free to do what does not injure others.' Here is the invariable boundary; one could not express it more exactly.

MPP3-432 PURE DEMOCRACY IS IMPOSSIBLE

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.112.

In the strict sense of the term, there has never been a true democracy, and there never will be. It is contrary to the natural order that the greater number should govern and the smaller number be governed. One can hardly imagine that all the people would sit permanently in an assembly to deal with public affairs; and one can easily see that they could not appoint commissions for that purpose without the form of administration changing.

MPP3-433 ONLY SMALL, UNPRETENTIOUS STATES CAN BE TRULY DEMOCRATIC

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.113

Besides, how many things that are difficult to have at the same time does the democratic form of government not presuppose? First, a very small state, where the people may be readily assembled and where each citizen may easily know all the others. Secondly, a great simplicity of manners and morals, to prevent excessive business and thorny discussions. Thirdly, a large measure of equality in social rank and fortune, without which equality in rights and authority will not last long. Finally, little or no luxury; for luxury is either the effect of riches or it makes riches necessary; it corrupts both the rich and the poor; it sells the country to effeminacy and vanity; it deprives the state of all its citizens by making some the slaves of others and all the slaves of opinion.

MPP3-434 DEMOCRATIC GOVERNMENT ISN'T APPROPRIATE FOR HUMANS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.114.

If there were a nation of Gods, it would govern itself democratically. A government so perfect is not suited to men.

MPP3-435 DEMOCRATIC GOVERNMENT IS MOST PRONE TO CIVIL WAR

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.113.

We may add that there is no government so liable to civil war and internecine strife as is democracy or popular government, for there is none which has so powerful and constant a tendency to change to another form or which demands so much vigilance and courage to maintain it unchanged.

MPP3-436 REPRESENTATIVE GOVERNMENT IS INHERENTLY DESPOTIC

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.141.

Sovereignty cannot be represented, for the same reason that it cannot be alienated; its essence is the general will, and will cannot be represented - either it is the general will or it is something else; there is no intermediate possibility. Thus the people's deputies are not, and could not be, its representatives; they are merely its agents; and they cannot decide anything finally. Any law which the people has not ratified in person is void; it is not law at all. The English people believes itself to be free; it is gravely mistaken; it is free only during the election of Members of Parliament; as soon as the Members are elected, the people is enslaved, it is nothing. In the brief moments of its freedom, the English people makes such a use of that freedom that it deserves to lose it. The idea of representation is a modern one. It comes to us from feudal government, from that iniquitous and absurd system under which the human race is degraded and which dishonours the name of man. In the republics and even in the monarchies of the ancient world, the people never had representatives; the very word was unknown.

MPP3-436 REPRESENTATION ABOLISHES FREEDOM

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.143.

I do not mean by all this to suggest that slaves are necessary or that the right of slavery is legitimate, for I have proved the contrary. I simply state the reasons why peoples of the modern world, believing themselves to be free, have representatives, and why peoples of the ancient world did not. However that may be, the moment a people adopts representatives it is no longer free; it no longer exists.

MPP3-437 ROUSSEAU REJECTED REPRESENTATIVE GOVERNMENT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.136-7.

Rousseau, like Locke, develops a theory of popular sovereignty but argues that sovereignty always remains with the people and hence is inalienable. Therefore, unlike other contractarian philosophers, Rousseau is against any form of representative government. If the people are to be free, Rousseau argues, they must rule themselves. Like Locke, he uses the concept of consent to ground the political obligation of the citizens to act according to the general will. The citizens, according to Rousseau, have a political obligation to act compatibly with the general will, since they have covenanted with one another to form a political society and the general will is always morally right. Thus, so long as the terms of the contract are observed--that is, so long as the citizens are equally allowed to express their views publicly and are also equally allowed to vote in order to determine the content of the general will--they must act compatibly with the general will.

MPP3-438 LEGITIMATE GOVERNMENT REQUIRES RULE OF LAW

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p. 82.

Many state which is ruled by law I call a 'republic', whatever the form of its constitution; for then, and then alone, does the public interest govern and then alone is the 'public thing' the *res publica* - a reality. All legitimate government is 'republican', I shall explain later what government is.

MPP3-439 WHEN GOVERNMENT ISN'T RULED BY LAW, THE SOCIAL CONTRACT IS DISSOLVED

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.133.

The dissolution of the state may take place in two ways. First it takes place when the prince ceases to administer the state according to the law and usurps the sovereign power. Then a remarkable change occurs; for it is not the government but the state which contracts - by which I mean that the state as a whole is dissolved and another is formed inside it, one composed only of members of the government and having no significance for the rest of the people except that of a master and a tyrant. Now, at the moment the government usurps sovereignty, the social pact is broken, and all the ordinary citizens, recovering by right their natural freedom, are compelled by force, but not morally obliged, to obey.

MPP3-440 LAW IS MORALLY BINDING ON MINORITIES
Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.37-8.

Why should I abide by the decision of the majority? Because by the deed of the social contract itself, to which everyone subscribes and pledges (there is no question of a majority here; you either subscribe or you are not in civil society at all), everyone agrees to accept the decision of the majority in the formulation of the law. But it is also understood that the members of the majority whose decision is accepted do not ask themselves what do I, as an individual, demand, but what does the general will demand; thus it is the majority interpretations of the general will which is binding and not the majority will. This is how it can be morally obligatory for the minority to accept.

MPP3-441 LAW IS ESSENTIAL TO LIBERTY

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.32.

In his *Lettres écrites de la montagne* (published two years after the *Social Contract*) he provides the most succinct account of what he means by this key word: Liberty consists less in doing one's own will than in not being subject to that of another; it consists further in not subjecting the will of others to our own.... In the common liberty no one has a right to do what the liberty of any other forbids him to do; and true liberty is never destructive of itself. Thus liberty without justice is a veritable contradiction.... There is no liberty, then, without laws, or where any man is above the laws.... A free people obeys, but it does not serve; it has magistrates, but not masters; it obeys nothing but the laws, and thanks to the force of the laws, it does not obey men. It is partly because of this intimate connexion between liberty and law that the freedom of man in a state of nature is so inferior. The freedom of the savage is no more than independence; although Rousseau speaks of the savage being subject to natural law, he also suggests that the savage has no consciousness of natural law; thus Rousseau can speak of a man being 'transformed', as a result of his entry into civil society, from a brutish into a human, moral being.

MPP3-442 GOOD GOVERNMENT REQUIRES SEPARATION OF LEGISLATIVE AND EXECUTIVE POWER

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.112.

He who makes the law knows better than anyone how it should be executed and interpreted. So it might seem that there could be no better constitution than one which united the executive power with the legislative; in fact, this very union makes that form of government deficient in certain respects, for things which ought to be kept apart are not, and the prince and the sovereign being the same person constitute, so to speak, a government without government. It is not good that he who makes the law should execute it or that the body of the people should turn its attention away from general perspectives and give it to particular objects. Nothing is more dangerous in public affairs than the influence of private interests, and the abuse of the law by the government is a lesser evil than that corruption of the legislator which inevitably results from the pursuit of private interests.

MPP3-443 ROUSSEAU'S STATE UPHOLDS SEPARATION OF POWERS

Joel Schwartz, editor of *The Public Interest*, *NATIONAL REVIEW*, February 25, 1991, p.48.

While giving due heed to the view that Rousseau was the progenitor of totalitarian democracy, Melzer convincingly demonstrates that "the doctrine of the separation of powers . . . lies at the very core of Rousseau's politics," and that "Rousseau's state is . . . meant to be . . . a balance of powers, in which no part 'rules' in the full, traditional sense.

MPP3-444 THE BEST CONSTITUTION PRESERVES THE STATE LONGEST

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.134-5.

The body politic, no less than the body of a man, begins to die as soon as it is born, and bears within itself the causes of its own destruction. Either kind of body may have a constitution of greater or less robustness, fitted to preserve it for a longer or shorter time. The constitution of a man is the work of nature; that of the state is the work of artifice. It is not within the capacity of men to prolong their own lives, but it is within the capacity of men to prolong the life of the state as far as possible by giving it the best constitution it can have. And although even the best constitution will come to an end, it will do so later than any other, unless some unforeseen hazard fells it before its time.

MPP3-445 CONSTITUTIONS CAN NEVER BE PERMANENT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.134.

Such is the natural and inevitable inclination of the best constituted governments. If Sparta and Rome perished, what state can hope to last for ever? If we wish, then, to set up a lasting constitution, let us not dream of making it eternal. We can succeed only if we avoid attempting the impossible and flattering ourselves that we can give to the work of man a durability that does not belong to human things.

MPP3-446 EVERY PEOPLE NEEDS ITS OWN UNIQUE LAWS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.97-8.

In short, apart from those principles which are common to all, each people has its own special reasons for ordering itself in a certain way and for having laws that are fitted to itself alone. Thus it was, in the past, that the Hebrews, and more recently the Arabs, took religion as their chief object, while the Athenians had literature, Carthage and Tyre trade, Rhodes seafaring, Sparta war, and Rome civic virtue. The author of *L'Esprit des lois* has shown with scores of examples how the art of the lawgiver directs the constitution towards each of its ends.

MPP3-447 THERE'S NO ONE, BEST GOVERNMENT FOR ALL PEOPLES

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.129.

When, therefore, one asks what in absolute terms is the best government, one is asking a question which is unanswerable because it is indeterminate; or alternatively one might say that there are as many good answers as there are possible combinations in the absolute and relative positions of peoples.

MPP3-448 THE SOCIAL CONTRACT LEGITIMIZES THE DEATH PENALTY

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.79.

The death-penalty inflicted on criminals may be seen in much the same way: it is in order to avoid becoming the victim of a murderer that one consents to die if one becomes a murderer oneself. Far from taking one's life under the social treaty, one thinks only of assuring it, and we shall hardly suppose that any of the contracting parties contemplates being hanged.

MPP3-449 CRIME ATTACKS THE SOCIAL CONTRACT, SO PUNISHMENT IS LEGITIMATE

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.79.

Moreover, since every wrongdoer attacks the society's law, he becomes by his deed a rebel and a traitor to the country; by violating its law, he ceases to be a member of it; indeed, he makes war against it. And in this case, the preservation of the state is incompatible with his preservation; one or the other must perish; and when the guilty man is put to death, it is less as a citizen than as an enemy. Trial and judgement are the proof and declaration that he has broken the social treaty, and is in consequence no longer a member of the state. And since he has accepted such membership, if only by his residence, he must either be banished into exile as a violator of the social pact or be put to death as a public enemy: such an enemy is not a fictitious person, but a man, and therefore the right of war makes it legitimate to kill him.

MPP3-450 SOCIETY IS ONLY JUSTIFIED IN EXECUTING THE DANGEROUS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.79.

In any case, frequent punishments are a sign of weakness or slackness in the government. There is no man so bad that he cannot be made good for something. No man should be put to death, even as an example, if he can be left to live without danger to society.

MPP3-451 PUBLIC OBEDIENCE IS NEEDED TO AVERT CHAOS

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.103.

Furthermore, no one of these three factors can be changed without destroying the balance. If the sovereign seeks to govern, or if the magistrate seeks to legislate, or if the subjects refuse to obey, then order gives way to chaos, power and will cease to act in concert, and the state, disintegrating, will lapse either into despotism or into anarchy. Lastly, as there is only one geometrical mean between two extremes, there is only one good government possible for any state; but as a thousand events may change the relations within a nation, different governments may not only be good for different peoples, but good for the same people at different times.

MPP3-452 USURPATION OF POWER DISSOLVES THE SOCIAL BOND

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.105-6.

There is this essential difference between the two bodies the state exists in itself while the government exists only through the sovereign. Thus the dominant will of the prince is, or ought to be, only the general will or the law, and his force nothing other than the public force concentrated in his hands; as soon as he resolves to perform on his own authority some absolute and independent act, the union of all begins to slacken. And if in the end it comes about that the prince has a particular will more active than that of the sovereign, and if, to enforce obedience to this particular will, he uses the public force which is in his hands, with the result that there are, so to speak, two sovereigns, one *de jure* and the other *de facto*, then the social bond vanishes at once and the body politic is dissolved.

MPP3-453 TOLERATION IS AN ESSENTIAL CIVIC VIRTUE

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.186-7.

As for the negative dogmas, I would limit them to a single one: no intolerance. Intolerance is something which belongs to the religions we have rejected. In my opinion, those who distinguish between civil and theological intolerance are mistaken. These two forms of intolerance are inseparable. It is impossible to live in peace with people one believes to be damned; to love them would be to hate the God who punishes them; it is an absolute duty either to redeem or to torture them. Wherever theological intolerance is admitted, it is bound to have some civil consequences, and when it does so, the sovereign is no longer sovereign, even in the temporal sphere; at this stage the priests become the real masters, and kings are only their officers.

MPP3-454 MORALITY IS ESSENTIAL TO LIBERTY

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.32.

A moral being is, or can be, free in another sense than the political; if, instead of being a slave of his passions, he lives according to conscience, lives according to rules he imposes on himself, then he has a liberty which only a moral being can enjoy. The savage has no sense of this; for one thing, the passions only begin to develop with society, which explains why society can mark the beginning of a change for the worse as well as the beginning of a change for the better.

MPP3-455 REASON AND MORALITY OWE THEIR EXISTENCE TO THE SOCIAL CONTRACT

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.654-5.

The passing from the state of nature to the civil society produces a remarkable change in man; it puts justice as a rule of conduct in the place of instinct, and gives his actions the moral quality they previously lacked. It is only then, when the voice of duty has taken the place of physical impulse, and right that of desire, that man, who has hitherto thought only of himself, finds himself compelled to act on other principles, and to consult his reason rather than study his inclinations. And although in civil society man surrenders some of the advantages that belong to the state of nature, he gains in return far greater ones; his faculties are so exercised and developed, his mind is so enlarged, his sentiments so ennobled, and his whole spirit so elevated that, if the abuse of his new condition did not in many cases lower him to something worse than what he had left, he should constantly bless the happy hour that lifted him for ever from the state of nature and from a narrow, stupid animal made a creature of intelligence and a man.

MPP3-456 CONSIDERATIONS OF JUSTICE GOVERN THE CONDUCT OF WAR

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.57.

Even in the midst of war, a just prince, seizing what he can of public property in the enemy's territory, nevertheless respects the persons and possessions of private individuals; he respects the principles on which his own rights are based. Since the aim of war is to subdue a hostile state, a combatant has the right to kill the defenders of that state while they are armed; but as soon as they lay down their arms and surrender, they cease to be either enemies or instruments of the enemy; they become simply men once more, and no one has any longer the right to take their lives. It is sometimes possible to destroy a state without killing a single one of its members, and war gives no right to inflict any more destruction than is necessary for victory. These principles were not invented by Grotius, nor are they founded on the authority of the poets; they are derived from the nature of things; they are based on reason.

MPP3-457 ROUSSEAU SEEKS TO RECONCILE JUSTICE AND UTILITY

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.49.

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. In this inquiry I shall try always to bring together what right permits with what interest prescribes so that justice and utility are in no way divided.

MPP3-458 THE SOCIAL CONTRACT UNITES FREEDOM AND SECURITY

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.60.

Such a sum of forces can be produced only by the union of separate men, but as each man's own strength and liberty are the chief instruments of his preservation, how can he merge his with others' without putting himself in peril and neglecting the care he owes to himself? This difficulty, which brings me back to my present subject, may be expressed in these words: 'How to find a form of association which will defend the person and goods of each member with the collective force of all, and under which each individual, while uniting himself with the others, obeys no one but himself, and remains as free as before.' This is the fundamental problem to which the social contract holds the solution.

MPP3-459 FREEDOM AND EQUALITY CONSTITUTE THE GREATEST GOOD

Jean-Jacques Rousseau, *THE SOCIAL CONTRACT* (Penguin Edition), 1762, p.96.

If we enquire wherein lies precisely the greatest good of all, which ought to be the goal of every system of law, we shall find that it comes down to two main objects, freedom and equality: freedom because any individual dependence means that much strength withdrawn from the body of the state, and equality because freedom cannot survive without it.

MPP3-460 SELF-RULE SOLVES, FOR ROUSSEAU, HOBBS' DILEMMA OF FREEDOM VERSUS SECURITY

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.29.

In a way, Rousseau's solution to the problem posed by Hobbes is wonderfully simple. 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. Obligation in such circumstances is wholly distinct from bondage; it is a moral duty which draws its compulsion from the moral will within each man.

MPP3-461 ROUSSEAU DENIES THAT GOVERNMENT IS CONTRACTUAL

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.82.

According to Rousseau, the ideal contract establishes a sovereign, not a government; for him, a government is a subordinate element of the constitution, charged with executing the sovereign's will. Rousseau is not greatly concerned whether government, in this sense, is monarchic, aristocratic, or democratic: what he insists on is that magistrates 'are not the people's masters, but its officers; [hence] it can set them up and pull them down whenever it likes'. The title of one of Rousseau's chapters proclaims 'that the institution of government is not a contract' - for magistrates 'there is no question of contract, but of obedience' (R. 208f.,245,242). The duty of princes, in other words, is to carry out the will of the sovereign people. Since Rousseau also wrote that 'we are obliged to obey only legitimate powers' (R. 168), implying that we may resist illegitimate ones, it is not hard to see why Rousseau's theory of government was to be so popular with the revolutionaries of 1789, and, even more, with those of 1792, the Jacobins.

MPP3-462 THE CONTRACT DEVICE IS ESSENTIAL FOR ROUSSEAU

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.52.

The concept of the social contract is essential to Rousseau's political philosophy. He uses this concept in two different ways: (1) to explain the nature of legitimate political authority, and (2) to explain the genesis of the state, or how political society emerged from prepolitical society to protect and legalize the possessions of the rich. The poor agree to the institution of political society without realizing that they are instituting a positive legal system which sanctions the wealth of the rich and perpetuates their own misery.

MPP3-463 ROUSSEAU'S THEORY ISN'T UNDERMINED BY THE HISTORICAL OBJECTION

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.90.

However, one at least of the contract theorists whom we have discussed may be unaffected (or at least undamaged) by this criticism - namely Rousseau. For Rousseau, no less than Hume, though for quite different reasons, refused to found political obligation on what he took to be the terms and conditions of the actual original contract - that contract, we saw, he held to be the outcome of selfishness, cunning and folly (in brief, of corruption). The contract from which he derived the terms of political obligation was not the actual, but an ideal contract. It is true that he does not say so explicitly, but this (as we argued above) seems the most natural interpretation of his meaning. If this is correct, and if Rousseau also holds, as he seems to (R. 173,249), that actual prior consent is necessary to obligation, the implication is that no one has, or will have, any political obligation until the ideal contract is made (if ever). Precisely this may be the implication that Rousseau intended. But, there is also, let us note, an alternative view that one might derive from Rousseau's ideal contract; namely, that men's obligation depends, not on what they have promised, but rather on what, ideally, they ought to have promised, which presumably is not much different from what they ought to be prepared to promise, now. In other words, men would on this interpretation be obliged to obey political institutions conforming to the ideal contract, regardless of any actual contract. This is an interpretation that puts social contract theory in an altogether new light. It has the advantage of undercutting certain obvious criticisms of the theory, such as Hume's, but, as we shall see later, it also creates new problems.

MPP3-464 IN THE SOCIAL CONTRACT, ROUSSEAU OFFERS AN IDEAL RATHER THAN A HISTORICAL THEORY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.74-5.

Before *The Social Contract* itself appeared (in 1762), Rousseau had already treated the subject in his *Discourse on the Origin of Inequality* (1755). The accounts of the contract given in these two works are quite different. Nevertheless, they are not necessarily contradictory. They can be reconciled by the supposition that, while the discussion in the 1755 *Discourse* is a more or less familiar kind of contract theory, concerned with the historical origin of government, what Rousseau offers in *The Social Contract* is a new brand of that theory, namely an ideal contract still ostensibly concerned with the origin of government, but with how ideally it was established rather than how it actually was established. Rousseau's views on what constitutes legitimate political authority stem from this latter, ideal contract, rather than from any actual contract: as he says in chapter 1 of *The Social Contract*, he is concerned in that book, not with how men lost their natural liberty, but with 'what can make it [the loss] legitimate' (R. 165). This marks a considerable departure in the history of contract theory, which had hitherto sought to derive the terms of legitimate rule from the contract or contracts by which civil society actually originated.

MPP3-465 ROUSSEAU'S SOCIAL CONTRACT IS IDEAL, NOT EMPIRICAL

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.27-8.

In the *Social Contract* Rousseau is dealing, in the hypothetical mood, with abstract problems which seem to him to emerge from philosophical reflection on the actual nature of man and the possible order of laws and government. The social contract discussed in *The Social Contract* is not the actual historical contract described in the *Discours sur l'inegalite*, that imposture made to consolidate the advantages of the rich. It is a genuine and legitimate contract, which is to the benefit of everyone, since it unites liberty with law and utility with right.

MPP3-466 ROUSSEAU'S PROFOUND INSIGHTS EXPLAIN HIS HISTORICAL INFLUENCE

Joel Schwartz, editor of *The Public Interest*, *NATIONAL REVIEW*, February 25, 1991, p.,48.

Still, The Natural Goodness of Man demonstrates that Rousseau's well-known shortcomings as a political thinker are matched by profound insights that are far less familiar. These insights, which "confront the whole phenomenon of man," explain his enormous historical influence across the whole political spectrum. The breadth of Rousseau's influence testifies to his remarkable capacity to think philosophically, and thus to transcend our ordinary political categories.

MPP3-467 ROUSSEAU'S POLITICAL PHILOSOPHY DOESN'T ROMANTICIZE THE NOBLE SAVAGE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.76-7.

This is similar to Rousseau's position in *The Social Contract*. Rousseau maintains that what an individual loses by entering civil society is "natural liberty and an unlimited right to anything which tempts him . . . what he gains is civil liberty and property" and also "moral freedom, . . . which alone renders man truly master of himself; for the impulse of mere appetite is slavery; while obedience to a self-prescribed law is liberty." This is why he argues that "he [man] ought to bless without ceasing the happy moment that released him from it [the state of nature] forever, and transformed him from a stupid and ignorant animal into an intelligent being and a man." Thus Howard Williams, in his book *Kant's Political Philosophy*, is misguided when he says: Kant cannot agree with Rousseau's romantic view of natural man. In marked contrast to Rousseau, he stresses that only when men emerge from their natural or primitive state are they on the path to liberty. This is precisely what Rousseau maintains. Kant's and Rousseau's position are indeed very similar. Yet it seems that even today some political theorists keep making the same old mistake of identifying Rousseau's political philosophy with a yearning for primitive or natural freedom.

MPP3-468 ENVIRONMENTAL SUSTAINABILITY REQUIRES AUTHORITARIAN ENFORCEMENT OF THE GENERAL WILL

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.286.

Allied with the foregoing transition will be a movement away from egalitarian democracy toward political competence and status. Because the mere summation of equally regarded individual wants into Rousseau's "will of all" has become ecologically ruinous, we must find ways of achieving the "general will" that stands higher than the individual and his or her wants. To this end, certain restrictions on human activities must be competently determined, normatively justified, and then imposed on a populace that would do something quite different if it was left to its own immediate desires and devices. This can be accomplished in more than one way. Power can be given or allowed to accrue to those who are fittest to rule (as in Thomas Jefferson's "natural aristocracy").

MPP3-469 HUMANS MUST BE FORCED TO BE FREE

William Ophuls, former Professor of Political Science, Northwestern and A. Stephen Boyan, Professor of Political Science, University of Maryland, *ECOLOGY AND THE POLITICS OF SCARCITY REVISITED*, 1992, p.199.

The tragedy of the commons also exemplifies the political problem that agitated the eighteenth-century French political philosopher Jean Jacques Rousseau, who made a crucial distinction between the "general will" and the "will of all." The former is what reasonable people, leaving aside their self-interest and having the community's interests at heart, would regard as the right and proper course of action. The latter is the mere addition of the particular wills of the individuals forming the polity, based not on a conception of the common good but only on what serves their own self-interest. The tragedy of the commons is simply a particularly vicious instance of the way in which the "will of all" falls short of the true common interest. In essence, Rousseau's answer to this crucial problem in *The Social Contract* is not much different from Hobbes's: Man must be "forced to be free"-that is, protected from the consequences of his own selfishness and shortsightedness by being made obedient to the common good or "general will," which represents his real self-interest. Rousseau thus wants political institutions that will make people virtuous.

MPP3-470 ROUSSEAU'S THEORIES TEND TO JUSTIFY THE TOTALITARIAN STATE

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.694.

Rousseau's political theory is set forth in his *Social Contract*, published in 1762. This book is very different in character from most of his writing; it contains little sentimentality and much close intellectual reasoning. Its doctrines, though they pay lip-service to democracy, tend to the justification of the totalitarian State.

MPP3-471 ROUSSEAU PRIORITIZED EQUALITY AT THE EXPENSE OF LIBERTY

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.695.

Although the book as a whole is much less rhetorical than most of Rousseau's writing, the first chapter opens with a very forceful piece of rhetoric: "Man is born free, and everywhere he is in chains. One man thinks himself the master of others, but remains more of a slave than they are." Liberty is the nominal goal of Rousseau's thought, but in fact it is equality that he values, and that he seeks to secure even at the expense of liberty.

MPP3-472 ROUSSEAU'S CONTRACT IS ESSENTIALLY HOBBSIAN

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.695.

His conception of the Social Contract seems, at first, analogous to Locke's, but soon shows itself more akin to that of Hobbes. In the development from the state of nature, there comes a time when individuals can no longer maintain themselves in primitive independence; it then becomes necessary to self-preservation that they should unite to form a society. But how can I pledge my liberty without harming my interests? "The problem is to find a form of association which will defend and protect with the whole common force the person 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. This is the fundamental problem of which the Social Contract provides the solution."

MPP3-473 ROUSSEAU CALLS FOR THE COMPLETE ABROGATION OF LIBERTY

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.695-6.

The Contract consists in "the total alienation of each associate, together with all his rights, to the whole community; for, in the first place, as each gives himself absolutely, the conditions are the same for all; and this being so, no one has any interest in making them burdensome to others." The alienation is to be without reserve: "If individuals retained certain rights, as there would be no common superior to decide between them and the public, each, being on one point his own judge, would ask to be so on all; the state of nature would thus continue, and the association would necessarily become inoperative or tyrannical." This implies a complete abrogation of liberty and a complete rejection of the doctrine of the rights of man. It is true that, in a later chapter, there is some softening of this theory. It is there said that, although the social contract gives the body politic absolute power over all its members, nevertheless human beings have natural rights as men. The sovereign cannot impose upon its subjects any fetters that are useless to the community, nor can it even wish to do so." But the sovereign is the sole judge of what is useful or useless to the community. It is clear that only a very feeble obstacle is thus opposed to collective tyranny. It should be observed that the "sovereign" means, in Rousseau, not the monarch or the government, but the community in its collective and legislative capacity.

MPP3-474 ROUSSEAU'S CONCEPT OF FREEDOM IS ORWELLIAN

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.697.

This conception of being "forced to be free" is very metaphysical. The general will in the time of Galileo was certainly anti-Copernican; was Galileo "forced to be free" when the Inquisition compelled him to recant? Is even a malefactor "forced to be free" when he is put in prison? Think of Byron's Corsair: "O'er the glad waters of the deep blue sea, Our thoughts as boundless and our hearts as free." Would this man be more "free" in a dungeon? The odd thing is that Byron's noble pirates are a direct outcome of Rousseau, and yet, in the above passage, Rousseau forgets his romanticism and speaks like a sophisticated policeman. Hegel, who owed much to Rousseau, adopted his misuse of the word "freedom," and defined it as the right to obey the police, or something not very different.

MPP3-475 ROUSSEAU SUPPORTS RELIGIOUS OPPRESSION

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.40.

In the *Social Contract*, however, his attitude is very much closer to that of Machiavelli than it is to that of Locke. What the state needs, Rousseau says in his chapter on the civil religion, is a religion subordinate to the state and designed to teach patriotic, civic and martial virtues. And Christianity, he says, quite as boldly as Machiavelli, is no good for this purpose; it teaches men to love the kingdom of heaven instead of their own republic on earth, and it teaches them to suffer but not to fight. It teaches the wrong virtues. Assuredly, Rousseau makes clear that he is talking here about civil religion, not private religion, and he admits that 'the religion of the Gospel' is the word of God for the private person. But the state religion is the more important, and the state religion must be supreme; Rousseau even goes so far as to propose a death penalty for those whose conduct is at variance with the religious principles they proclaim.

MPP3-476 TO UPHOLD THE GENERAL WILL, ROUSSEAU WOULD PROHIBIT PRIVATE ASSOCIATIONS

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.699.

In Rousseau's opinion, what interferes in practice with the expression of the general will is the existence of subordinate associations within the State. Each of these will have its own general will, which may conflict with that of the community as a whole. "It may then be said that there are no longer as many votes as there are men, but only as many as there are associations." This leads to an important consequence: "It is therefore essential, if the general will is to be able to express itself, that there should be no partial society within the State, and that each citizen should think only his own thoughts: which was indeed the sublime and unique system established by the great Lycurgus." In a footnote, Rousseau supports his opinion with the authority of Machiavelli. Consider what such a system would involve in practice. The State would have to prohibit churches (except a State Church), political parties, trade-unions, and all other organizations of men with similar economic interests. The result is obviously the Corporate or Totalitarian State, in which the individual citizen is powerless.

MPP3-477 ROUSSEAU'S INFLUENCE LED TO DICTATORSHIP

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.700-1.

The *Social Contract* became the Bible of most of the leaders in the French Revolution, but no doubt, as is the fate of Bibles, it was not carefully read and was still less understood by many of its disciples. It reintroduced the habit of metaphysical abstractions among the theorists of democracy, and by its doctrine of the general will it made possible the mystic identification of a leader with his people, which has no need of confirmation by so mundane an apparatus as the ballot-box. Much of its philosophy could be appropriated by Hegel in his defence of the Prussian autocracy. Its first-fruits in practice was the reign of Robespierre; the dictatorships of Russia and Germany (especially the latter) are in part an outcome of Rousseau's teaching. What further triumphs the future has to offer to his ghost I do not venture to predict.

MPP3-478 ROUSSEAU LEAVES LITTLE ROLE FOR FREEDOM

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.42.

But one does not have to progress very far through the pages of the *Social Contract* to see how modest this role of enactment is allowed to become. Men, he insists, are ignorant. The general will is morally sound, it is always rightful, but it is unenlightened. Men cannot be trusted to frame or devise their own laws. They need a Lawgiver to make laws for them. Their part in the enactment of laws is limited to assent to those laws. Thus freedom for Rousseau consists of putting oneself willingly under rules devised by someone else.

MPP3-479 ROUSSEAU'S IMMEDIATE SUCCESSORS SAW HIS WORK AS CATASTROPHICALLY ABSOLUTIST

Jeremy Jennings, Professor of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.129.

A contemporary writer as perceptive and gifted as Carole Pateman has drawn attention to Rousseau as a critic of what she describes as 'the fraudulent liberal social contract'. The liberal contract, she argues, serves to justify social relationships and political institutions that already exist whilst Rousseau's contract provides 'an actual foundation for a participatory political order of the future'. The latter's democratic social contract, she goes on, is one of association based on self-assumed obligation and of substantive equality between 'active citizens who are political decision-makers'. From our brief survey of political thought in the first half of the nineteenth century it is clear that there were few in France who saw it that way. The republicans, with their passion for the one and indivisible Republic, would perhaps have been able to make sense of this description but for the rest the experience of the French Revolution had been such as to convince them that Rousseau and his idea of social contract had merely transposed the absolutism of government on to another plane. Sovereignty was presumed to reside in the people, the state had been left intact, and thus the modern Leviathan had been created. This, Rousseau's critics concurred, had been a catastrophe without precedent. For them it was quite definitely a case of *la faute à Rousseau*.

MPP3-480 ROUSSEAU'S CONTRACT LEAD TO STATISM

Jeremy Jennings, Professor of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.128

The force of Proudhon's argument was that Rousseau had provided a spurious, if brilliantly oratorical, defence of the domination of the state, in this case the one and indivisible Jacobin Republic. Yet Proudhon, unlike other of Rousseau's critics, did not want to abandon the idea of contract. Far from it: it was precisely the idea of what Proudhon termed the 'free contract' that would lead to the dissolution and ultimate disappearance of the state. The key here was what Proudhon saw as the transition from distributive justice, defined as the reign of law and as feudal, governmental and military rule, to commutative justice, the dominance of the economic and industrial system. It was by moving away from politics to economics that his preferred model of decentralized and pluralistic self-government mutualism - would come into existence.

MPP3-481 ROUSSEAU'S WORK INSPIRED THE FRENCH REVOLUTIONARY DICTATORSHIP

Jeremy Jennings, Professor of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.120.

But stated in this way we have no sense of the emotional (and frequently tearful) frenzy that Rousseau induced amongst his disciples. The community born out of the social contract was to be frugal, hard working, virtuous, distrustful of wealth, free of corruption, trusting to the simple qualities of the people cast as the repositories of all that was good in society. Armed thus men such as Robespierre and Saint-Just had little difficulty affirming their own rhetorical and moral ascendancy over opponents that bore the mark of absolute evil. What happened when the people were found to be unworthy of the love that had been invested in them was the recourse to an ever-extensive dictatorship, the combination of virtue and terror, with the general will of society supposedly articulated by a twelve-man Committee of Public Safety.

MPP3-482 ROUSSEAU PROVIDED THEORETICAL SUPPORT FOR DESPOTISM

Jeremy Jennings, Professor of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.126.

Constant, like Mill after him, was eager to establish that there was a part of human existence which 'by necessity remains individual and independent' end which therefore was properly beyond social control. Rousseau, he remarked, 'overlooked this truth', thus providing theoretical support for despotism. And here was the heart of the problem. Rousseau, Constant argued, defined the contract struck between society and its members as the complete alienation of each individual with all his rights, without any reservations, to the community. In order to reassure us about the consequences of such an absolute renunciation of all parts of our existence for the benefit of an abstract being, he tells us that the sovereign, that is the social body, can neither harm the totality of its members, nor any of them in particular. Since everyone gives himself entirely, all share the same condition, and nobody is interested in making the condition onerous to others. Because every individual gives himself entirely to all, he does not give himself to anyone in particular. Everybody acquires over his associates the same rights as he surrenders in their favour. Thus he gains the equivalent of all that he loses together with the greater strength to preserve what he has.

MPP3-483 ROUSSEAU'S CONTRACT ENSURES CONTINUOUS VIOLATIONS OF LIBERTY

Jeremy Jennings, Professor of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.126.

In this what Rousseau forgot was that as soon as the sovereign sought to make use of his power, as soon as the practical organization of authority was begun, the sovereign had to delegate it, thus destroying the very qualities the sovereign was said to embody. Whether we liked it or not we were, in other words, not giving ourselves to nobody but were submitting ourselves to those who acted in the name of all. We were not entering into a condition equal for all but one in which certain individuals derived exclusive advantage and were above the common condition. Not everyone would gain the equivalent of what they would lose because the result of the contract was 'the establishment of a power which takes away from them whatever they have'. If there was a parallel to be drawn it was with what Constant described as 'Hobbes; whole dreadful system'. The 'absolute' character of the contract envisaged in each case was such as to ensure the continuous violation of individual liberty irrespective of whether sovereignty was exercised in the name of the monarch or of democracy.

MPP3-484 ROUSSEAU DOESN'T EFFECTIVELY PRESERVE LIBERTY

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.8.

But his attempt to safeguard liberty seems to be a failure. Indeed, he seems at times to confuse the two desiderata - to suppose that, if equality is safeguarded, liberty necessarily will be too. Rousseau seems to think that the contrary of freedom is 'personal dependence' dependence on a master, a condition that Rousseau had himself known all too directly as a young apprentice in Geneva, and which of course negates freedom and equality at the same time. In a sovereign republic of equals, no one is dependent on a master (there are no superiors and inferiors as Rousseau points out (R. 174,177)) - but he does not adequately cope with the possibility that the individual may still be oppressed by the sovereign body operating by majority vote.

MPP3-485 ROUSSEAU CAN'T EFFECTIVELY FORECLOSE TYRANNY OF THE MAJORITY

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.81.

Yet Rousseau is clear that such laws are to be made by majority decision, not unanimity (R, 250), and in fact never succeeds (despite valiant attempts) in showing how a tyranny of the majority (invested, in effect, with absolute sovereignty) could be definitely excluded. Probably, in fact, no constitutional design, however ideal, can guarantee to exclude tyranny, and it therefore follows that any political theorist concerned to prevent tyranny - as Rousseau certainly was - must, like Locke, allow an ultimate right of resistance, however unpalatable this conclusion may be.

MPP3-486 ROUSSEAU PERMITS A TYRANNY OF THE MAJORITY

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.59.

The problem with Rousseau's principle of majority rule, however, is that neither he nor anybody else can guarantee that the majority will always be right nor that it will not impose its own will on the minority. That is to say, Rousseau's political theory does not provide any safeguards to avoid the tyranny of the majority. Locke provides at least for the right to revolution. He does so by maintaining that the citizens can delegate their sovereignty to a legislative body provided that this body does not violate their natural rights. Rousseau, as we have seen, cannot provide for this right because his ideal Republic is necessarily just, and therefore sovereignty is essentially inalienable.

MPP3-487 ROUSSEAU'S EMPHASIS ON COMMON GOOD CAN BE TOTALITARIAN

Amy Gutmann, Professor of Politics, Princeton, MULTICULTURALISM, 1994, p.6.

Taylor highlights the problems in the ingenious attempt by Jean-Jacques Rousseau and his followers to satisfy the perceived universal need for public recognition by converting human equality into identity. The Rousseauian politics of recognition, as Taylor characterizes it, is simultaneously suspicious of all social differentiation and receptive to the homogenizing--indeed even totalitarian--tendencies of a politics of the common good, where the common good reflects the universal identity of all citizens. The demand for recognition may be satisfied on this scheme, but only after it has been socially and politically disciplined so that people pride themselves on being little more than equal citizens and therefore expect to be publicly recognized only as such. Taylor rightly argues that this is too high a price to pay for the politics of recognition.

MPP3-488 ROUSSEAU'S EMPHASIS ON THE GENERAL WILL HAS LED TO TOTALITARIANISM

Charles Taylor, Professor of Philosophy, McGill University, MULTICULTURALISM, Amy Gutmann, ed., 1994, p.51.

In Rousseau, three things seem to be inseparable: freedom (nondomination), the absence of differentiated roles, and a very tight common purpose. We must all be dependent on the general will, lest there arise bilateral forms of dependence. This has been the formula for the most terrible forms of homogenizing tyranny, starting with the Jacobins and extending to the totalitarian regimes of our century.

MPP3-489 ROUSSEAU DENIES NECESSARY RIGHTS OF RESISTANCE TO THE STATE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.80.

Rousseau makes it clear that this sovereign political authority consisting of all citizens is both supreme and unlimited. It is an absolute sovereignty. The individual associates who are parties to the contract cannot retain any of their rights; if they did Rousseau suggests 'there would be no common superior to decide between them and the public each being . . . his own judge' and the state of nature would in effect continue (R 174 176). It looks as if Rousseau is here trying to avoid the kind of resistance to authority and consequent civil turbulence that is legitimated by Locke's theory of natural rights. This is understandable in view of the fact that the constitution prescribed by Rousseau in *The Social Contract* is that of an ideal state where it might be hoped such resistance would have no place. But it remains questionable whether any constitution can be so ideal as to ensure this.

MPP3-490 ROUSSEAU'S CONCEPT OF CONSENT IS FLAWED

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.61.

At least three immediate objections can be raised against Rousseau's notion of consent, and since the social contract depends upon the latter notion, these objections will apply to it as well. First Rousseau's notion of consent is hypothetical and hypothetical consent is not actual consent and thus no consent at all. Second even assuming citizens at some point in time consent to abide by the general will, it does not follow that under different conditions they will continue to consent to abide by it. Third to claim that when citizens refuse to abide by the general will society, by punishing them, is "forcing them to be free" is simply to leave the door open for justifying coercion disguised as freedom. Punishment always constitutes an infringement of freedom and since regardless of what Rousseau says the general will is always concretely determined by the will of the majority, nothing and nobody can prevent the majority from imposing its views on others by appealing to the idea of a so-called higher freedom.

MPP3-491 CONSENT CAN'T BE PERMANENT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.55.

This is true if one assumes as Rousseau seems to do that once one consents to a particular state of affairs one is bound by it to eternity. This however is too strong an assumption since it undermines one's moral autonomy by disregarding future moral considerations that might outweigh the moral importance of one's initial act of consent. Consent, like promise, is an open-ended concept and thus it cannot have absolute moral weight.

MPP3-492 THE SOCIAL CONTRACT CAN'T LEGITIMATELY BIND THE WILL FOREVER

Jeremy Jennings, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.127.

In the process, moreover, Guizot hit upon a criticism of Rousseau that was to be taken up by people with far more radical intentions: any form of contract which bound our will in the future was a restriction of our individual liberty. 'What does it matter', Guizot pointed out, 'if a law should have emanated from my will yesterday if today my will has changed? Can I only will once? Does my will exhaust its rights in one single act? In England this objection had first been voiced by William Godwin in his *Enquiry Concerning Political Justice*; in France it was taken up by the first self-proclaimed anarchist, Pierre-Joseph Proudhon.

MPP3-493 ROUSSEAU'S STATE IS OVERLY INDIVIDUALISTIC

Bruce Haddock, Lecturer in Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.151-2.

That Hegel is guilty of a serious misreading of Rousseau is evident. But he does still have some textual justification for his charge that Rousseau's conception is too narrowly individualistic in form. Rousseau had characterized his task as the pursuit of 'e form of association which will defend the person and goods of each member with the collective force of all, and under which each individual, while uniting himself with the others, obeys no one but himself, and remains as free as before'. Hegel reads this section as if Rousseau were arguing, that the protection of property and personal security are the primary goals of the state. In other words, 'the interest of individuals as such' would be regarded as 'the ultimate end for which they are uniting', while the stress on 'uniting' for such specific ends suggests 'that membership of the state is an optional matter'. Hegel denies both propositions. He contends that 'it is only through being a member of the state that the individual' could lead what he calls a 'universal life'. Far from the state existing simply to further the mundane ends of practical life, Hegel argues that the state confers moral significance on pursuits which would otherwise be ephemeral. The real paradox is that Rousseau himself might! very well have assented to Hegel's corrective reading of the proper relationship between state and individual, though one suspects he would not have been happy with the language in which the argument is expressed.

MPP3-494 ROUSSEAU HAS CONTRADICTIONARY VIEWS ON THE ROLE OF CONSCIENCE VERSUS THE GENERAL WILL

Maurice Cranston, Professor of Political Science, London School of Economics, introduction to Rousseau's *THE SOCIAL CONTRACT*, 1968, p.39.

Against all this, it must be noticed that Rousseau in the *Social Contract* offers no possibility of an appeal to natural law. It is all very well to say, as he does, that the sovereign must not violate natural law, but this raises the question of who is to be judge of any such violation. In several of his writings, Rousseau emphasizes the supremacy of the individual conscience; he even goes so far as to speak of conscience as infallible. 'Conscience never deceives us.' This might lead one to expect that he would agree with those theorists who hold that the individual conscience must ultimately decide where to draw the line between justice and injustice. In fact, in the *Social Contract* Rousseau takes up the position of Hobbes, namely, that the citizen can have no other guide but the civil law and the public conscience. The general will is itself the arbiter of just and unjust. Here there seems to be a contradiction between the argument of the *Social Contract* and that of the *Profession de foi* and other writings. In the *Social Contract* the general will is the moral authority; elsewhere individual conscience is represented as the innate principle of justice.

MPP3-495 ROUSSEAU'S BROAD PRINCIPLES CAN'T SOLVE PRACTICAL POLITICAL PROBLEMS

Bertrand Russell, *A HISTORY OF WESTERN PHILOSOPHY*, 1945, p.700.

Thus in spite of the infallibility of the general will, which is "always constant, unalterable, and pure," all the old problems of eluding tyranny remain. What Rousseau has to say on these problems is either a surreptitious repetition of Montesquieu, or an insistence on the supremacy of the legislature, which, if democratic, is identical with what he calls the Sovereign. The broad general principles with which he starts, and which he presents as if they solved political problems, disappear when he condescends to detailed considerations, towards the solution of which they contribute nothing.

MPP3-496 ROUSSEAU IGNORED NATURAL SOCIAL EMOTIONS

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.98.

I want to reject the dual model, in other words, of Rousseau's "natural man" and "the general will," both fictional but polemically powerful and dangerous metaphors. What gets left out of both of them--an omission that Rousseau tried to hide with a merely borrowed sentiment of "sympathy"--are just those natural feelings of dependency and affection that Rousseau tried so desperately to deny.

MPP3-497 HISTORY DISPROVES ROUSSEAU'S PREDICTIONS

Joel Schwartz, editor of *The Public Interest*, *NATIONAL REVIEW*, February 25, 1991, p.48.

Rousseau's pessimism made him as poor a political prophet as Marx: Rousseau insisted that political representation and capitalist economics would invariably culminate in tyranny.

MPP3-498 FOR KANT, THE STATE OF NATURE IS ESSENTIALLY HOBBSIAN

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.65.

Kant, like Hobbes, talks about the state of nature as a lawless state of anarchy, in which the threat of war is always present. The state of peace among men living in close proximity is not the natural state; instead, the natural state is one of war, which does not just consist in open hostilities, but also in the constant and enduring threat of them. In this respect his depiction of the state is purely Hobbesian in nature.

MPP3-499 POLITICAL PHILOSOPHY IMPLEMENTS THE CATEGORICAL IMPERATIVE

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.140-1.

So much of Kant's political philosophy is in the categorical mood. This is no accident. It both flows from his critical philosophy and coincides with his view of the role of political thought. The categorical imperative is the key message of Kant's moral philosophy. According to the formulation of this categorical imperative I most favour we are never to treat others solely as means but always also as ends. But this imperative is not a mere accidental or voluntary feature of the human condition. For Kant it is an unavoidable and necessary feature of humanity. This is why he regards it as a categorical imperative. He thinks as a rational being you can no more avoid it than you can avoid breathing. And this categorical imperative structures Kant's moral philosophy just as it structures his political philosophy (of which he sees it a part). Political philosophy has to do with the realization of the categorical imperative in society at large.

MPP3-500 FOR KANT, POLITICS IS SUBORDINATE TO MORALITY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.63-4.

The relation between morality and politics is important to Kant's political philosophy. Thus, true politics cannot progress without paying homage to morality; and although politics by itself is a difficult art, its union with morality is no art at all, for this union cuts through the [Gordian] knot that politics cannot solve when politics and morality come into conflict. He proceeds to indicate the sacredness of moral rights and the supremacy of morality over politics. The rights of men must be held sacred, however great the cost of sacrifice may be to those in power . . . instead, all politics must bend its knee before morality, and by doing so it can hope to reach, though but gradually, the state where it will shine in light perpetual. Whenever political judgments are incompatible with the fundamental moral principle (categorical imperative)--"Act only according to that maxim by which you can at the same time will that it should become a universal law"--they are morally unjust or wrong. Consequently, politics is ultimately grounded on morality or "laws of freedom."

MPP3-501 RIGHTS AND JUSTICE TAKE PRECEDENCE OVER UTILITY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.81.

Rights and justice take precedence over any particular conception of the good, whether defined in terms of pleasure, happiness, or general welfare. Kant implies this in his Critique of Practical Reason when he says that "the concept of good and evil must not be determined before the moral law . . . but only after it and by means of it."

MPP3-502 THE SOCIAL CONTRACT IS AN UNAVOIDABLE IDEAL

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.141.

Thus in terms of our motivation as citizens and the motivation of rulers, the social contract is an unavoidable ideal to which our political actions ought to conform. Whatever the empirical conditions of the state, policy measures should be seen in the light of a possible consensual agreement among citizens about the laws to be passed and enforced.

MPP3-503 THE SOCIAL CONTRACT VIEW IS A MORAL NECESSITY

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.144.

With Kant the notion of a social contract is in moral terms constructive of a civil society because a civil society comes into being for Kant only in so far as we act as moral (or rational) agents. So for Kant it is not a question of our happily imagining a social contract as taking place if we want best to feel at home in civil society, rather we can belong to a civil society only in so far as we conceive ourselves as being bound by an original contract. In empirical terms it is not necessary for individuals to adhere to the idea of the social contract, but in moral terms it is absolutely necessary they do so. A civil society will in practice dissolve where its members cease to regard themselves as being bound by an original contract.

MPP3-504 THE CONCEPT OF THE ORIGINAL CONTRACT LEGITIMATES THE STATE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.91.

In the first place, Kant uses it to validate the existence of the state as such. The 'idea' of the original contract, he says, alone allows us to conceive of the state as legitimate (K, 140); in other words, the state is a legitimate institution because we can conceive that individuals could agree to accept its authority (it being irrelevant whether they have done so).

MPP3-505 THE CONTRACT IS A NECESSARY FOUNDATION FOR CIVIL SOCIETY

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.144-5.

As Kant sees it, the acceptance by the citizen of the idea of the social contract is no mere act of prudence. It may indeed enhance the individual's happiness to behave in a manner conditioned by the notion of a social contract. But the attainment of happiness is here subordinate to the more basic objective which is the possibility of any settled social life for all concerned. In his own terms Kant would see the notion of a social contract not as 'an assertoric practical principle' but as an 'apodeictic practical principle'. The notion is not simply one that it is desirable for us to hold concerning civil society, it is its absolutely necessary foundation.

MPP3-506 THE SOCIAL CONTRACT IS AN ESSENTIAL IDEA FOR CIVIL SOCIETY TO FUNCTION

Howard Williams, Professor of Political Theory, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.135.

Kant has his own terminology in accounting for the significance of a concept like the social contract. He regards the social contract as an a priori idea of pure practical reason. A priori ideas of reason are ideas we have to possess in order to make experience possible. In an empirical sense space and time are such essential ideas which make it possible for us to know objects. In terms of civil society the idea of the social contract is also such an essential idea for without it, it would be impossible for us to experience civil society. The idea of the social contract and the idea of the state go together in Kant's political philosophy. There can be no actual state without the idea of the state being accepted.

MPP3-507 JUSTICE REQUIRES THE EXISTENCE OF CIVIL SOCIETY

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.71-2.

The requirements of justice, according to Kant, can only be satisfied in civil society, that is, in a juridical state of affairs. In a nonjuridical state of affairs, i.e., in the state of nature, individuals cannot wrong one another. He argues: If men deliberately and intentionally resolve to be and to remain in this state of external lawless freedom, then they cannot wrong each other by fighting among themselves.... Nevertheless, in general they act in the highest degree wrongly by wanting to be in and to remain in a state that is not juridical. that is, a state of affairs in which no one is secure in what belongs to him against deeds of violence.

MPP3-508 LEGAL JUSTICE IS ESSENTIAL TO DEVELOPING MORAL CAPACITIES

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.72.

For Kant, legal justice, like morality, can be exercised only in civil society. Legal justice is important because it is instrumental to the development of moral capacities. It protects and guarantees political freedom in society so that individuals can pursue their own goals, provided always they do not interfere with the rights and interests of others.

MPP3-509 THE SOCIAL CONTRACT IS A MEANS OF TESTING THE JUSTICE OF LAWS

Howard Williams, Professor of Political Theory, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.140.

In comparison with Hobbes, Locke and Rousseau, Kant goes further, for Lessnoff, 'by also using the idea of the social contract as a test of the justice of laws. Laws are to be framed in such a way that they could be consented to by every subject or, rather, citizen'. Indeed for Kant the social contract is the measure of the modern state. All rulers of modern states have to conceive their actions as though they were consented to by their citizens in a common and equal voice.

MPP3-510 FOR KANT, FREEDOM IS THE HIGHEST GOOD
Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.81.

For him, the good life is a life of freedom (independence from the will of others); it is an autonomous life. It is a life in which people can exercise their natural or innate right to freedom protected by the law. According to Kant, then, it follows that freedom is the highest goal. If this is the case, then the concepts of good and evil cannot be separated from the concept of right or justice. Kant's theory of justice presupposes those concepts because, even though justice can be considered an end in itself, as Kant wants to maintain, it is not the only end. Justice, among other values, is good because it promotes freedom which is, in Kant's view, the highest good.

MPP3-511 JUSTICE REQUIRES THE MAXIMIZATION OF EQUAL FREEDOM

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.69.

Kant is only concerned with political justice, unlike Rousseau, who talks about economic as well as political justice. Kant defines his concept of political justice in this way: Justice is therefore the aggregate of those conditions under which the will of one person can be conjoined with the will of another in accordance with a universal law of freedom. It seems that by "the aggregate of those conditions" he means legal conditions. If this is the case, justice will be defined as the aggregate of those legal conditions under which the freedom of one individual can coexist with the freedom of all according to a universal law. Therefore, a particular legal system is just or right only if it provides the necessary conditions so that the freedom of one can coexist with the freedom of all according to a universal law. Kant also defines a just or right act in terms of his "Universal Principle of Justice." He writes: Every action is just [right] that in itself or in its maxim is such that the freedom of the will of each can coexist with the freedom of everyone in accordance with a universal law.

MPP3-512 KANT REJECTS PATERNALISM

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.80-1.

But a patriotic government must not be confused, Kant says, with a "paternal government" in which the welfare of the people takes precedence over the citizens' right to freedom. A paternal government is "the most despotic of all. for it treats its citizens as children." For Kant, a legitimate government is not one which has as its primary goal the welfare of the people, but one which protects and promotes their moral rights and, above all, the innate right to freedom. For this reason he proposes the following principle: No one can compel me . . . to be happy after his fashion: instead, every person may seek happiness in the way that seems best to him, it only he does not violate the freedom of others to strive toward such similar ends as are compatible with everyone's freedom under a possible universal law. From this Kant concludes that since every person has a conception of the good life, no one may impose a particular conception of the good life on others. This would limit the freedom to pursue one's own concept of a good life and would constitute unjustified coercion.

MPP3-513 MORAL RIGHTS PRECEDE THE STATE, BUT THE STATE IS NECESSARY FOR THEIR PROTECTION

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.72.

Even though the exercise of justice and morality is only possible in society, Kant believes that the state is not the inventor of rights but its protector. According to Kant, persons have a natural right to liberty whether or not they live in society. But this right can only be guaranteed within it. If the state of nature is, as Kant argues, a nonjuridical state of lawlessness, then, being a state of anarchy, the threat of violence is always present. In such a state, protection of the innate right to liberty or of any of the acquired rights, including the right to private property, is insecure. The state is justified, then, on the ground that people can enjoy their rights only in civil or political society, where there is a suitable authority to enforce and adjudicate infractions of the law. It is only in this state that justice or the protection of moral rights is possible.

MPP3-514 LEGAL COERCION ENHANCES FREEDOM

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.68-9.

Kant justifies legal coercion only if it promotes greater freedom for everyone in civil society. Any other form of coercion would be unjustified, since it would simply be a transgression of liberty and hence constitute violence. Yet for Kant, coercion and liberty are not antithetical; indeed, legal coercion is a necessary condition for the just exercise of political liberty. This is the kind of liberty exercised in civil or political society. Furthermore, it is the only kind with which political philosophy ought to be concerned. Legal coercion is a necessary condition for the preservation and promotion of civil society. Legal coercion is also a necessary condition for the protection and promotion of the only innate right (natural or moral right) of people: the right to freedom. Freedom (independence from the constraint of another's will) insofar as it is compatible with the freedom of everyone else in accordance with a universal law, is the one sole and original right that belongs to every human being by virtue of his humanity.

MPP3-515 THE STATE'S COERCIVE POWER IS ESSENTIAL TO FREEDOM

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.71.

Individuals are politically free, according to Kant, when they can act as they please provided they do not interfere with the interests of others. If by acting in a certain way one interferes with the interests of others, society has the right and obligation to punish the person for the transgression. This is why Kant defines "strict justice" as "the possibility of external coercion that is compatible with the freedom of everyone in accordance with universal laws." Hence, for Kant, the state's coercive power and political freedom go together. The power of coercion is a necessary condition for the protection of political freedom because without it there would be no safeguards for the exercise of this freedom. The existence of the state is a necessary evil to prevent the violation of freedom in society.

MPP3-516 THE SOCIAL CONTRACT IS NEEDED TO ESTABLISH PROPERTY RIGHTS

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.137.

For Kant the existence of property is tied to the possibility of action based upon reason. We cannot will that we possess something without at the same time accepting that others may possess objects: the rational title of acquisition can lie only in the idea of a will of all united a priori (necessarily to be united) which is here tacitly assumed as a necessary condition; for a unilateral will cannot put others under an obligation they would not otherwise have." The notion of a social contract underlines the rational basis of property. We have to will that property exists with others in a properly constituted civil society. A united general will has to be assumed for this purpose and we conceive of this general will coming into being through a social contract.

MPP3-517 THE CONTRACT REQUIRES EQUALITY BEFORE THE LAW

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.92.

Kant, however, goes further than these writers by also using the 'idea' of the social contract as a test of the justice of laws. Laws are to be framed in such a way that they could be consented to by every subject - or rather, citizen (a more restricted category, as we saw above). This entails, Kant claims, that all subjects (or citizens?) should be equal before the law; there should be no hereditary legal privileges for favoured groups ('every member of the commonwealth must be entitled to reach any degree of rank which a subject can earn through his talent, his industry and his good fortune'); there should not be unequal taxation of subjects of the same class; and so on.

MPP3-518 KANT UPHOLDS EQUAL FREEDOM AND INTERNATIONAL LAW

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.92.

Kant also lays down a principle of equal freedom ('each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else within a workable general law'), but whether he claims to derive this principle from the idea of the social contract is unclear (K, 74). But in one field he does derive a bold and original conclusion from that premise, namely in international relations. The existing relation of states is lawless, devoid of justice, essentially a relation of war. In accordance with the idea of the social contract, 'it is necessary to establish a federation of peoples', or rather a confederation - not a sovereign authority 'as in a civil constitution', but an alliance, such that 'states will protect one another against external aggression while refraining from interference in one another's internal disagreements' (K, 165). Ideas similar to these underlie the League of Nations and United Nations in our own time.

MPP3-519 INEQUALITY IS NEEDED FOR HUMAN ADVANCEMENT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.67.

Kant also praises natural and artificial inequalities among people: "Inequality among men--that source of so many evils, but also of everything good." He favors inequality because it leads individuals to compete with one another. As a consequence of this struggle a person's natural capacities can be realized: it is only in society--and, indeed, only in one that combines the greatest freedom, and thus a thoroughgoing antagonism among its members, with a precise determination and protection of the boundaries of this freedom, so that it can coexist with the freedom of others--[and] is only in such a society that nature's highest objective, namely, the highest attainable development of mankind's capacities can be achieved.

MPP3-520 THE SOCIAL CONTRACT IMPLIES A REPUBLICAN FORM OF GOVERNMENT

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.141.

To ensure stability a state may adhere outwardly to its inherited structure. For instance, the people of Britain might quite legitimately maintain for the present a monarchical element within their constitution. However, from the standpoint of political philosophy this ought not permanently to be the case. For, 'the spirit of the original contract involves an obligation on the part of the constituting authority to make the kind of government suited to the idea of the social contract'. And the kind of government which conforms with the social contract is a very specific type, namely, a republic.

MPP3-521 KANT SUPPORTED SEPARATION OF POWER

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.138-9.

The three authorities of a state for Kant are the legislative power, the executive power and the juridical power. The courts, the government and the legislators should bear a proper relation to one another. As Kant sees it, they are subordinate to one another, so that one of them, in assisting another cannot also usurp its function; instead each has its own principle, that is, it indeed commands in its capacity as a particular person, but still under the condition of the will of a superior. Legislators should not seek to implement the law nor should members of the executive seek to make the law. Rulers should seek to coordinate the society's activities under the law and judges should administer the law in particular instances.

MPP3-522 KANT UPHOLDS SEPARATION OF POWERS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.80.

We must recognize, however, that even though Kant agrees on these points with Hobbes, he disagrees with him on many others. For example, unlike Hobbes, he is a staunch defender of the separation of the powers of government. From this he argues for republican (hence representative) government as the only form of government which corresponds to the Idea of pure practical reason. Moreover, he distinguishes between two kinds of government: "despotic" and "patriotic." In the first there is no separation of powers among the executive the legislative, and the judiciary. In this government the executive usurps the legislative function. In a patriotic government, on the other hand, the division of powers is strictly enforced and the innate right to freedom is respected.

MPP3-523 THE SOCIAL CONTRACT APPLIES TO INTERNATIONAL AFFAIRS

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.141-2. One unique and final feature of Kant's concept of the social contract is that he extends it beyond the boundaries of states into international relations. This is in keeping with his idea of right which cannot be founded in isolation within one state: A league of nations in accordance with the idea of an original social contract is necessary, not in order to meddle in one another's internal dissensions but to protect against attacks from without. This alliance must, however, involve no sovereign authority (as in a civil constitution), but only an association (federation); it must be an alliance that can be renounced at any time and so must be renewed from time to time.

MPP3-524 KANT'S SOCIAL CONTRACT ALSO OPERATES ON THE INTERNATIONAL LEVEL

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.132. Third, Kant's notion of the social contract does not stop at the boundaries of nations. He believes that the idea of the state which underlies the social contract has cosmopolitan implications. In founding a successful domestic order you cannot overlook the international context into which the state falls. Kant unusually therefore tries to operate the idea of the social contract at an international level. He has work for the idea of the social contract in the relations among states as well as in the relations among individuals.

MPP3-525 THE SOCIAL CONTRACT BINDS ITS MEMBERS EVEN TO A CORRUPT STATE

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.140.

We are bound by the social contract and the idea of a general will even if we think the state is corrupt. To loosen ourselves as citizens from the ties of such an idea can only make the problems of political legitimacy and social order worse. Rather than lend aid to disruption we should throw in our hand behind a reforming sovereign. As Lessnoff astutely notes, for Kant this conclusion follows naturally from the idea of the social contract.

MPP3-526 KANT REJECTS ILLEGAL MEANS OF POLITICAL REFORM

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.139.

But change should not be brought about forcibly. In a legally founded state illegal means of achieving political reform are wholly ruled out by Kant. The participation that a member of a state enjoys in the united general will which maintains the society's solidarity is ideal. The general will cannot be turned into a positive political power separate and hostile to the government. This would imply that the government had ceased to function on behalf of the general will. To try to make it reform by taking violent action would lead to a futile and dangerous confrontation. A bad government has to be persuaded of its duties.

MPP3-527 KANT REJECTS VIOLENT RESISTANCE TO THE SOVEREIGN

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.134.

Kant's political theory allows no scope for violent resistance to an established sovereign. The sovereign does not incur any perfect or enforceable duties from the social contract. Rather the sovereign incurs an imperfect (not legally enforceable) duty to exercise rule as though a social contract were in force. When a sovereign body fails to act in accordance with the spirit of the social contract, subjects are in no position to remove it. They may criticize through public utterances in writing or in print but they have nonetheless to obey.

MPP3-528 KANT REJECTS A RIGHT OF REBELLION

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.79.

Kant, like Hobbes, believes that the concept of the right of rebellion would be a self-contradictory concept. All rights can be exercised, according to him, only within political society or the state, and the supreme authority of the state is the sovereign. If sovereigns were to recognize a right of rebellion on the part of the people, they would be contradicting the nature of their station in society. If somebody other than the sovereign can judge and act against the sovereign, then the latter would not be the ultimate authority in society. Therefore, for Kant, the concept of sovereignty is all-or-nothing; whoever possesses it has the ultimate unchallengeable authority in the state.

MPP3-529 HUMANS NEED A MASTER

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.68.

Kant also believes, like Hobbes, that individuals are in need of a master. Given his concept of human beings as egoistic and contentious, this seems a reasonable assumption. He writes: Man is an animal that, if he lives among other members of his species, has need of a master. For he certainly abuses his freedom in relation to his equals. He thereby proceeds to argue, in the spirit of Rousseau: He [man] thus requires a master who will break his self-will and force him to obey a universally valid will, whereby everyone can be free.

MPP3-530 KANT'S CONCEPT OF THE SOCIAL CONTRACT IS TO GUIDE LEGISLATORS,

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.91.

Rather, for Kant the idea of the possible social contract is to be taken as a guide by legislators and rulers; it is certainly not to be used by subjects as an excuse for resistance or disobedience.

MPP3-531 TYRANNY IS PREFERABLE TO ANARCHY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.78.

We also have an unconditional duty to obey the sovereign. According to Kant, tyranny is preferable to anarchy because even under a tyrannical government some common legal rules are recognized. Hence, ideally speaking, we would be able to appeal to these rules to solve our disputes without resorting to violence, whereas under an anarchical state of affairs the actual threat of violence would undermine the development of an ethical and legal community, and consequently the development of our moral capacities.

MPP3-532 TYRANNY IS PREFERABLE TO ANARCHY BECAUSE IT PRESERVES MORAL RULES

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.93.

According to Kant, however, we are unconditionally obliged to obey the powers that be; so that for him, as for Hobbes, tyranny is preferable to anarchy. This is so, he argues, because under a tyrannical government, we can at least still act according to some moral principles, whereas in an anarchical state of affairs all moral rules cease.

MPP3-533 KANT'S SOCIAL CONTRACT WAS HYPOTHETICAL, NOT HISTORICAL

Howard Williams, Professor of Political Theory, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.132.

There are four distinctive aspects to Kant's theory of the social contract. The First (and perhaps the most well known) is that Kant entirely does away with any supposition that a social contract has actually been concluded by the members of any particular society. He sees the social contract as an intellectual construct with moral and practical significance. It is a notion that should affect our motives and intentions in acting rather than one which arises in observing the world.

MPP3-534 FOR KANT, THE SOCIAL CONTRACT IS A REQUIREMENT OF REASON

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.7-8.

Kant's use of the social contract is consistent with his moral theory and optimism about the capacity for human potentialities to flourish. His political philosophy, like his metaphysics or moral theory, is formulated independently of empirical evidence. The concept of the will that legitimizes political authority, he claims, is a necessary hypothesis and the social contract itself is a requirement of reason, not as an account of the origin of political society, but as a rational criterion of the just polity.

MPP3-535 KANT FIRST EXPLICITLY PROPOSED A HYPOTHETICAL CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.90-1.

In Kant's version, the social contract is for the first time clearly and explicitly stated to be, not an actual event, but a regulatory ideal, or, in Kant's words, an 'idea of reason'. By this he means, roughly, that, although political institutions have certainly not derived from such a contract in fact, the idea of a social contract can and should be used to test their rightness; they should be such that they could have been agreed to by all subject to them, 'could have been produced by the united will of a whole nation' (K, 79). This non-actual version of the social contract appears to be somewhat different from Rousseau's - it appears, one might say, to be a hypothetical rather than an ideal contract (what men could have agreed to, rather than what they ought to have agreed to). But we shall see shortly that this difference may be more apparent than real.

MPP3-536 KANT'S CONTRACT IS HYPOTHETICAL, NOT HISTORICAL

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.77.

Kant emphatically denies that the contract should be understood as a historical fact. In his essay, "On the Proverb: That May Be True in Theory, But Is of No Practical Use," he explicitly states that the contract should not be "assumed as a fact," but as "a mere idea of reason, one, however, that has indubitable (practical) reality." Thus it is clear that Kant's contract ought to be understood as a hypothetical logical device for the justification of the state. For this reason the contract is a standard by which to judge the nature of states and their laws. David G. Ritchie puts it succinctly when he says, "the conception of contract is a standard by which to judge institutions, not an account of the manner in which they come into existence."

MPP3-537 KANT'S DISTINCTION BETWEEN ACTIVE AND PASSIVE CITIZENS UNDERMINES FREEDOM

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.74.

Kant's distinction between active and passive citizens, I maintain, is incompatible with the innate right to liberty and with Kant's own defense of legal egalitarianism. If we possess this innate right by virtue of being human and hence rational, then any rational person would possess this right regardless of his or her station in civil society. According to Kant, this right amounts to (1) being independent from the will of others, (2) having the equal right to the reciprocal use of coercion, and (3) possessing positive liberty or the ability to act freely provided one does not infringe other people's rights. But how can passive citizens be politically free (independent from the will of others) if they are not allowed to participate in the public life of the state and to vote? They cannot be! Because passive citizens have the potential of acquiring private property and thereby the right to vote, it does not follow that they actually possess this right.

MPP3-538 KANT OPENS THE DOOR TO TYRANNY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.82.

It is important to distinguish between moral and political autonomy. People are morally free or autonomous, according to Kant, only when they act compatibly with the moral law. On the other hand, people are politically free or autonomous, in Rousseau's sense, only when they are independent of the will of others. A person can be morally free without necessarily being politically free, and vice versa. The members of a society are politically autonomous insofar as they are free from subjection to the will of others, and they are not free insofar as they are subject to the latter. Thus we can conceive of a perfectly tyrannical society in which everyone would enjoy moral autonomy but would not be politically free. We can argue, in the spirit of Rousseau, that such a society is unjust to the extent that it prevents its members from exercising their political autonomy. However, according to Kant, this is not the case because he subordinates political autonomy to moral autonomy. In doing so, he opens the door for the justification of tyranny.

MPP3-539 KANT HAS SIGNIFICANT SIMILARITIES TO HOBBS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.80.

Thus Kant's political philosophy is significantly similar to Hobbes's. One can appreciate this similarity by comparing, as Humberto Cerroni does in his article "La Crisis de la Democracia y El Estado Moderno," the four theories Hobbes criticizes in the preface of *De Cive* with Kant's ideas. Hobbes condemns and tries to refute the following theories: (1) "that a tyrant king might lawfully be put to death"; (2) "that a prince for some causes may by some certain men be deposed"; (3) "that kings are not superior to, but administrators for the multitude"; and (4) "that the knowledge whether the commands of kings be just or unjust, belongs to private men; and that before they yield obedience, they not only may, but ought to dispute them!" Similarly, Kant maintains that: there is no right "to lay hands on or take the life of the chief of state"; that "there is no right to sedition, much less revolution"; that "there can therefore be no legitimate resistance of the people to the legislative chief of the state"; and finally, that "it is the people's duty to endure even the most intolerable abuse of supreme authority."

MPP3-540 KANT EXCLUDES WORKERS AND WOMEN FROM HIS CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.91-2.

On what constitution would or could all who are to be subject to it unanimously agree? Unfortunately, Kant, who is not the most lucid of writers, does not seem to give a completely clear or consistent answer to this. His answer appears to be that legislation should be by the decision of a majority of citizens, or rather (at least in a large state) a majority of representatives of the citizens - what Kant calls a republican constitution. But he also asserts that the necessary qualification for citizenship is ability to support oneself without depending on others, and uses this criterion to exclude from citizenship 'those who are merely labourers' (including 'the domestic servant, the shop assistant, . . . even the barber') as well as women (K, 77-9, 163, 139-40). The notion that women and 'mere labourers' would agree to this (if that is indeed Kant's contention) does not seem very plausible.

MPP3-541 THE DISTINCTION BETWEEN ACTIVE AND PASSIVE CITIZENS UNDERMINES KANT'S CONTRACT
Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.75.

From all these considerations it follows that, even though Kant is operating with the concept of the social contract, his formulation of it differs radically from those of Hobbes, Locke, and Rousseau. One important reason is that Kant's concept of the "original" social contract is vitiated by his distinction between active and passive citizens. He writes, "the legislative authority can be attributed only to the united will of the people," and simultaneously maintains that there is a distinction between active citizens (who participate in the making of laws) and passive citizens (who do not participate in making them but must obey them). He is inconsistent because what he considers the united will of the people amounts in reality to the united will of some people, namely the will of active citizens imposed on passive citizens.

MPP3-542 KANT DOESN'T REALLY UPHOLD POLITICAL AND LEGAL EGALITARIANISM

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.76.

In Kant's ideal kingdom of ends, the dichotomy of active and passive citizens would not exist. In the actual world, however, this dichotomy is a reality, so that Kant's legal or political egalitarianism is only apparent and not real. Consequently, Kant's position cannot be reconciled with Rousseau's political egalitarianism, which recognizes the equality of people not only in obeying but also in enacting laws, regardless of whether they possess property.

MPP3-543 KANT'S VIEW OF AUTONOMY CONTRADICTS HIS COMMITMENT TO POLITICAL OBEDIENCE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.82.

Kant's claim that an autonomous life is preferable also seems to contradict his other claim that we must unconditionally obey the powers that be. If this is so, then Kant's concept of autonomy is limited to the moral realm. Autonomy, according to him, is a subjective rather than an objective condition. For, as we have seen, he does not sanction political disobedience under any circumstances. But can we really live an autonomous life under a tyrannical and despotic government? Kant seems to believe so, but then his concept of autonomy is trivial and even dangerous with respect to politics. He is committed to the view that even though people living under a tyrannical and despotic government are not politically free, they can still be morally free or autonomous. His claim that politics must pay homage to morality thus becomes vacuous.

MPP3-544 KANT ASSUMES, RATHER THAN PROVES, THE PREFERABILITY OF AUTONOMY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.181.

Moreover, even though Kant wants to draw a radical distinction between his theory of justice and a theory of value, he does not, I believe, succeed because, as I have indicated, his theory of justice precommits him to a theory of value. The good life is an autonomous life in which individuals can enjoy the privileges of private property and the development of a market society. Freedom as autonomy is the highest good in society. Kant is committed to the view that even a miserable, unhappy autonomous life would be preferable to a happy and abundant nonautonomous life. However, it seems perfectly reasonable that people might choose, under certain circumstances, a nonautonomous secure life. Kant has not argued his case convincingly because he has all along assumed, rather than proved, that an autonomous life is preferable to a nonautonomous life.

MPP3-545 KANT'S RATIONALISM DISTORTS OUR CONCEPT OF JUSTICE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.202.

But at least since Kant, ethics in general has been saddled with the unfortunate antagonism between "pure practical reason" and "the Moral Law" on the one hand and the mere "inclinations," which are "without moral worth" no matter how benevolent, on the other. Our sense of justice, accordingly, has been distorted and pushed to the side of pure reason, while our generous impulses and ill-defined "intuitions" have, at most, been given dubious recognition as evidence for our rational principles.

MPP3-546 KANT'S ETHICS IGNORE COMPASSION

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.204-5.

Kant defines current thinking about justice to a remarkable extent, though he himself did not discuss justice as such at any significant length. But, even in his own times, Kant was recognized as a philosophical extremist, and he was surrounded by thinkers who found his rationalism excessive. His harsh anti-sentimentalism was in part a reaction to the work of the eighteenth-century Scottish moralists, and he was answered, in German, in kind, and almost immediately, by the cranky but always perceptive Arthur Schopenhauer. No matter how bitterly pessimistic Schopenhauer may have been about life in general, he hit the Kantian nail right on the head when he pointed out that Kant's theory of morality had in fact left out the very basis of morals--namely, the sentiment of compassion.

MPP3-547 KANT OVERSTRESSED REASON AND UNDERRATED THE PASSIONS

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.204.

With Kant, philosophical thinking about values became singularly obsessed with "reason" and rational principles and abusive of the passions. That particular phase of philosopher-king type ethics may be for the most part less than two centuries old, but it has done enormous damage. Kant argued fervently against reliance on the "inclinations" in moral matters, insisting instead that all evaluations of "moral worth" should rely on obedience to principles and practical reason rather than on having the right feelings or displaying a proper character.

MPP3-548 KANT DOESN'T REQUIRE A CONTRACT TO JUSTIFY POLITICAL OBLIGATION

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.8.

Consent is not the ground of political obligation in Kant and therefore breaches of the contract are not justifications for rebellion. Obligation is demanded as a dictate of reason on the ground that the ruler is the upholder and administrator of the system of public legal justice within which morality operates, and which if undermined by civil disobedience would retard progress. The value of the person as an end in himself or herself constrains rulers in how they should treat their subjects. In invoking the idea of a social contract Kant is providing a way of thinking about laws and social arrangements which are appropriate to the value of autonomous persons.

MPP3-549 KANT ADMITS THAT THE CONTRACT IS SUPERFLUOUS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.97.

Kant used the idea of the social contract, but recognised it to be a historical fiction. Thus, in effect, he admitted it to be superfluous, 'since political obligation could quite well be founded directly, without any interpolation of a contract, on the moral obligations' which he derived from his general moral theory.

MPP3-550 HYPOTHETICAL CONTRACTS AREN'T MORALLY BINDING

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.77-8.

The citizens of any commonwealth ought to act, according to Kant, "as if" they have consented to abide by such a hypothetical contract. Yet a hypothetical contract is not a real contract, and in reality nothing follows from it. The same can be said of a hypothetical general will and hypothetical consent. The first is not a concrete and real general will, and the latter is not consent at all. From the fact that ideal citizens in an ideal commonwealth (kingdom of ends) would consent to certain laws, it does not follow that in reality they would do so. I agree with J. W. Gough when he says: If the contract has only a pragmatic reality, and is merely a supposition to explain the obligations of citizens and rulers who are to behave "as if" it were real we may well wonder whether it is anything but a useless fiction. A hypothetical contract would only justify hypothetical obligations, but these are not real obligations. Put another way real and concrete obligations cannot be derived from the notion of a hypothetical contract.

MPP3-551 RAWLS' THEORY IS CONTRACTARIAN

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.227.

However, what is distinctive about Rawls's enterprise is the way in which he attempts to defend his conception of 'justice as fairness' by recourse to the social contract tradition. He writes: My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found in Locke, Rousseau, and Kant. In order to do this we are not to think of the original contract as one to enter a particular society or to set up a particular form of government. Rather, the guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association. These principles are to regulate all further agreements; they specify the kinds of social cooperation that can be entered into and the forms of government that can be established. Rawls's theory is contractarian in the sense that the terms of association in a just or liberal polity are those that individuals would agree to as fair, because they are principles that would have been chosen in a hypothetical fair original agreement. His assumption is that political and social arrangements can be legitimized only if society is conceived of as a voluntary scheme of fair social cooperation in which individuals are regarded as free and equal.

MPP3-552 RAWLS USES CONTRACT THEORY TO DERIVE PRINCIPLES OF JUSTICE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.131.

It is also different in some important ways from the earlier contractarian tradition. Most notably, Rawls does not focus his attention on political obligation and the legitimacy of political authority -though these are not excluded - but rather on the justice of social systems and social structures. Social justice, as defined by Rawls, requires that the basic structure of society conforms to just principles ('principles of justice'), principles which ensure 'the proper distribution of the benefits and burdens of social co-operation' and a proper assignment of basic rights and duties (RJ, 5). Rawls's enterprise is to use social contract theory to derive these principles of justice.

MPP3-553 SOCIAL CONTRACT METHOD IS CRUCIAL TO RAWLS

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.227.

The social contract method is crucial for Rawls because it provides a justification which accommodates this conception of individuals as free and equal. Such a conception when fully worked out is, he argues, more likely to be consistent with our fundamental intuitions about the priority of the person, and it was precisely its inability to make sense of these intuitions which lead Rawls to reject utilitarianism.

MPP3-554 RAWLS' USE OF THE CONTRACT DEVICE ISN'T SUPERFLUOUS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.134-5.

One question that now arises is whether Rawls's theory is, in the terms I introduced in chapter 6 above, an ideal or a hypothetical contract theory. This is a question of some importance if, as I have argued, in ideal contract theory (in the style of Kant) the contract is in fact superfluous, whereas in hypothetical contract theory (or contract theory hypothetically understood) it is not. The question is not easy to answer. I am inclined to say that, as a matter of fact, Rawls's contract theory is not straightforwardly one or the other. The contract he postulates is not the one that would be made by ideally moral beings. Nor is it the one that would be made by typical human beings in a hypothetical but quite easily imaginable and even possible situation, such as the state of nature. Rather, it is the contract that would be made by beings with reasonably realistic (and certainly non-ideal) motivations, in a situation that is quite unreal and, if not unimaginable, presumably impossible of achievement - behind the 'veil of ignorance'. It is a contract made by more or less realistically motivated hypothetical individuals in an imaginary ideal (that is, fair) situation. It does, then, rely on inferences as to what pursuit of self-interest would make acceptable to all concerned, and in this respect is much closer than, say, Kant to the mainstream of social contract theory. For this reason, too, it seems to me that the use of the contract to derive Rawls's theory is not superfluous, though this accusation has often been made against him.

MPP3-555 RAWLS REQUIRES A CONTRACTARIAN PREMISE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.143.

The question now is whether the contractarian argument is essential to this derivation as Rawls presents it. I believe that it is. The only moral principle incorporated into the original position is the equality secured by the veil of ignorance; the moral principle embodied in Rawls's principles of justice is a specification of justified (and unjustified) inequality. The bridge leading from initial or hypothetical equality to a specification of justified inequality is the postulate of rational self-interest; that is, the rational self-interest of all concerned. This postulate is quite typical of the social contract tradition; and without it, Rawls would not be able to generate his conclusions. As stated above, his basic premise is that just principles are those that would be agreed by all concerned in a fair initial position, assuming they were rational and self-interested. This necessary premise is a contractarian premise.

MPP3-556 RAWLS IS A BONA FIDE CONTRACT THEORIST

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.141-2.

I believe that these and similar criticisms of Rawls are not justified. To be sure, the Rawlsian contract differs from an ordinary contract and also from the contract of classic social contract theory. It does not, however, differ from the latter in respect of the absence of bargaining, of give and take. In principle, bargaining is doubtless possible in the state of nature; but the classic social contract theories never postulated it, and the reason is clear - if they had done so, they would have yielded no determinate conclusions. Rather, each theory simply posits its own conclusions as the 'obvious' outcome of the contract, presumably optimum for all contractors. Bargaining would be as fatal to classic social contract theory as to Rawls's. But Rawls improves on the classic theory by, unlike them, designing the premises of his argument so as to make the exclusion of bargaining intelligible.

MPP3-557 RAWLS USES CONTRACTARIANISM ARGUMENTS TO JUSTIFY LIBERAL WELFARE DEMOCRACY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.140.

In brief, Rawls's version of a just society is a liberal welfare democracy (RJ, 201 84). And this, he argues, is derivable from contractarian premises: it conforms to principles that rational, self-interested persons would agree to, behind a veil of ignorance.

MPP3-558 THE LATER RAWLS RETAINS A CONTRACTARIAN ARGUMENT

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.232.

Rawls claims in his new book *Political Liberalism* that it was his failure to take seriously enough in *A Theory of Justice* the problem of pluralism - precisely that which had originally motivated his theory - that prompted him to reconsider the foundations of his argument. However, while Rawls does not respond directly to the communitarian challenge, his reinterpretation of his theory accommodates many of the substantive communitarian charges. What will be clear in the subsequent account of Rawls's conception of his theory as political rather than metaphysical is that while making concessions to the communitarians, the recognition of the fact of reasonable pluralism causes him to retain a substantively contractarian argument.

MPP3-559 RAWLS' THEORY OF JUSTICE SUMMARIZED

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.226-7.

The subject of Rawls's *A Theory of Justice* is nothing less than the principled justification of a liberal polity. He presents this liberal project in terms of a theory of distributive justice applicable to those institutions which comprise the 'basic structure of society'. The 'basic structure' of society covers all the major institutions of the political constitution as well as social and economic institutions, such as the monogamous family and competitive markets. All of these institutions together define individuals' rights, duties, prospects and opportunities. The subject matter of the theory is the 'basic structure' of society, the point of the theory is to provide a set of principles which regulate the 'basic structure' such that the terms of association within a society are fair and consequently the society is well-ordered. Rawls defends two principles of justice to regulate the 'basic structure' of a well-ordered society these are the equal liberty principle and his conception of democratic equality which comprises both fair equality of opportunity and the difference principle.

MPP3-560 RAWLS PLACES PRIORITY ON LIBERTY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.85.

The essential question in Rawls's political theory is: Which principles of justice would ideal contractors choose behind the veil of ignorance to govern the basic institutions of society? According to Rawls, they would choose these two principles: First Principle: Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all. Second Principle: Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, [the difference principle] consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity. He contends that his principles of justice should be arranged in "lexical order.", Rawls, echoing Kant, argues for "the Priority of Liberty . . . liberty can be restricted only for the sake of liberty." Consequently, the first principle takes precedence over the second (provided that a certain degree of economic development has been achieved).

MPP3-561 PEOPLE HAVE A DUTY TO OBEY JUST INSTITUTIONS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.95.

Rawls makes his choice. In order to justify obedience to the state and its institutions, Rawls appeals to the natural duty of justice. This duty binds everyone involved in a political society to support and enhance just institutions. This duty, he argues, has two parts: first, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves. It follows that if the basic structure of society is just, or as just as it is reasonable to expect in the circumstances everyone has a natural duty to do what is required of him. Each is bound irrespective of his voluntary acts, performative or otherwise. Consequently, when a society is just or nearly just, there is a natural duty of all citizens to support it. Moreover, if there is an absence of just institutions, all citizens ought to try to promote them. I understand this to assume that some sort of democracy exists so that the members of society can shape, to a certain extent, these institutions.

MPP3-562 RAWLS' CONTRACT IS HYPOTHETICAL, NOT HISTORICAL

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.131.

In common with practically all modern theorists, Rawls does not conceive of the social contract as an actual historical event; rather he wishes to use the idea as an 'analytic construction' (Rawls, 1963, p.103). Broadly his idea is this. The problem of justice arises in society because individual members of society make competing claims to the advantages produced by social cooperation. But despite this competition, it is theoretically possible that all members of should agree on principles to regulate the distribution of these advantages. Furthermore, such an (hypothetical) agreement or contract can be taken as specifying principles of justice subject to one very important condition - that it be made in a situation which is itself fair as between all the parties involved. This hypothetical fair situation is called by Rawls the 'original position'. Much of Rawls's theory is devoted to specifying the features necessary to a fair original position, and to deducing - in the manner of a thought-experiment - what principles would be agreed in it by all parties (RJ,11-22).

MPP3-563 RAWLS' SYSTEM IS JUSTIFIED BY HYPOTHETICAL CONTRACT

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.227-8.

A liberal polity structured in accordance with Rawls's two principles of justice is justifiable not because it maximizes welfare, but because it would be chosen in a hypothetical initial contract. Even though the contract situation can only be hypothetical, the contractarian method serves two purposes; first, it provides a mechanism for choosing the two principles of justice; and second, it aims to show us why we ought to accept the terms of association specified by the two principles. It achieves this second task by showing that the principles do not disadvantage us in order to advantage someone else, as utilitarian principles might, and because they recognize our status as equals.

MPP3-564 RAWLS DOESN'T RELY ON A STATE OF NATURE CONCEPT

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.134.

For Rawls's original position, the situation prescribed for his contract, is not a state of nature. Nothing, indeed, could be less natural than Rawls's veil of ignorance. This is prescribed by Rawls, not in the least because he thinks of it as natural, but because it seems to him necessary to make the original position fair. The original position is designed to be an initial state of fairness not a state of nature. The fundamental moral principle of Rawls's entire theory is not, therefore, that men are obliged to keep their promises, nor that they are morally obliged to obey social institutions from which they benefit (and so would have an interest in agreeing to, if they did not exist); it is that they are morally obliged to accept regulatory social principles (and institutions that conform to these principles) which they would agree to in a fair 'original position', if they were self-interested and rational. They have that obligation (or, in Rawls's preferred terminology, that duty) because such principles and institutions will be just.

MPP3-565 RAWLS' CONTRACT ISN'T QUESTION BEGGING

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.143.

I believe these criticisms of Rawls's method are somewhat confused, though they are not baseless. They seem, in the first place, to ignore Rawls's own account of his procedure, namely, that he seeks to derive relatively strong (non-obvious, controversial) conclusions from relatively weak (widely accepted, uncontroversial) premises (RJ, 18). If the premises are indeed widely acceptable, and the derivation is sound, then the conclusions can be made widely acceptable also.

MPP3-566 IDENTICAL INDIVIDUALS CAN STILL MAKE A CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.142.

As for Sandel's charge that the deliberations of identical individuals (made identical by the veil of ignorance) cannot lead to a contract - that identical individuals are no genuine plurality of individuals- I believe that, though Sandel's is among the subtlest and most thought-provoking of the many critiques of Rawls, this part of it is simply wrong. Many identical individuals are still many individuals: they may still have conflicts of interest, all the more so if (as in Rawls's theory) part of their identity consists in a desire to maximise control over the same primary social goods, which are in limited supply. Hence a contract between identical individuals is no contradiction, even though all reason alike and easily reach the same conclusion. I therefore conclude that the contract that features in Rawls's theory, while in many ways unlike an ordinary contract and unlike the classical social contract, is still a genuine social contract.

MPP3-567 PEOPLE NEED NOT KNOW THEIR PARTICULAR CHARACTERISTICS TO FORM A HYPOTHETICAL CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.133.

Rawls's version of this may perhaps seem puzzling. How could people rationally pursue their self-interest in contracting, if they didn't know anything about their particular characteristics, including even their purposes (their 'conceptions of the good')? And has not Rawls, in forcing impartiality on his contractors, nullified the circumstances of justice - conflict between opposed interests - that his construction is supposed to reflect? These difficulties are only apparent. The problem of decision-making under conditions of uncertainty is a perfectly standard one in, for example, economic theory. Also, the contracting parties do not need to know what particular purposes they wish to pursue, because what is to be regulated by the principles chosen in Rawls's original position is the distribution of what he calls primary social goods. These are (a) generalized means that promote, or may promote, people's purposes, more or less regardless of what, in particular, they are; and which are (b) typically the objects of conflicting claims in social and political life. They are, more specifically, 'rights and liberties, powers and opportunities, income and wealth'. All rational self-interested persons are presumed to wish to have as much of these goods as possible; as rational, they are presumed to understand the nature of these goods, and to have sufficient knowledge of the nature of social life to appreciate the bearing of social arrangements on their distribution.

MPP3-568 RAWLS' THEORY ASSUMES RATIONAL, SELF-INTERESTED INDIVIDUALS

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.131-2.

Since the point of postulating this social contract is to arrive at a resolution of conflicting claims, the contracting parties must first be assumed to act on the basis of self-interest, in this sense: each is concerned to protect, and indeed maximise, his capacity to pursue his own ends or purposes (however noble or unselfish in some sense these purposes may be). In this way, the original position reflects what Rawls calls 'the circumstances of justice'. Also, the contractors in the original position must be assumed to be rational in the sense of acting in ways best suited to achieving their ends - otherwise the assumption of self-interested motivation could not be appropriately translated into contractual behaviour. The agreement, in brief, must be one acceptable to rational, self-interested people.

MPP3-569 INDIVIDUALIST ASSUMPTIONS ARE NECESSARY FOR A THEORY OF JUSTICE

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.145.

Michael Sandel reaches a rather similar conclusion through a very different argument. Because Rawls seeks a completely general 'model of man' (to borrow Macpherson's phrase) his concept of the person is of a self quite detached from any particular aims or interests. This, Sandel complains, 'rules out the possibility that common purposes and ends' (emphasis added) could actually be constitutive of the selves of members of a community (and of that community). This exaltation of individual over common purposes is, to Sandel, the 'deeper sense' in which Rawls's premises are biased towards individualism (Sander, 1982, pp.62-4). But, once again, common identities, common purposes, and absence of conflicting interests, however desirable, are simply irrelevant to a theory of justice. Rawls, to be sure, does use (not a bourgeois, but) an individualist 'model of man'. But justice is an individualist virtue.

MPP3-570 RAWLS' ASSUMPTION OF SELF-INTEREST IS LEGITIMATE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.144.

It is beyond any question that Rawls's theory of justice is - and is meant to be - a defence of liberal individualism. What is at issue is whether the contractarian premises which he uses to buttress this defence already beg the question. A number of critics have argued that they do, simply on the grounds that his contractors in the original position are postulated as being self-interested. This particular objection - which repeats a standard criticism of social contract theory generally - seems particularly ill-judged in relation to Rawls. For Rawls's theory is a theory of justice; and the problem of justice only arises, as Rawls points out, because of the claims of competing self-interests. The self-interest of Rawlsian contractors (unlike that of Hobbesian ones, for example) does not express the theorist's view of human nature, but of that aspect of human nature that gives rise to the problem of justice (RJ, 128-9). It thus turns out that social contract theory is especially suited to dealing with that problem: that, perhaps, is Rawls's major insight. Of course, if the 'circumstances of justice' do not obtain, there is no place for a theory of justice (and Rawls may conceivably be at fault in so far as he assumes that they do obtain, in all societies); but as a theory of justice, to the extent that such is relevant, no objection can be made to it on this score.

MPP3-571 RAWLS RESTATES KANT'S SOCIAL CONTRACT THEORY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.8.

Perhaps the most famous restatement of a Kantian contract theory is provided by John Rawls's *A Theory of Justice*. Rawls uses the concept of a social contract not simply to choose his two principles of justice, but as a device which underpins his conception of a just society as a fair system of social cooperation between individuals who are free and equal.

MPP3-572 RAWLS CORRECTS A NUMBER OF WEAKNESSES IN THE CONTRACT TRADITION

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.159.

Rawls explicitly looks back to, and draws inspiration from, his contractarian predecessors, finding much of value in them, yet seeking at the same time to amend and correct the weaknesses of this tradition. In my judgment he has been, in many ways, strikingly successful in this, and it may be worthwhile briefly to rehearse some of those ways. First, he has made it clearer than ever before that the contract is for him not a historical event but a thought-experiment. Second, he has, I suggest, at last found the right subject for contract theory - the problem of justice. For what is intuitively attractive about the contractarian idea - at least in our culture - is the way in which it promises equal protection to the (possibly conflicting) interests of all individuals.

MPP3-573 RAWLS' ORIGINAL POSITION IS PREFERABLE TO THE STATE OF NATURE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.159-60.

Thirdly, he has replaced the classical contractarian concept of a state of nature by that of a fair original position, incorporating a 'veil of ignorance'. For this latter, he has been much criticised, but I have argued (in the previous chapter) that such a device is necessary if contract theory is to allow for adequate redistribution, which any just theory - and not only a theory of justice - must do. Rawls's original position has another advantage over the state of nature: it can subsume the latter, but the converse is not true. That is, we may, as a thought-experiment, pose to hypothetical contractors in the original position a choice between the state of nature and government in one form or another, or, more generally, between the existence of some deliberately contrived social institution such as a welfare state and its absence (that is, leaving economic distribution totally at the mercy of the market). It was by adopting such a strategy, in effect, that I was able to argue (at the end of the last chapter) that the problems inherent in Rawls's veil of ignorance, and in contract theory generally, can to some extent be circumvented, so long as the theory preserves a certain self-denying modesty. In application to societies like our own it can yield principles that support some of our characteristic institutions.

MPP3-574 RAWLS IMPROVES UPON THE CONTRACT TRADITION BY PROVIDING AN OPTIMAL CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.135-6.

If persons are to move out of the state of nature, to what should they move? Perhaps they could agree to anything that improves on the state of nature for them all, but why stop there? If some further state of affairs would be better still for some, they presumably prefer that - or rather they prefer whatever is best of all for them. But in fact no state of affairs can be best for everyone (if there are known conflicts of interest between them), while many possible states of affairs may be better for all than the state of nature. Which one to choose, then? The apparatus of traditional contract theory does not provide any way to decide, and this, I suggest, is one major reason why the different contract theorists proposed such very different contract theories. Viewed in this light (as well as others mentioned above - cf. pp.103 - ,105,128) the use of the state of nature as a baseline or starting-point appears as a weakness of traditional social contract theory, and it will correspondingly seem that it is a strength of Rawls's theory that he dispenses with it.

MPP3-575 HAMPTON AND SANDEL DENY THAT RAWLS IS REALLY A CONTRACTARIAN

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.141.

One critic of Rawls, Jean Hampton, has complained that a contract where bargaining is in principle impossible is no real contract at all (Hampton, 1980, pp.321-5). Another, Michael Sandel, charges that the veil of ignorance, by making all the contractors in effect identical, negates that plurality of different individuals, and their conflicting interests, that Rawls's contractarian premise is avowedly designed to reflect, and concludes that 'what goes on in the original position is [therefore] not a contract after all' (Sander, 1982, pp.122-32).

MPP3-576 RAWLS' THEORY IS INTUITIONIST, NOT CONTRACTARIAN

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.154.

I have argued above that Rawls's view--according to which justice is indeed the set of principles that would be agreed to by rational persons for the social governance of their lives, but only what they would agree to if they were forced to choose under the restriction of having absolutely no idea who, as individuals, they were--amounts in fact to another appeal to intuition of the type we want to avoid. Thus Rawls's view foregoes what seems to me contractarianism's principal theoretical claim on our attention.

MPP3-577 LATER RAWLS DOWNPLAYS THE SOCIAL CONTRACT

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.10.

Whilst there is likely to remain a significant Kantian component in liberal political philosophy, the use of the social contract device as a foundation is of less importance, as can be seen in Rawls's later work where the idea of a political society as a fair association of free and equal individuals has a higher profile than the device of the 'original position' and 'veil of ignorance'. Whilst it would be premature to write the obituary of social contract theory, from the perspective of liberal political theory we are perhaps entering a post-contractarian age.

MPP3-578 THE CONTRACT ISN'T KEY TO RAWLS' POLITICAL THEORY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.9.

While much of the criticism that Rawls's theory has attracted has focused on the implications of his account of 'justice as fairness', a major source of criticism has focused on his contractarianism. Communitarians have claimed that the social contract serves no real purpose as it does not provide individuals with a reason for going behind the hypothetical 'veil of ignorance' in the first place. Unless they are already inclined to adopt an impartial perspective then the contract will not work. This has led Rawls in his recent work to re-emphasize that the contract is only a model or 'representative device' and that the real motivation for adopting 'justice as fairness' is provided from individuals' comprehensive moral perspectives, and to recast his theory as a political rather than a full ethical theory.

MPP3-579 JUSTICE SHOULD BE BASED ON CONCRETE, NOT HYPOTHETICAL, CONSIDERATIONS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.106-7.

When we conjoin Rawls's concept of rationality with his thin theory of the good, we get a characterization of human beings as self-interested maximizers of wants. In a Rawlsian universe, people ought to be free to maximize their wants so long as they do not violate the principles of justice--the life of a sadistic vivisectionist is as good and as rational as the life of a poet. The implicit assumption in this Rawlsian universe is that the good and rational life consists in the possibility of realizing as many of one's desires as possible, regardless of their qualitative differences. This is a dubious assumption, and it is not sufficient to argue, as Rawls does, that people in a hypothetical situation would choose principles of justice that would promote a life of unqualified wants. If we want to argue for a pluralistic society, we must appeal to our concrete situation in society rather than to an ideal realm. Our reasons for accepting a political philosophy, even assuming Rawls's concept of rationality, should be concrete rather than hypothetical.

MPP3-580 RAWLS' HYPOTHETICAL CONTRACT ISN'T BINDING

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.105.

The second main problem with Rawls's political philosophy is the abstract nature of his theory. Suppose we grant Rawls that if we were situated in a position similar to the original position, we would in fact choose his two principles of justice. But, we know for sure that we are not in such a situation, and we have reason to believe that it is highly improbable that we could ever be in a similar situation. What follows from the previous supposition? Nothing! A hypothetical agreement is just that--hypothetical. We are bound by an agreement only if we are participants in it. But in this case we are not. Consequently, we cannot be bound by it. As Ronald Dworkin puts it: Rawls does not suppose that any group ever entered into a social contract of the sort he describes. He argues only that if a group of rational men did find themselves in the predicament of the original position, they would contract for the two principles. His contract is hypothetical, and hypothetical contracts do not supply an independent argument for the fairness of enforcing their terms. A hypothetical contract is not simply a pale form of an actual contract; it is no contract at all.

MPP3-581 THE VEIL OF IGNORANCE UNDERMINES RAWLS' USE OF THE SOCIAL CONTRACT

Paul Kelly, Professor of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, 1994, p.230.

For if we have no grounds for bargaining behind the 'veil of ignorance' because we have no grounds for individuating perspectives, then equally we have no clear grounds for maintaining the idea of the separateness of persons. Each individual behind the 'veil of ignorance' becomes identical with every other, and where there is no difference we can assume an identity. The significance of this is not simply that it seems to embody precisely the defects that Rawls attributes to the idea of the 'impartial spectator' in utilitarian theory, but also that in so far as any representative individual can cognitively recognize the force of the two principles, then the whole idea of the contract becomes redundant. This is because for Rawls's method to provide us with reasons it would have to show that we already accept a constitutive conception of the community when we think about justice otherwise we would have no grounds for accepting the constraints of the original position. Sandel concludes his argument thus: what begins as an ethic of choice and consent ends, however unwittingly, as an ethic of insight and self-understanding.... The secret to the original position - and the key to its justificatory force - lies not in what they do there but rather in what they apprehend there. What matters is not what they choose but what they see, not what they decide but what they discover. What goes on in the original position is not a contract after all, but the coming to self-awareness of an intersubjective being.

MPP3-582 RAWLS DOESN'T JUSTIFY WHY PEOPLE WITH FULL KNOWLEDGE SHOULD ACT BASED ON THE HYPOTHETICAL CONTRACT

Paul Kelly, Professor of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, 1994, p.231.

The critique of the Rawlsian subject is intended to show not only that there is some incoherence in the idea of such a radically abstract chooser, but also that there is an unbridgeable gap between the moral perspective of impartiality in the 'original position' and the person outside the 'original position' who is in full knowledge of his beliefs, values and interests. This creates a problem of 'motivation': why should real people in full knowledge of their identities acknowledge the purchase of such a radically abstract moral identity and therefore acknowledge whatever principles are chosen behind the 'veil of ignorance'? What is more, this motivation problem remains even if we abandon the 'original position' altogether, for we will still be faced with the requirement to show why we should adopt the impartial perspective and accord it priority over the personal perspective?

MPP3-583 RAWLS' THEORY IS CIRCULAR

Murray Forsyth, Professor of International Politics, University of Leicester, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.47.

Finally, and ironically, although Rawls himself eschews deduction from self-evident premises, he makes the general assumption, in elaborating his theory, that individuals can and should make some form of positive agreement amongst themselves on what is to count as 'justice', before they engage in 'social cooperation'. But is this assumption self-evident? Does it not make social cooperation (negotiations over the meaning of justice) precede social cooperation? Does it not make social cooperation precede any common notion of justice? Is the latter a soundly based supposition? Rawls does not seem to consider it necessary to address these issues.

MPP3-584 MANY CRITICS VIEW RAWLS' CONTRACT AS QUESTION BEGGING

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.142-3.

In the view of one critic, Rawls's argument from the original position is simply unnecessary (Honderich, 1975, pp.68-70), to another it is merely an expository device (Carr, 1975, pp.87-8), to a third it is necessarily and viciously circular: 'what one derives from the original position is wholly dependent on what one puts into it', and 'it is not possible to define the original position in such a way that it will yield a definite result from non-question-begging premises' (Browne, 1976, p.7). This brings us to our third criticism of Rawls - that he manipulates his contractarian argument in an arbitrary and question-begging way.

MPP3-585 REAL PEOPLE WOULDN'T ACCEPT RAWLS' CONTRACT

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.148.

As one of his most famous critics, Robert Nozick, has pointed out, there is no hope that the difference principle (or for that matter the Rawlsian general conception of justice as a whole) would be acceptable to all rational self-interested persons, once the veil of ignorance was removed (N. 192-7). The difference principle (designedly) makes the less well-endowed members of society better off, and makes the better endowed worse off, than they would be in a contractual system of completely free economic exchanges (that is, a market, without government intervention); therefore, it would not be acceptable to the better endowed as the terms of a social contract. To Nozick, precisely this makes the difference principle unjust; it violates his principle that individuals are entitled to keep whatever others freely transfer to them (N. 150-3, 160-3). To Nozick, Rawls's version of the social contract, paradoxically, violates the contractual principle on which the market is based.

MPP3-586 PEOPLE IN RAWLS' ORIGINAL POSITION MIGHT CHOOSE UTILITARIANISM

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.147.

None of this should be taken as suggesting that utilitarianism could be an adequate principle of justice - notoriously, it is not. Rather, it appears that Rawls's premises, in failing to exclude utilitarianism, are defective in some way. The fault, it seems, lies in the part played in his deduction by the notion of choice under uncertainty, which makes the outcome dependent on attitudes to risk, and therefore (unless the aversion of the chooser to risk is implausibly made total) permits a degree of 'riskiness' in the conclusions. Such conclusions, however, cannot do what Rawls needs, that is, safeguard those rights of individuals that justice requires. This, then, is the disadvantage of Rawls's veil of ignorance.

MPP3-587 RAWLS ASSUMES EXCESSIVE RISK ADVERSENESS

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.147.

Harsanyi can plausibly claim that a rational chooser in the Rawlsian original position, having no reason to expect to occupy one social position rather than another, should pay attention to the average of all social positions. A Harsanyi society would be much riskier than a Rawlsian society, since in it nothing whatever is stipulated about the lowest level of welfare, or of primary social goods, which could quite easily be too low to support life. Nevertheless, Rawls's attempts to refute Harsanyi's deduction from their shared premises seem to me unsuccessful, at least without the extra assumption of risk-averseness on the part of the contractors. Indeed, the Rawlsian deduction appears to require their total risk-averseness. A lesser degree of risk-averseness could lead them to choose principles intermediate between those of Harsanyi and Rawls; that is, the stipulation of some 'social minimum' (in Rawls's terminology) but not the 'maximum minimum' (maximin) called for by the Rawlsian principles (RJ, 152-4.).

MPP3-588 RAWLS' DEPICTION OF THE ORIGINAL POSITION UNDERMINES HIS CONTRACTARIANISM

Paul Kelly, Professor of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, 1994, p.229-30.

However, the communitarians are not simply of offering alternative conceptions of personal identity in order to show that we have a choice between Rawls's 'unencumbered selves' and Aristotelian accounts of the person. Rather the point is to show that Rawls's adoption of a radically individualistic contractarian methodology undercuts the possibility of grounding his conception of justice as 'impartiality' or 'fairness'. The social contract is used to show the practical necessity of the impartial perspective. This requires a conception of the subject as a pure chooser shorn of all contingent or empirical components of his identity. Such a person, it is argued, could not but choose the impartial perspective of justice as fairness. Yet it is precisely at this point that the contractarian device fails. For if the subjects in the original position are denied all the forms of self-knowledge precluded by the 'veil of ignorance' then they cannot be said to engage in a rational discussion or bargain about how to proceed, therefore, how can we be said to choose the principles behind the 'veil of ignorance'? The contract is not interactive in the way in which one ordinarily understands contracts in law for example. Thus the subjects behind the veil of ignorance do not so much decide in a voluntaristic sense on which principles are to be chosen instead they decide on them in a cognitive sense, in the same way in which one might come to decide the validity of an argument. Instead of the terminology of choice and will, a more appropriate terminology for what goes on behind the 'veil of ignorance' is discovery, coming to awareness, or gaining recognition. This might not in itself seem a devastating criticism of Rawls's enterprise, but it, does seriously undermine his recourse to a contractarian justification.

MPP3-589 RAWLS DOESN'T JUSTIFY PLACING POLITICAL VALUES OVER SUBSTANTIVE MORAL VALUES

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.238.

However, in order for Rawls to have overcome the 'motivation' problem identified by the communitarians he has to be able to show that individuals not only have a reason for accepting 'justice as fairness' but also have reasons for giving those political reasons a moral priority. This is a much more difficult task than merely pointing out how diverse comprehensive moral viewpoints can accommodate the claims of Rawls's political liberalism. Contemporary political problems posed by abortion, blasphemy, incitement and pornography merely highlight the extent to which groups within democratic communities challenge the priority of a liberal constitutional settlement to such questions, without wholly rejecting other aspects of a liberal constitutional regime. Catholics opposed to abortion or Muslims incensed by blasphemy are expected to compartmentalize the political implications of their morality in order to accept the liberal distinction between the political realm and purely private matters. The point is not that people with such beliefs and commitments will not be able to accept Rawls's political liberalism, but that they will not necessarily have a reason for granting such liberal principles priority in such difficult cases. Consequently, appeals to comprehensive moral perspectives will not overcome the motivation problem unless those perspectives will grant the required priority to liberal principles. Again we are back with the communitarian criticism of his original contractarianism in *A Theory of Justice*.

MPP3-590 CONTRACTARIANISM ONLY WORKS IF ONE PRESUPPOSES A LIBERAL PERSPECTIVE

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.239.

Rawls's problem is similar to that of other 'contractualists' such as Scanlon and Barry who appeal to a public conception of 'reasonableness' as the grounds for justifying some conception of 'justice as impartiality'. The point made by these 'contractualist' theorists is that given what Rawls calls the 'burdens of judgement', namely the view 'that many of our most important judgements are made under conditions where it is not to be expected that conscientious persons with full powers of reason, even after free discussion, will all arrive at the same conclusion', we have a reason for compartmentalizing our full comprehensive moral viewpoints and instead adopting a narrower conception of 'public reasonableness' where we act on principles that others who similarly suspend their full moral judgements could not reasonably reject. Consequently, a reasonable comprehensive doctrine is going to be one that accepts the 'burdens of judgement' and adopts Rawls's political perspective. But this merely reinforces the communitarian's point that liberals can overcome the 'motivation' problem only by presupposing a liberal conception of the good which then makes the social contract redundant. Here the conception of the good is the idea of 'public reasonableness', and individuals will have a reason for accepting the perspective of 'public reasonableness' only if their personal perspective already contains the same perspective.

MPP3-591 RAWLS DOESN'T REALLY RECOGNIZE PLURALISM

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.239.

Given that Rawls confines his discussion to reasonable comprehensive doctrines it should be no surprise that the 'reasonable' individual's full moral perspective provides reasons for accepting the constraints of the political realm. Thus, far from accommodating the pluralism of modern democratic societies as he suggests in *Political Liberalism*, the pluralism Rawls is really addressing is much narrower, namely the pluralism of comprehensive liberalisms - Kant's, J. S. Mill's, and so on.

MPP3-592 RAWLS' IDEA OF NEUTRAL POLITICAL THEORY IS FLAWED

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.236.

Dworkin's critique of the discontinuity strategy is in three parts. First, he argues that contractarian arguments sacrifice what he calls categorical force to consensual promise, this is particularly true of Rawls's political conception of 'justice as fairness' which explicitly makes an 'overlapping consensus' of reasonable comprehensive doctrines the standard of justification. Second, the conception of public reasonableness, which is central to the grounding of a free-standing or neutral political theory, is used by contractualists as if it were less problematic than the idea of a public morality. Third, Dworkin rejects the idea that appealing to principles and ideals latent in our public culture is any use in justifying liberal egalitarianism or 'justice as fairness'.

MPP3-593 THE CONTRACT ONLY WORKS IF LIBERAL PRINCIPLES HAVE ALREADY BEEN JUSTIFIED

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.240.

The conception of 'public reasonableness' needs a moral content if it is going to override such substantive moral beliefs and obligations; it needs to be shown to be a direct implication of the moral point of view. This discontinuity strategy of social contract arguments cannot provide, for it cannot provide us with a reason for adopting the contractarian perspective without appealing to some prior moral motivation which makes the contractarian device redundant. Again Dworkin's point is similar to that made by the communitarians: we need to show how the political principles of liberalism connect with our moral views such that they have priority over other moral commitments. Consequently, we cannot avoid an ethical defence of liberalism if we are going to provide any defence at all for liberal principles. The discontinuity strategy employed by contract theories cannot provide the categorical force needed to justify the priority of liberal principles when they clash with other aspects of the moral perspective.

MPP3-594 LIBERALISM CAN'T RELY ON PROCEDURAL APPEALS--IT MUST MAKE SUBSTANTIVE MORAL ARGUMENTS

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.241.

If we want, as Rawls does, to show that one account of justice - 'justice as fairness' - is a better interpretation of the values latent in our 'public culture' than alternatives such as utilitarianism or libertarianism, then we must ultimately appeal beyond the resources of that 'public culture' to show why one interpretation is better (because more just) than the other. Consequently, when discussing questions of political morality we cannot avoid appeal to criteria of truth and validity which are not merely part of a community's traditions. That is not necessarily to appeal to an abstract external criterion of truth or justice, but it is to look elsewhere than mere 'congruence with a community's traditions' for our account of such values. In other words there is no escaping the need for substantive ethical argument if one is to provide a justification of liberal principles. The same argument applies equally well to simple communitarian views which assert that moral and political theory is merely the articulation of the shared resources of a community, as if this can be done without recourse to precisely the sort of abstract political theorizing they so much despise.

MPP3-595 THERE'S NO STANDARD OF REASONABLENESS INDEPENDENT OF SUBSTANTIVE MORAL BELIEFS

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.239.

As Dworkin and others have pointed out, it is not possible to identify a conception of 'reasonableness' which does not itself draw on substantive ethical beliefs and values. I will for example be able to recognize the 'reasonableness' of the political perspective only if I have a moral reason for adopting that neutral perspective when addressing moral matters. If for example I judge abortion wicked, then I will ordinarily think it unreasonable for others to reject my views.

MPP3-596 RAWLS SYSTEM IS BIASED AGAINST NON-LIBERAL VALUES

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.104.

Moreover, once Rawls's primary goods are accepted and his two principles of justice are chosen, it follows that liberal individualist conceptions of the good (those that value autonomy over other values) will have a better opportunity to be implemented than other conceptions of the good: for example, theories that place greater value on the well-being of the community rather than on the well-being of single individuals; or theories that define the good in terms of a hierarchical meritocracy; or even individualist theories that define the good in terms of some specific quality, e.g., knowledge, wealth, or power.

MPP3-597 RAWLS PRESUPPOSES LIBERAL INDIVIDUALISM

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.104.

Rawls's hypothetical situation might be neutral with respect to different comprehensive conceptions of the good that value his primary goods in a similar way, but may differ about other values. Yet the hypothetical situation is not neutral about other conceptions of the good that do not recognize all or some of Rawls's primary goods, or that simply consider them less valuable. Nagel makes this explicit: The original position seems to presuppose not just a neutral theory of the good, but a liberal individualistic conception according to which the best that can be wished for someone is the unimpeded pursuit of his own path, provided it does not interfere with the rights of others. Among different life plans of this general type the construction is neutral. But given that many conceptions of the good do not fit into the individualistic pattern, how can this be described as a fair choice situation for principles of justice?

MPP3-598 RAWLS' ORIGINAL POSITION ALREADY ASSUMES A SUBSTANTIVE THEORY OF THE GOOD

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.103-4.

In the description of the hypothetical situation, Rawls is already committed, as Thomas Nagel convincingly argues, to a particular substantive and thus comprehensive idea of the good. Nagel writes: The construction [of the original position] does not, I think accomplish this [neutrality], and there are reasons to believe that it cannot be successfully carried out. Any hypothetical choice situation which requires agreement among the parties will have to impose strong restrictions on the grounds of choice, and these restrictions can be justified only in terms of a conception of the good. It is one of those cases in which there is no neutrality to be had, because neutrality needs as much justification as any other position. Rawls's minimal conception of the good does not amount to a weak assumption: it depends on a strong assumption of the sufficiency of that reduced conception for the purposes of justice.

MPP3-599 RAWLS' POLITICS REQUIRE SUBSTANTIVE MORAL BELIEFS

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.99.

My second objection, although related to the first, is more important. Rawls argues that political liberalism does not "presuppose any particular fully (or partially) comprehensive doctrine." Nonetheless, I contend that even though his liberalism does not necessarily commit him to a "fully" comprehensive moral doctrine, it does commit him to a "partially" comprehensive one that includes some important nonpolitical values.

MPP3-600 RAWLS CAN'T EFFECTIVELY SEPARATE MORAL AND POLITICAL CONCEPTION

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.98.

I find two major problems with Rawls's newly reformulated political liberalism. First, he clearly states that such liberalism is concerned solely with political values rather than with general religious, philosophical, or moral values. The problem with this position is precisely that the concept of "political values" itself is a contestable concept. Who or what is going to determine the boundary of the political realm? Would such a realm be determined, as Rawls seems to suggest, by the interaction between moral agents and the way that basic social institutions distribute fundamental rights and duties? This, to say the least, seems to be a narrow understanding of both political values and political justice. How, assuming Rawls's conception of political justice, can one deal with pressing political problems, such as those affecting the environment? Or the moral but also political problems presented by the animal liberation movement? Are we prepared to ascribe fundamental moral and legal rights to all animals? Indeed, this is not only a moral question well within the boundaries of a "comprehensive" moral theory, but also an important political question. The same thing can be said about the environmental rights of indigenous populations or of political relations among nations.

MPP3-601 LIBERALISM NEEDS A FORCE MORE COMPELLING THAN CATEGORICAL

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.237-8.

The point that Dworkin is making is similar to the 'motivation' problem that is developed in the communitarian critique of Rawls's earlier contractarianism in *A Theory of Justice*. Sandel, for example, claims that Rawlsian individuals need a reason to enter into the 'original position' and accept the moral constraints of the 'veil of ignorance', such a reason cannot be provided if individuals are purely self-interested. Indeed it cannot be provided unless they already accept the moral obligations that the contract is supposed to justify. This is saying no more than that even if a consensus could be established behind the 'veil of ignorance' (which Sandel doubts for other reasons) we still need a reason to go behind the 'veil of ignorance' and that reason cannot simply be the promise of a consensus on principles of justice. We need another kind of reason than consensual promise, and this reason is what Dworkin is referring to when he claims that an adequate moral foundation for liberalism requires a categorical force, that is, a moral reason which will motivate individuals here and now to act on principles in the absence of an 'overlapping consensus'. Thus an adequate foundation of liberalism will have to focus on a different set of reasons, those which are prior to contractarian reasons, because they are the reasons one needs in order to accept the reasons provided by the contractarian strategy. Rational choice contractarianism of the sort advanced by David Gauthier is therefore not in a position to provide an adequate justification for liberal principles unless it begs all of the complex questions about moral motivation which are raised by the communitarians and with which modern liberal theories have been wrestling.

MPP3-602 ACCORDING TO DWORKIN, LIBERALISM MUST ABANDON CONTRACTUALISM

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.235-6.

Dworkin contrasts what he calls Rawls's discontinuity strategy with an alternative continuity strategy which rejects the social contract device and any attempt to build neutrality into a liberal theory from the very beginning. The aim of this continuity strategy of justifying liberal principles is the converse of Rawls's political theory. Instead of distinguishing the realm of the political from full personal moral perspective, Dworkin claims that attempts at a full justification of liberal principles such as 'justice as fairness' have sought to show a connection between liberal egalitarianism and the full moral perspective - hence continuity. Dworkin's point is that an adequate defence of liberalism must abandon the contractarianism implicit in Rawls's political theory and in alternative contractualist defences of liberalism.

MPP3-603 CONTRACT THEORIES UNDERMINE LIBERALISM BY ENTRENCHING EXISTING POWER RELATIONS

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.236-7.

There are two reasons why we should balk at consensual promise being the goal of a theory. First, the terms of the consensus might simply reflect the existing distribution of power in society so that the consensus is no more than a *modus vivendi* brought about by no group being strong enough to impose its will on all others. Such an arrangement, as Rawls points out, is inherently unstable over time and has no moral status whatsoever. Social contract theories that fail to incorporate some principle of equality into their initial choice situation can achieve no more status than that of a *modus vivendi* and consequently cannot provide a compelling moral justification for those who want to challenge existing inequalities. The point about liberal theories of justice is that they are traditionally advanced as both critiques of existing inequalities and criteria for political reform, consequently such theories claim a validity that is independent of the values currently held within a society. If liberalism abandons this claim then it loses all force in the face of theories that assert contrary values and principles.

MPP3-604 RAWLS ALLOWS INEQUALITIES WHICH UNDERMINE SELF-RESPECT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.90.

Moreover, since our self-respect would be conditioned in large measure by our abilities and capacities to accomplish important goals in life, and since the possession or absence of wealth and power can make a positive or negative contribution in accomplishing such goals, it follows that our self-respect would be proportionally affected by the amount of wealth and power that we possess in society. Consequently, if one values self-respect, the tension between Rawls's first and second principles of justice cannot be easily circumvented by appealing to the distinction between liberty and the worth of liberty.

MPP3-605 RAWLS INAPPROPRIATELY DISTINGUISHES BETWEEN LIBERTY AND THE EQUAL WORTH OF LIBERTY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.89.

Given certain conditions, inequalities of wealth can definitely contribute to great unjustified inequalities of power. Thus it would be irrational (rationality understood in the Rawlsian spirit as the maximization of wants or accomplishment of goals through the most effective mean(s) to achieve them) for the people in the original position to accept Rawls's distinction between liberty and the worth of liberty, and to choose the formal protection of the former at the expense of the latter. As Norman Daniels puts it, "equal liberty without equal worth of liberty is a worthless abstraction." In short, what good would abstract equal liberty be if the capacities that are needed and the necessary material conditions to exercise it are absent, or if they differ proportionally with the possession of wealth and power?

MPP3-606 MACPHERSON SEES RAWLS AS EMPLOYING A BOURGEOIS MODEL OF MAN

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.144-5.

The charge of using question-begging individualist premises can be brought against Rawls in a subtler way, though ultimately, in my view, with no greater success. Thus C. B. Macpherson (whom we have already encountered in the previous chapter as a critic of contract theory) objects to the portrayal of the interests of the Rawlsian contractors as necessarily conflicting; this, he points out, need be so only if their desire for the primary social goods is infinite, whence he deduces that Rawls operates here with a bourgeois 'model of man'.

MPP3-607 RAWLS INAPPROPRIATELY ABANDONS THE SENSE OF MERIT

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.185.

In response to such hard-luck stories John Rawls finds it necessary to fly against merit as such in his *Theory of Justice*, on the grounds that all of our skills and talents and even our motivation is ultimately a matter of luck and out of our hands. But this is overshooting the target and sacrificing a good chunk of justice (and our intuitions about justice) along with it. It is true that we should not place so much faith in the market where justice is concerned, but it does not follow that we should reject our sense of merit and worth as well. It may sometimes be unclear just who is in a position to judge our worth, but it does not follow either that we should leave it up to the market (as Friedrich von Hayek has long argued) or that we should (or can) give it up altogether, as Rawls suggests.

MPP3-608 NATURAL TALENTS SHOULD NOT BE TREATED AS A COMMON ASSET

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.220-1.

If there were a distributor of natural assets, or if the distribution of factor endowments resulted from a social choice, then we might reasonably suppose that in so far as possible shares should be equal, and that a larger than equal share could be justified only as a necessary means to everyone's benefit. But this would be to view persons as the creatures of a distributor--a God or a non-instrumental Society--and not as rational and individual actors. In agreeing with Rawls that society is a co-operative venture for mutual advantage, we must disagree with his view that natural talents are to be considered a common asset. The two views offer antithetical conceptions of both the individual human being and society.

MPP3-609 RAWLS TREATS PERSONS SOLELY AS SOCIAL INSTRUMENTS

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.254.

In supposing that the just distribution of benefits and costs in social interaction is not to be related to the characteristics of the particular individuals who make up society, Rawls violates the integrity of human beings as they are and as they conceive themselves. In seeking to treat persons as pure beings freed from the arbitrariness of their individuating characteristics, Rawls succeeds in treating persons only as social instruments. In denying to each person a right to his individual assets, Rawls is led to collectivize those assets. In his argument morality is divorced from the standpoint of the individual actor.

MPP3-610 RAWLS' SYSTEM CREATES FREE RIDERS

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.220.

It is clear that Rawls would require persons to bargain from a position of equality, not only with respect to initial rights to goods, but also with respect to initial rights to personal powers and capacities. Those who are more capable or more fortunate than their fellows must not only refrain from taking advantage of others, as the proviso requires, but they must give advantage to others as a condition of benefiting themselves. For Rawls morality demands the giving of free rides; no other interpretation can be put on the insistence that talents be treated as a common asset.

MPP3-611 RAWLS' PRIORITY OF BASIC LIBERTIES IS ARBITRARY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.146.

Innumerable critics of Rawls have protested, for example, against the arbitrariness of his awarding top priority to basic liberties and bottom priority to economic goods (above whatever minimum is needed to make the basic liberties 'effective'). Rawls's contention is that this would be the evaluation of any rational self-interested person in the original position (that is, behind the veil of ignorance). Now, a case might be made for this priority for some of Rawls's basic liberties (for example, freedom of the person, or freedom from arbitrary arrest - arguably no tolerable life is possible without these), but scarcely for all. It may indeed be right to prefer freedom of conscience, freedom of speech, democratic rights and so on to greater wealth, but this is exactly what Rawls has to show. His contractarian premises do nothing in this direction. Like so many of his predecessors, he seems to attribute his own values to the contractors who, for theoretical purposes, represent mankind in general.

MPP3-612 RAWLS OVEREMPHASIZES CIVIL AND POLITICAL RIGHTS OVER ECONOMIC WELFARE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.88.

What is "distinctive" about Rawls, as Brian Barry indicates, is that he "plays down" the importance of "wealth" and "power" in favor of civil and political rights. Apparently, Rawls disregards the pervasive connection of the primary goods of wealth and power with the primary good of self-respect. That the excessive accumulation of wealth and power could actually undermine self-respect among individuals and promote inequality of opportunities in society is something that Rawls does not consider in depth.

MPP3-613 RAWLS' THEORY IGNORES EMOTION

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.45-6.

And when John Rawls invokes the persuasive notion of "reflective equilibrium"--the idea that we should go back and forth between our feelings ("intuitions") and our theory, adjusting each in the light of the other--I get suspicious, because the feelings all but drop out of the picture, or get regularly chastised (where they disagree with the theory) as irrational. What upsets me is that so many theorists and ideologues, convinced of the rationality of their ideas about justice, manage to ride roughshod over tender feelings of compassion and deride those who take them seriously as "bleeding hearts" and "do-gooders." I suggest that instead we distrust all theories and give some renewed credence to our passions.

MPP3-614 RAWLS MAKES US SPECTATORS TO OUR OWN ENGAGEMENTS

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.243-4.

But the critical point is that we learn about justice and injustice not as mere spectators ("ideal" and "impartial" or otherwise) but by being engaged in the world. (Rousseau's idea that we are "naturally" compassionate doesn't seem to explain this critical connection, and John Rawls's vision of persons as rational decision-makers makes our engagement, at best, once-removed, as if we were impartial spectators of our own engagements.

MPP3-615 EXCESSIVE RATIONALISM UNDERMINES AUTHENTIC JUSTICE

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.200.

This general observation has led many generations of moralists, from Aristotle to Kant to John Rawls, to conclude that morality and justice have at least as much to do with the motives and intentions behind the action as with the actual action and its consequences. Thus the insight that morality and justice require the right reasons becomes the over-intellectualized proposition that our reasons for acting must themselves be the product of reason (a natural pun and the source of much mischief in philosophy). This proposition in turn supports the intellectualist demand that our reasons consist of general (if not "a priori") principles rather than any personal inclinations or feelings. But surely a good reason for helping another person in need, for example, is "I felt sorry for him." indeed, one is hard put to think of another reason that is so convincing.

MPP3-616 JUSTICE PRESUPPOSES EMOTION

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.200.

Emotion is not opposed to reason, and to insist on separating our feelings from our most fundamental ideas is already to rip apart our subject matter so that it will never be comprehensible. Our sense of justice is not opposed to sympathy but presupposes it. A sense of justice is an extremely complex amalgam of many conflicting passions, in which such emotions as sympathy (but perhaps not sympathy as such) are crucial ingredients.

MPP3-617 BOTH KANT AND RAWLS IGNORE THE EMOTIONS

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.199.

Needless to say, this account of justice and, more generally, of morality, is very much at odds with the reigning tradition of ethical thought today. That tradition is best represented by if not also derived from the singularly brilliant philosophy of Immanuel Kant, perhaps the most important philosopher of modern times. Today, that tradition is well represented by John Rawls at Harvard and his much-discussed theory of justice. It is a tradition that virtually dismisses all emotions--including compassion and sympathy--from serious moral consideration.

MPP3-618 RAWLS' CONCEPT OF RATIONALITY IS TOO NARROW

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.106.

The third objection against Rawls's theory is that he is operating with a defective concept of rationality. If so, this vitiates his whole political theory. Rawls understands rationality in a narrow sense. A person is rational if he or she uses the best available means to achieve a particular end. Although this might be a necessary condition for ascribing rationality to a person, it is certainly not a sufficient condition for doing so. Our understanding of this concept is richer than Rawls's interpretation of it. Our concept of rationality, which is broader, involves not only the effectiveness of the means to achieve a definite goal, but, more important, the assessment of goals themselves.

MPP3-619 KANTIAN FORMALISM UNDERMINES RAWLS' THEORY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.92-3.

If this is correct, then Rawls's political philosophy suffers from a Kantian formalism. From the fact that we as noumenal selves (situated behind a veil of ignorance) would choose Rawls's principles of justice, it does not follow that we as phenomenal selves, as actual human beings, would choose these principles. The formalism that one finds in Kant's ethics and politics surfaces again in Rawls's political philosophy. In this pejorative sense Rawls's theory is undeniably Kantian, but I agree with Rawls that his theory is also Kantian in a positive sense: Rawls, like Kant, recognizes the priority of liberty and a right to equal respect and consideration.

MPP3-620 RAWLS FOCUSES ON ISOLATED INDIVIDUALS

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.97.

Indeed, the basic unit of almost all of the leading theories of justice, from Hobbes and Rousseau to Rawls and Nozick, is the isolated, autonomous individual. Society is secondary. But where in this picture do love and family come in? How about neighbors and friends and the notions of membership and citizenship? Indeed, how do such autonomous individuals form any relationships at all, except perhaps a business partnership or a political alliance? If we don't understand such essential human relationships, we certainly won't understand justice.

MPP3-621 RAWLS IGNORES OUR STATUS AS SITUATED BEINGS

Robert Solomon, Professor of Philosophy, University of Texas, *A PASSION FOR JUSTICE*, 1990, p.214-15.

One of the more specialized arguments, but one which has carried great weight from the Platonic dialogues to the neo-Kantian ethics of John Rawls, is the idea that ethics and rationality are about universal categories, not particular people or situations. An ethical principle has the form "always do such and such, regardless of the particular circumstances." But our emotions are always situated. One loves a particular person. Or one loves a great many particular persons. And if one loves humanity or humankind (that is, really loves people as opposed to the abstract category alone--as is often said of those two brilliant misanthropes Rousseau and Marx) one loves (or would be capable of loving) each and every human being.

MPP3-622 RAWLS' CONCEPT OF THE MORAL SUBJECT IS IMPLAUSIBLE

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.228-9.

Michael Sandel argues that we cannot adopt the stance of the 'original position' and therefore we have no grounds for accepting Rawls's two principles or any other liberal principles chosen in such a hypothetical contract. His argument is addressed to both the contractarian method and the conception of liberalism it is supposed to justify, but I shall focus primarily on the critique of contractarianism. The first part of the argument against Rawlsian contractarianism is that it presupposes an implausible conception of the moral subject, the second part of the argument extends this critique of 'justice as impartiality' into a 'motivation' problem.

MPP3-623 RAWLS FAILS TO ACKNOWLEDGE THAT PEOPLE ARE THE PRODUCT OF COMMUNAL ATTACHMENTS

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.229.

But in appealing to this Kantian conception of the moral subject, Rawls is himself adopting a particular and by no means uncontested conception of the subject. Against this Kantian view of the subject as pre-socially individuated - one whose identity is prior to his desires, beliefs and constitutive commitments - Sandel contrasts a conception of the self as situated in particular social relationships and practices so that the possibility of practical reason is itself only conceivable in the context of such communal practices or shared conceptions of the good. Communitarian arguments typically refer to both Aristotle and Hegel as sources of the view that identities are embedded in, or the product of, communal attachments. The point here is that Rawls's conception of the subject is just as much a consequence of a particular philosophical anthropology as that of Aristotle, Hegel or contemporary communitarians, and that it violates the neutrality of his starting-point, namely that the right is prior to, and therefore neutral between, conceptions of the good.

MPP3-624 RAWLS' CONTRACTUALISM IMPROPERLY ASSUMES IMPARTIALITY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.25-6.

Sandel's primary target is Rawls's reassertion of the Kantian idea of justice or morality as impartiality. This idea of justice as impartiality, it is argued, is unsustainable because it is unattainable; there is no Archimedean point from which we can adopt an impartial perspective that will at the same time provide individuals with a reason for suspending their partiality. The social contract device used by Rawls cannot provide such an Archimedean perspective because even if it were not flawed it cannot provide individuals with a reason for adopting the impartial perspective, as impartiality is already built into its structure. The communitarian's point is that social contract arguments cannot provide a moral motivation unless one is already inclined to accept a conception of the individual as a free and equal subject separable from his or her constitutive attachments, and if one already accepts such a view then the social contract serves no useful purpose in justifying justice.

MPP3-625 CONTRACT THEORIES ASSUME MORAL OBLIGATIONS AREN'T PRIOR TO THE CONTRACT

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.237.

Yet by focusing justification on consensual agreement social contract theory does at least traditionally claim that obligation is based on the contract. Crude contractarianism which tries to build agreement on self-interest certainly assumes that obligations are not prior to the contract. Indeed such theories are premised on the view that if one could gain all one wanted without cooperating with others there would be no reason to assume any obligations at all. Few contemporary theorists take seriously this crude version of contractarianism because it begs too many questions. However, even hypothetical contract theories such as Rawls's still have a similar problem justifying obligations because they still take the form of a collective agreement, apart from the obvious difficulty of a counterfactual agreement, creating a real obligation. Even if such a collective agreement is likely to be forthcoming, given certain constraints of the sort built into a hypothetical contract arguments, that does not necessarily entail that an individual has a reason to act as if the agreement has already been achieved. And given the problem of pluralism such agreement is much less likely than in the abstract world of hypothetical contracts.

MPP3-626 CHANGING BELIEFS UNDERMINE RAWLS' THEORY OF JUSTICE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.91.

This attitude could undermine the nonconditional character of Rawls's principles of justice. If people in the original position believe that they might revise and probably even change their beliefs, interests, goals, and values in life, it would be unreasonable for them unanimously and unconditionally to accept Rawls's principles of justice. The most that could be expected from the people in the original position would be that they would accept these principles provided that Rawls's assumptions about a well-ordered society would remain the same. Once any of Rawls's basic assumptions are challenged, it seems the Rawlsian edifice will inevitably collapse.

MPP3-627 JUSTICE ISN'T NECESSARILY OUR HIGHEST DUTY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.96.

On the other hand, concepts of justice might not be as important as Rawls wants to argue. Even if we have a natural duty to promote just institutions, it does not follow that this is our weightiest obligation. Conflicts of duties and obligations are unavoidable, and it is not clear which would prevail.

MPP3-628 CONTRACTUALISM OVERSTRESSES STABILITY AT THE EXPENSE OF OTHER VALUES

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.237.

Consensual promise is no doubt important in maintaining a stable political regime over time, but surely only if that order has some other claim to legitimacy. Liberalism is not simply concerned with maintaining stability in any political order: stability is only one among a number of core liberal values. Similarly, the point of a philosophical justification of liberalism is to provide individuals with a reason to respect or institutionalize core liberal values in circumstances where they are insufficiently recognized.

MPP3-629 CONSENSUS SHOULDN'T BE THE PRIMARY GOAL OF POLITICAL THEORY

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.236.

By claiming that discontinuity theories sacrifice categorical force to consensual promise, Dworkin claims that social contract theories look in the wrong place for a justification of liberal principles. Political Liberalism is presented as a theory around which an 'overlapping consensus' can be formed. The task of political theory for Rawls, and according to Dworkin for the whole social contract tradition, is to provide some grounds on which people of profoundly differing views can come to some consensus on how to live together. This is certainly an urgent and weighty consideration for any realistic theory to accommodate, but should it be the primary concern? Dworkin suggests not.

MPP3-630 CONTRACT THEORY OFFERS THE BEST BASIS FOR MORALITY

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.17.

A contractarian theory of morals, developed as part of the theory of rational choice, has evident strengths. It enables us to demonstrate the rationality of impartial constraints on the pursuit of individual interest to persons who may take no interest in others' interests. Morality is thus given a sure grounding in a weak and widely accepted conception of practical rationality. No alternative account of morality accomplishes this.

MPP3-631 CONTRACTUAL JUSTICE IS SELF-REINFORCING

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.182.

But if we find ourselves in the company of reasonably just persons, then we too have reason to dispose ourselves to justice. A community in which most individuals are disposed to comply with fair and optimal agreements and practices, and so to base their actions on joint co-operative strategies, will be self-sustaining. And such a world offers benefits to all which the Fools can never enjoy.

MPP3-632 THE JUST SOCIETY IS DEFINED BY THE SOCIAL CONTRACT WHICH ALL RATIONAL PERSONS WOULD ENTER

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.234.

If we then ask what social structure, what institutions and practices, would command the rational agreement of all individuals, as determining the social conditions for their existence, we find the answer in the choice of an actor from the Archimedean point. For that choice, as we shall show, reflects all capacities and preferences in the only way possible prior to the determination of actual, particular individuals. We may thus identify the moral capacity to shape society with the capacity to determine the social contract into which all rational persons must enter.

MPP3-633 GAUTHIER ARGUES THAT MORAL RULES CAN BE ESTABLISHED ON A CONTRACTUAL BASIS

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.211.

The central aim of David Gauthier's *Morals by Agreement* is to derive principles of morality, or justice, from the starting-point of the agent as a rational, self-interested (non-tuist) utility-maximizer. 'Morality', Gauthier argues, '... can be generated as a rational constraint from the non-moral premises of rational choice'. Self-interest, as Gauthier recognizes, is an unproblematic motive for human action. If Gauthier can demonstrate that the rules of morality further our interests, it is not difficult for him to explain the authority of morality, that is, why we would act in accordance with moral precepts. Gauthier's argument takes the form of a hypothetical social contract. The liberal idea that legitimacy flows from agreement underlies contractarian arguments: the rules which constrain individuals' behaviour are legitimate only if they are consented to; and Gauthier can show that the moral rules generated by his argument would be consented to by rational agents because they are in each person's interests.

MPP3-634 JUSTICE SHOULD BE BASED ON PRINCIPLES OF RATIONAL SELF-INTEREST

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.213.

On Gauthier's conception of morals by agreement, the principles of justice or morality are principles of self-constraint which are instrumentally rational to the pursuit of self-interest, correctly understood. They are what rational agents would agree to as mutually beneficial to the pursuit of their individual self-interest. Specifically, Gauthier argues that rational agents would agree to cooperate with each other because this is mutually advantageous; that only bargains which proceed from a fair initial position and which divide the fruits of cooperation fairly (in accordance with his Principle of Minimax Relative Concession) would be agreed to by rational agents; and, furthermore, that rational agents would comply with the (fair) agreements that they make. At each stage of the argument, Gauthier is anxious to demonstrate not only the individual rationality of cooperation and compliance and the terms of cooperation, but also that the terms of cooperation can plausibly be described as moral principles.

MPP3-635 MUTUAL ADVANTAGE IS NECESSARY FOR AN ACCEPTABLE SOCIETY

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.11.

Affording mutual advantage is a necessary condition for the acceptability of a set of social arrangements as a co-operative venture, not a sufficient condition. But we suppose that some set affording mutual advantage will also be mutually acceptable; a contractarian theory must set out conditions for sufficiency.

MPP3-636 GAUTHIER GROUNDS MORALITY IN THE RATIONAL AGREEMENT OF UTILITY MAXIMIZERS
David Boucher and Paul Kelly, Professors of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, 1994, p.3.

Gauthier, on the other hand, clearly attempts to ground morality in the rational agreements of utility maximizers who from their different bargaining positions negotiate constraints. His is not, however, a utilitarian theory in that its concern is not with the aggregate benefit of all or the majority, but rather with the relative benefit of each individual. That said, Gauthier's argument is intended only to ground a very narrow conception of 'morality' as he claims the bargain applies only to the distribution of the 'cooperative surplus', that is the difference in the economic product of a society that results from social cooperation. The bargaining position from which each individual starts is shaped by a Lockian conception of property rights. Consequently, what each individual bargains for is the 'maximum relative benefit', or the maximum benefit that an individual could hope to achieve compared with what each would have achieved by the deployment of his or her property in the absence of social cooperation. It is precisely this restriction in the scope of the bargain and Gauthier's own account of what might be called the original position from which the bargain has been struck that has led to the criticism that he cannot be said to provide a contractarian basis for morality.

MPP3-637 DISPOSITION TO JUSTICE MAXIMIZES SELF-INTEREST

David Gauthier, Professor of Philosophy, University of Pittsburgh, MORALS BY AGREEMENT, 1986, p.182.

Only the person truly disposed to honesty and justice may expect fully to realize their benefits, for only such a person may rationally be admitted to those mutually beneficial arrangements--whether actual agreements or implicitly agreed practices--that rest on honesty and justice, on voluntary compliance. But such a person is not able, given her disposition, to take advantage of the 'exceptions'; she rightly judges such conduct irrational. The Fool and the sensible knave, seeing the benefits to be gained from the exceptions, from the advantageous breaches in honesty and compliance, but not seeing beyond these benefits, do not acquire the disposition. Among knaves they are indeed held for sensible, but among us, if we be not corrupted by their smooth words, they are only fools.

MPP3-638 CONSENSUAL MORAL STANDARDS CAN BE AGREED TO BY RATIONAL CHOICE

David Gauthier, Professor of Philosophy, University of Pittsburgh, MORALS BY AGREEMENT, 1986, p.9.

Morals by agreement offer a contractarian rationale for distinguishing what one may and may not do. Moral principles are introduced as the objects of fully voluntary ex ante agreement among rational persons. Such agreement is hypothetical, in supposing a pre-moral context for the adoption of moral rules and practices. But the parties to agreement are real, determinate individuals, distinguished by their capacities, situations, and concerns. In so far as they would agree to constraints on their choices, restraining their pursuit of their own interests, they acknowledge a distinction between what they may and may not do. As rational persons understanding the structure of their interaction, they recognize a place for mutual constraint, and so for a moral dimension in their affairs.

MPP3-639 ALL VALUE RESTS ON SUBJECTIVE PREFERENCE

David Gauthier, Professor of Philosophy, University of Pittsburgh, MORALS BY AGREEMENT, 1986, p.25.

The conditions of rational preference do not require that the preferences of different persons be cast in a common mould. Each person's preferences determine her values quite independently of the values of others. Thus a state of affairs is characterized not by a single value, but by a set of values, one for each person into whose preferences it does or may enter. Value does not afford a single uniform measure of preference but a measure relative to each valuer. And although values are ascribed to states of affairs, the ascription is attitudinal, not observational, subjective, not objective. As a measure of preference value is and must be contingent on preferences for its very existence. Thus the theory of rational choice treats value as a subjective and relative measure, not as an objective and absolute standard.

MPP3-640 SUBJECTIVISM DOESN'T MAKE VALUES ARBITRARY

David Gauthier, Professor of Philosophy, University of Pittsburgh, MORALS BY AGREEMENT, 1986, p.48.

Subjectivism is not to be confused with the view that values are arbitrary. As we have insisted, if utility is to be identified with value, it must be the measure of considered preference. Values are not mere labels to be affixed randomly or capriciously to states of affairs, but rather are registers of our fully considered attitudes to those states of affairs given our beliefs about them. Although the relation between belief and attitude is not itself open to rational assessment, it is not therefore arbitrary.

MPP3-641 VALUE ULTIMATELY RESTS ON SUBJECTIVE PREFERENCE

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.59.

Value, then, we take to be a measure of individual preference--subjective because it is a measure of preference and relative because it is a measure of individual preference. What is good is good ultimately because it is preferred, and it is good from the standpoint of those and only those who prefer it.

MPP3-642 NATURAL SYMPATHY IS INHERENTLY LIMITED

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.100-1.

The assumption of mutual unconcern may be criticized because it is thought to be generally false, or because true or false, it is held to reflect an unduly nasty view of human nature, destructive not only of morality but of the ties that maintain any human society. But such criticism would misunderstand the role of the assumption. Of course persons exhibit concern for others, but their concern is usually and quite properly particular and partial. It is neither unrealistic nor pessimistic to suppose that beyond the ties of blood and friendship, which are necessarily limited in their scope, human beings exhibit little positive fellow-feeling. Where personal relationships cease only a weak negative concern remains, manifesting itself perhaps in a general willingness to refrain from force and fraud if others do likewise, and in a particular willingness to offer assistance in extreme situations--for example, in the desire to aid victims of disasters, even at greater cost than would have been needed to prevent the disaster. But this limited concern is fully compatible with the view that each person should look after herself in the ordinary affairs of life, with a helping hand to, and from, friends and kin.

MPP3-643 RIGHTS ARE PRIOR TO, NOT DERIVED FROM THE SOCIAL CONTRACT

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.222.

Contractarianism offers a secular understanding of rights. But the idea of morals by agreement may mislead, if it is supposed that rights must be the product or outcome of agreement. Were we to adopt this account, we should suppose that rights were determined by the principle of minimax relative concession. But as we have seen the application of this principle, or more generally, the emergence of either co-operative or market interaction, demands an initial definition of the actors in terms of their factor endowments, and we have identified individual rights with these endowments. Rights provide the starting point for, and not the outcome of, agreement. They are what each person brings to the bargaining table, not what she takes from it. Market and co-operative practices presuppose individual rights. These rights are morally provided in the proviso. And the rights so grounded prove to be the familiar ones of our tradition--rights to person and to property.

MPP3-644 THE POTENTIAL FOR COOPERATION CREATES RIGHTS

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.222.

It is only that prospect of mutual advantage which brings rights into play, as constraints on each person's behaviour. It is that prospect which enables rights to coexist with the assumption of mutual unconcern. The moral claims that each of us makes on others, and that are expressed in our rights, depend, neither on our affections for each other, nor on our rational or purposive capacities, as if these commanded inherent respect, but on our actual or potential partnership in activities that bring mutual benefit.

MPP3-645 PROPERTY RIGHTS BENEFIT ALL

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.216-17.

Exclusive rights of possession may afford benefits to all, because they give individuals the security needed for it to be profitable to themselves to use the resources available to human beings in more efficient and productive ways. They transform a system in which each labours on a commons to meet her own needs into a system in which each labours on her own property and everyone's needs are met through market exchange. Individual self-sufficiency gives way to role specialization. The division of labour opens up new ways of life, with opportunities and satisfactions previously unimagined. Thus the mutually beneficial nature of exclusive rights of possession provides a sufficient basis for their emergence from the condition of common use which is the final form of the state of nature.

MPP3-646 PURE REDISTRIBUTION ISN'T JUSTIFIED ON CONTRACTARIAN GROUNDS

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.16.

Our theory denies any place to rational constraint, and so to morality, outside the context of mutual benefit. A contractarian account of morals has no place for duties that are strictly redistributive in their effects, transferring but not increasing benefits, or duties that do not assume reciprocity from other persons. Such duties would be neither rationally based, nor supported by considerations of impartiality.

MPP3-647 THE MARKET'S IMPERSONALITY MAKES IT LIBERATING

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.102.

The impersonality of market society, which has been the object of wide criticism, and at the root of charges of anomie and alienation in modern life, is instead the basis of the fundamental liberation it affords. Men and women are freed from the need to establish more particular bonds, whether these be affective or coercive, in order to interact beneficially. The division between siblings and strangers disappears, and is not replaced by a new division in which subjects co-operate only so long as they remain under the watchful eye of Big Brother. Against the market background of mutual unconcern, particular human relationships of trust and affection may flourish on a voluntary basis. Those who hanker after the close-knit relationships of other and earlier forms of human society are in effect seeking to flee from the freedom to choose the persons in whose interests they will take an interest.

MPP3-648 REJECTING THE MARKET INHERENTLY CONSTRAINS FREEDOM

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.261.

The ideal actor therefore chooses the market in conditions of perfect competition. No other choice is compatible with her insistence on freedom constrained only by the proviso, and optimality. Since each person in the market pays the costs of the benefits he enjoys, any alternative to the market, involving a different distribution of costs and benefits, would necessarily involve a displacement of costs through which some would better their situation by worsening that of their fellows. Any alternative would therefore constrain freedom so that advantage might be taken.

MPP3-649 THE FREE MARKET IS RATIONAL AND MORAL

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.262.

For the connection between rational choice, impartiality, and market interaction that our argument reveals deserves strong emphasis. The market, as we saw in Chapter IV, creates a morally free zone, but it is itself a rational and moral creation. The conditions for market interaction are not always present, but their absence is never without loss for rational actors. From the Archimedean point the market is chosen as itself an ideal.

MPP3-650 THE MARKET IS MORE EGALITARIAN THAN GOVERNMENT

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.270.

In its proper realm, the market is in fact an equalizing force in human affairs, eliminating the violations of the proviso that characterize slave, serf, and caste societies. The effect of subordinating the market to some form of political control is typically to reintroduce violations of the proviso and to run roughshod over fairness in the terms of co-operation, as the so-called socialist societies of the Eastern bloc bear eloquent witness. Rather than suppressing the market, what is needed is its supplementation by co-operative institutions and practices that assure the optimal supply of public goods.

MPP3-651 MARKET BASED INDIVIDUALITY NEED NOT BE LIBERATING

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.104

The critic need not deny that individuality, except as the privilege of a numerically insignificant elite, has emerged only in quasi-market societies, to argue that nevertheless this individuality proves self-destructive, so that the liberation achieved by a society that encourages mutual unconcern ends in alienation. But we have hope of a happier ending, and we shall conclude our study with a sketch of the liberal individual who, we shall suggest, enjoys the free affectivity that a society based on purely rational constraints allows.

MPP3-652 THE LACK OF PERFECT MARKETS UNDERMINES LAISSEZ-FAIRE AS A POLICY PRESCRIPTION

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.93.

But we must emphasize that our argument does not entail defence of laissez-faire in economic practice. For its traditional advocates supposed, as we do not, that the perfectly competitive market is realized, or almost realized, or at least could be realized, in most of our economic transactions. They failed to appreciate the unavoidable presence of externalities in almost all contexts--or, if they recognized their presence, underestimated their magnitude. Hence they derived policy conclusions from their basic normative stance that in fact require empirical premisses that seem false or at best doubtful. Our concern is to show that there would be a morally free zone in ideal interaction, not to argue for its presence in most of our daily activities.

MPP3-653 TREATING CULTURES AS SACRED RETARDS
HUMAN ADVANCEMENT

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.296.

To say that European technology rendered the culture of Indians and Inuit obsolete is neither to denigrate that culture nor to diminish the achievements of those individuals who developed it. The obsolescence of cultures shows only that human advancement, as measured by the criteria of 5.1, continues. Those who would condemn the supplanting of one culture by another as 'cultural genocide' would seem to prefer that human beings serve as live museum pieces in an unending re-enactment of past roles, rather than that they be freed to participate in the course of human development.

MPP3-654 THE CRITERIA FOR ADVANCEMENT ARE
GENERALLY SHARED

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.288-9.

How may we defend these criteria? We appeal to what seem plain facts about human preferences. Although not all human beings wish to reproduce, yet most do, and certainly most wish the opportunity to do so, should they choose. A society that supports a larger population, with longer life spans, gives persons more effective opportunities for successful reproduction. Again, although not all human beings wish long lives, yet most do, and wish them also for friends and kin. A society that offers greater average duration of life answers this wish. The desire for material well-being is manifested primarily among those who believe it possible--who see the world as a place of increasing wealth. Among those who do see the world in this way, the desire is widespread and even more widespread is the wish to have the opportunity to seek greater material well-being should one so choose. A society that affords a higher average level of material well-being answers this wish; it gives its members an option lacking in a materially impoverished society.

MPP3-655 THOSE WHO RECEIVE WIDER
OPPORTUNITIES UNIVERSALLY PREFER THEM

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.289.

Again, the desire for a broad range of vocational and avocational opportunities, among which one may choose, is manifested primarily by persons who are socialized to conceive themselves as free, autonomous individuals, and not as born to play some predetermined social role. The members of a primitive group of hunter gatherers do not think in terms of choosing among diverse opportunities. But preference development here is unidirectional; as persons come to be aware of a broadening range of opportunities, they want to be free to choose among them, as persons find themselves faced with a narrowing range, they regret the loss of freedom that it brings. A society that broadens the range of opportunities effectively available to its members provides ever more fully for the varied capacities and talents, the varied preferences and attitudes, that individuate human beings. In V111.4.2, we saw that the fundamental choice of the ideal actor is to use her powers to fulfil her preferences to the maximum extent possible. But then the ideal actor must also choose a society that affords its members the widest choice among vocational and avocational roles, the broadest range of opportunities, as the most effective means to realize that fundamental choice.

MPP3-656 WESTERN CIVILIZATION IS THE MOST
ADVANCED

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.289-90.

The four criteria give us a normative perspective from which we may assess many of the interactions among peoples practicing different ways of life. It will not have escaped the reader's attention, or--at this stage of our argument--surprised him, to realize that among human societies the criteria are satisfied preeminently by our own, modern Western civilization. We note but one illustration. At the beginning of the present century, average duration of life, world wide, was between thirty and forty years. Eighty years later, it is over sixty years. Since the hypothetical minimum for human beings is about twenty years (the species could not effectively reproduce itself, and so survive, were average duration of life lower), in the present century the life span of men and women has increased at least as much, and perhaps significantly more, than it had throughout all previous human history. That increase may be attributed primarily to specifically Western ideas of sanitation, and a technology to implement those ideas, supplemented by specifically Western advances in nutrition, agricultural productivity, and transportation. Whatever the motivation of the merchants, soldiers, and missionaries who set out from Europe and America, their contact with the other peoples of the world has finally led to the doubling of those peoples' life expectancies. As an imperial legacy, there have been worse.

MPP3-657 SOME WAYS OF LIFE CAN BE RATIONALLY CLASSIFIED AS MORE ADVANCED

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.288.

We begin by formulating four criteria for classifying one way of life as more advanced than another, as exhibiting a higher stage of human development. The first, and perhaps the least important, is density of population: other things being equal, A is a more advanced way of life than B if it enables a larger number of persons to inhabit a given territory. The second is duration of life: other things being equal, A is a more advanced way of life than B if it enables those who practice it to enjoy, on average, a longer life span. The third is material well-being: other things being equal, A is a more advanced way of life than B if it enables those who practice it to enjoy, on average, a greater abundance, and more varied kinds, of material goods. And the fourth, and most important, is breadth of opportunity: other things being equal, A is a more advanced way of life than B if those who practice it enjoy, on average, a choice among more diverse and varied vocational and avocational roles.

MPP3-658 CULTURES HAVE NO RIGHT TO SURVIVE

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.288.

The idea that ways of life have a right to survive--an idea expressed in that extraordinary conception, cultural genocide--is a recent arrival on the moral scene. It is also a thoroughly misguided idea. Individuals matter; ways of life matter only as expressing and nurturing human individuality.

MPP3-659 INEQUALITY WHICH ARISES FROM IMPARTIAL PRACTICES IS LEGITIMATE

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.270.

Equality is not a fundamental concern in our theory. In arguing that social institutions and practices are justified by appeal to a hypothetical *ex ante* agreement among fully informed and rational persons, we have appealed to the equal rationality of the bargainers to show that their agreement satisfies the moral standard of impartiality. But impartial practices respect persons as they are, the inequalities among them as well as the equalities. Since the perfectly competitive market provides a framework for interaction that leaves each individual with the full liberty enjoyed by a Robinson Crusoe, we should not be surprised that the natural inequalities that would be manifested by different Robinson Crusoes reappear as market inequalities. Since no one is in a position to take advantage of any other person, pure market inequalities no more reveal unfairness than do inequalities among isolated, non-interacting individuals. Those who are able to supply more factor services to the market may expect to enjoy a preferred share of the private goods, such as food, clothing, housing, private transportation and recreation, that the market provides.

MPP3-660 EQUALITY HURTS EVERYONE BY UNDERMINING INCENTIVES TO PRODUCE

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.278-9.

But in our world, in which human effort increases the total supply, particularly of material goods, a restriction to equal appropriation would disadvantage everyone. Those who seize personally beneficial opportunities frequently also create new opportunities as a result of their activities. The first-comer may of course be the greatest beneficiary of her own activity. But everyone may reasonably expect to benefit more, from the opportunities that the activity creates, than if the first-comer had constrained her appropriation by leaving opportunities for others equal to the one she took for herself. One leaves others more, or rather, one creates more for them, by not leaving them literally 'as good'. The recognition of this fundamental practical truth has been one of the central ideas of modern Western society, enabling it to succeed to an extent unparalleled in human history in harnessing the seizure of personally advantageous opportunities by some individuals to the creation of enlarged opportunities for others.

MPP3-661 INTERNATIONAL INEQUALITY IS NOT ON FACE UNJUST

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.287.

For it is sometimes supposed that the mere fact of inequality--and mere fact that some peoples are so much better off than others, and that their well-being increases so much more rapidly--is indicative of injustice. Our story should reveal the fallaciousness of this view. It may be that Laos or Mali, Bourkina Fasso or Ethiopia, would be even poorer, and America or Switzerland even richer, were they to inhabit different islands with no contact between them. It may be that inequalities are increasing, not because the well-to-do are profiting at the expense of the poor, but because the internal rate of growth that the wealthy nations can fairly sustain exceeds what is possible for the poor, and more than balances the benefits that co-operation brings to less developed countries.

MPP3-662 CONTRACT THEORY WOULD REJECT ANIMAL RIGHTS

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.17.

Our theory does not assume any fundamental concern with impartiality, but only a concern derivative from the benefits of agreement, and those benefits are determined by the effects that each person can have on the interests of her fellows. Only beings whose physical and mental capacities are either roughly equal or mutually complementary can expect to find cooperation beneficial to all. Humans benefit from their interaction with horses, but they do not co-operate with horses and may not benefit them.

MPP3-663 SOCIAL CONTRACT THEORY EXCLUDES ANIMALS

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.285.

Behaviour towards animals is quite straightforwardly utility-maximizing, although it may be affected by particular feelings for certain animals. In grounding morals in rational choice, we exclude relations with non-human creatures from the sphere of moral constraint.

MPP3-664 UTILITARIANISM IMMORALLY REDISTRIBUTES GOODS

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.105.

The utilitarian is therefore led to reject the outcome of perfect competition. If the utilitarian principle, requiring maximization of the welfare function, is applied in a market society, there must, it seems, be a redistribution of products from that realized in market equilibrium. But as we have shown, such a redistribution can satisfy neither our criteria for rational interaction nor our conception of morality. The utilitarian, in redistributing goods, necessarily imposes costs on some persons in addition to those that have fully paid for the benefits they received in free interaction, and confers benefits on others who have not paid their costs. A society that maximizes welfare thus creates free-riders and parasites.

MPP3-665 UTILITARIANISM CAN'T GUARANTEE RIGHTS IN A CHANGING SOCIETY

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.109.

This new picture should give us pause before we join the utilitarian celebration. Under static conditions basing rights on the utilitarian principle may seem acceptable. But the speciousness of this acceptability becomes apparent when we examine the dynamics of a society in which rights become subject to continual readjustment. It becomes apparent that, to quote Winch once more, 'The rights to factors are then vested in the government and their association with individuals is a temporary matter of convenience.' Although this vesting is implicit in the utilitarian account, it is concealed if the changes in rights resulting from economic development are ignored.

MPP3-666 CONTRACTARIANISM IS PREFERABLE TO UTILITARIANISM

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.128.

The idea of a bargain enables us to incorporate into our account of rational co-operative choice what is missing from the perspectives of social choice and utilitarianism--the active involvement of the cooperators. It also enables us to capture the requirement that agreement on a joint strategy be voluntary. A rational bargain ensures the participation of each in reaching an agreed outcome.

MPP3-667 A UTILITARIAN THEORY OF RIGHTS IS INCOHERENT

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.221.

Utilitarianism, as we saw in IV.4.1, leads inexorably to the view that 'rights ... are ... vested in the government and their association with individuals is a temporary matter of convenience'. If this view were not unacceptable on other grounds, we should have to ask how governments come to acquire or possess rights, a question not easily answered if one supposes governments to be instruments rather than masters of their citizens, but we may draw a decent veil of obscurity over this embarrassment to utilitarians.

MPP3-668 UTILITARIANISM IGNORES THE INDIVIDUALITY OF PERSONS

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.244-5.

John Rawls has stated, 'Utilitarianism does not take seriously the distinction between persons.' We agree, but even more, utilitarianism does not take seriously the individuality of persons. Our objection is not so much that the utility of one person may be sacrificed to that of others, but that each person is treated as a means to overall preference fulfillment. Utilitarianism violates the integrity of the individual as a being with his own distinctive capacities and preferences, and so with a distinctive utility, not interchangeable with the utilities of others, that he seeks to maximize.

MPP3-669 CONTRACTARIANISM DOESN'T NEGLECT HUMAN SOCIALITY

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.11.

The contractarian need not claim that actual persons take no interest in their fellows; indeed, we suppose that some degree of sociability is characteristic of human beings. But the contractarian sees sociability as enriching human life; for him, it becomes a source of exploitation if it induces persons to acquiesce in institutions and practices that but for their fellow-feelings would be costly to them. Feminist thought has surely made this, perhaps the core form of human exploitation, clear to us. Thus the contractarian insists that a society could not command the willing allegiance of a rational person if, without appealing to her feelings for others, it afforded her no expectation of net benefit.

MPP3-670 AUTONOMY EMERGES OUT OF THE PROCESS OF SOCIALIZATION

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.349-50.

We may assume that an individual begins with preferences and capacities that are, at least in part, socially determined. And we assume that the capacity by which an individual reflects self-critically on his preferences and capacities is also in part socially determined. In effect, we assume that human beings are socialized into autonomy. What matters is that their preferences and, within limits, their capacities are not fixed by their socialization, which is not a process by which persons are hard-wired, but rather, at least in part, a process for the development of soft-wired beings, who have the capacity to change the manner in which they are constituted.

MPP3-671 RATIONAL CHOICE REQUIRES ASSESSMENT OF PROBABILITIES

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.24.

But in most real-life situations, even if the environment may be treated as fixed, its characteristics are not fully known. And so the outcomes of some choices are risky or uncertain. (In the theory of rational choice, risk is associated with objective probability, uncertainty with subjective.) Choice among actions must then be based not solely on the utilities of their possible outcomes, but also on the probabilities of those outcomes.

MPP3-672 TRADITIONAL SOCIAL CONTRACT FAILS TO SHOW THE RATIONALITY OF COMPLIANCE

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.14-5.

Let it be ever so rational to agree to practices that ensure maximin relative benefit; yet is it not also rational to ignore these practices should it serve one's interest to do so? Is it rational to internalize moral principles in one's choices, or only to acquiesce in them in so far as one's interests are held in check by external, coercive constraints? The weakness of traditional contractarian theory has been its inability to show the rationality of compliance.

MPP3-673 THE ADVANCES OF WESTERN CIVILIZATION DISPLAY THE BENEFITS OF A CONTRACTUAL FRAMEWORK

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.17-8.

Moral relationships among the participants in a co-operative venture for mutual advantage have a firm basis in the rationality of the participants. And it has been plausible to represent the society that has emerged in western Europe and America in recent centuries as such a venture. For Western society has discovered how to harness the efforts of the individual, working for his own good, in the cause of ever-increasing mutual benefit. Not only an explosion in the quantity of material goods and in the numbers of persons, but, more important, an unprecedented rise in the average life span, and a previously unimaginable broadening of the range of occupations and activities effectively accessible to most individuals on the basis of their desires and talents, have resulted from this discovery. With personal gain linked to social advance, the individual has been progressively freed from the coercive bonds, mediated through custom and education, law and religion, that have characterized earlier societies. But in unleashing the individual, perhaps too much credit has been given to the efficacy of market-like institutions, and too little attention paid to the need for co-operative interaction requiring limited but real constraint. *Morals by agreement* then express the real concern each of us has in maintaining the conditions in which society can be a co-operative venture.

MPP3-674 CONTRACTUAL MORALITY RECONCILES INDIVIDUAL AND SOCIETY

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.19.

Natural harmony would require a higher level of artifice, a shaping of our natures in ways that, at least until genetic engineering is perfected, are not possible, and were they possible, would surely not be desirable. If human individuality is to bloom, then we must expect some degree of conflict among the aims and interests of persons rather than natural harmony. Market and morals tame this conflict, reconciling individuality with mutual benefit.

MPP3-675 SOCIAL CONTRACT THEORY PROVIDES THE BASIS FOR INTERGENERATIONAL JUSTICE

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.299.

The generations of humankind do not march on and off the stage of life in a body, with but one generation on stage at any time. Each person interacts with others both older and younger than himself, and enters thereby into a continuous thread of interaction extending from the most remote human past to the farthest future of our kind. Mutually beneficial co-operation directly involves persons of different but overlapping generations, but this creates indirect co-operative links extending throughout history. Each person, in considering the terms on which he is to co-operate with those in an earlier generation than himself, must keep in mind his need to establish similar terms with those of a later generation, who in turn must keep in mind their need to co-operate with members of a yet later generation, and so on. Thus, although each individual might be prepared to agree with his contemporaries that they should exhaust the world's resources without thought for those yet to be born, the need to continue any agreement as time passes, to extend it to those who are born as it ceases for those who die, ensures that, among rational persons, the terms must remain constant, so that exhaustion of the world's resources does not present itself as an option. No matter when one lives, one should expect the same relative benefits from interaction with one's fellows as were enjoyed by one's predecessors and as will be enjoyed in turn by one's successors.

MPP3-676 CONTRACTARIANISM IS CONSISTENT WITH MORAL FEELING

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.339.

A rational morality is contractarian. But this does not imply that it is of purely instrumental value to us. In relating morality to the provision of benefits that themselves involve no affective concern with others, we do not thereby impoverish the moral feelings of persons who have such concern. It is because we can give morality a rational basis that we can secure its affective hold.

MPP3-677 AN ACTUAL HISTORICAL CONTRACT ISN'T NEEDED TO ESTABLISH VIABLE MORAL PRINCIPLES

David Gauthier, Professor of Philosophy, University of Pittsburgh, *MORALS BY AGREEMENT*, 1986, p.168.

We may defend actual moral principles by reference to ideal co-operative arrangements, and the closer the principles fit, the stronger the defence. We do not of course suppose that our actual moral principles derive historically from a bargain, but in so far as the constraints they impose are acceptable to a rational constrained maximizer, we may fit them into the framework of a morality rationalized by the idea of agreement.

MPP3-680 SELF-INTEREST AND EQUALITY CAN'T BE EQUATED

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.223.

It would seem unfair to tie the distribution of goods to talents, if there is no guarantee that these talents will develop under fair or impartial conditions. However, as Jean Hampton has argued in her important article, it is not at all clear that proto-people, concerned with the development of their talents, would agree to the same rules or the same principles as determinate individuals, fully socialized, with developed factor endowments. If the social structure has favoured me, and I now possess rare and therefore lucrative abilities, why would I, a self-interested utility-maximizer, seek to change the social structure? This is a question which Gauthier does not answer - indeed, he does not even seem to recognize the tension between these two aspects of his theory - and it probably cannot be answered within the context of his theory. The question raises the limitations of a theory of self-interested reason. What makes that conception so powerful, so promising, is that it claims to demonstrate why we, as we are, should act in accordance with morality; but, in considering the requirements of impartiality, we are led to consider who we are, and whether the conditions that have shaped us are truly impartial. And here the marriage of morality and self-interested reason begins to unravel, as the impartiality requirement questions who the self-interested 'self' is, and the determinate 'self' of self-interested conceptions would not agree to an impartial social structure.

MPP3-681 GAUTHIER'S PRINCIPLES VIOLATE OUT INTUITIVE NOTIONS OF JUSTICE

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.222.

But if the argument presented here is correct, then Gauthier's noncooperative baseline has to be seen as arising from a strategic struggle for relative advantage, and the resulting principles of distribution would reflect the threat advantage of successful predators. This result threatens to jeopardize Gauthier's project of deducing moral principles from the starting-point of self-interested reason. Not only does it run counter to our most important intuitions about what is fair and just, but also it is difficult to see why the exercise of predatory powers (force and fraud) should constitute a morally relevant basis for distribution. Indeed, the justificatory force of Gauthier's morals by agreement depends on the notion of agreement or consent, but this is brought into question if the agreement itself is coercively structured by incorporating the results of force and fraud.

MPP3-682 MORALITY ISN'T A PRINCIPLE OF RATIONAL SELF-INTEREST

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.214.

This chapter, then, questions the deduction of the principles of morality from the non-moral premises of rational choice: it questions whether the principles which Gauthier arrives at are the rational ones to adopt; and whether what rationally self-interested (non-moral) agents would agree to constitutes morality. It concludes by suggesting that the principles of morality cannot be demonstrated to be self-interestedly rational: there is an unavoidable gap between reason and morality, between what is acceptable from the standpoint of self-interested agents, who are not interested in the interests of others, and what is acceptable from the impartial standpoint.

MPP3-683 SOCIAL INEQUALITIES UNDERMINE FAIR BARGAINS

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.222-3.

However, in this chapter, as in the earlier argument, the problem of unequal power relations raises its head. Unequal power relations in society can affect the very abilities and talents that Gauthier's theory is sensitive to, and this threatens to vitiate the impartiality of his derivation. Imagine a severely class-divided society in which members of the lowest class are kept uneducated and ignorant, their talents undeveloped, so that they have very little to bargain with, and can perform only the most menial and degrading tasks. Would this be fair? Would the bargains entered into in this context be impartial and free, if the social structure itself is biased and individuals born into the lowest class have no other opportunities, no other options?

MPP3-684 CONTRARY TO GAUTHIER, PEOPLE SOMETIMES ARE FORCED TO MAKE BAD BARGAINS

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.220-1.

But this argument is subject to the same difficulties as the parable of the Masters and the Slaves. Just as, in that story, Gauthier attempted to situate the Masters and the Slaves equally - by assuming that the Masters will dismantle their coercive weaponry, and, presumably, all knowledge of the technology of predation, - so, here, Gauthier attempts to situate the individuals equally by assuming that equally rational individuals will comply under the same conditions. He assumes that it is a violation of equal rationality if some individuals make unfair but mutually beneficial agreements. The problem with this is that it abstracts completely from considerations of differential power and abilities, just as the Master/Slave parable does. Differential powers, in practice, in real-life bargains, translate into different points at which agreements - and compliance with agreements - become rational. Opportunity costs are a measure of this differential power. If X is sick or weak or old and has few opportunities for beneficial interaction, she might have to settle for an agreement which offers less than fair shares because no other opportunities present themselves. It might be rational for her to agree to an unfair, but still beneficial, bargain, because that is the best she can hope for in the circumstances.

MPP3-685 UNEQUAL POSITIONS UNDERMINE GAUTHIER'S VIEW OF FAIR BARGAINING

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.218-19.

But, even if we allow that assumption, we must note that equal rationality does not imply equal bargaining power. Sometimes, bargainers are situated unequally with respect to their need to cooperate with each other. While Gauthier's argument might work in abstraction from considerations of context, such as how much one needs to make the bargain or what one's opportunity costs are relative to not bargaining with that person, it is quite clear that when such things are factored in, the results of actual bargaining can be highly unequal and intuitively unfair. The success of Gauthier's quest to derive moral principles from the premises of rational choice seems, then, to depend on his argument concerning the initial position or baseline from which bargaining can proceed. This is crucial to demonstrating whether what is rationally agreed to is also moral, or whether it merely reflects the threats and inequalities pervasive in relations between people.

MPP3-686 GAUTHIER'S CONCEPT OF BARGAINING IS FLAWED

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.218.

Commentators on Gauthier's argument have pointed out that, while he does need a rational method to divide the fruits of cooperation, it is not crucial that the MRC principle is that principle. Some critics of Gauthier's work have argued that we do not have sufficient knowledge of bargaining processes to know whether or not focusing on concessions from maximum claims does mirror actual bargaining, as Gauthier claims; while others have claimed that some people would benefit more from other principles of dividing the surplus and that utility-maximizers would argue for those principles which promised to divide up the cooperative surplus to her advantage. These criticisms question whether there is a single rational solution to all bargaining problems, as Gauthier's argument requires, suggesting instead that the terms of cooperation are essentially contested.

MPP3-687 GAUTHIER IGNORES DIFFERENCES IN NATURAL ENDOWMENTS

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.217.

Indeed, Gauthier criticizes Rawls's impartialist conception on the grounds that it arrives at the impartial, moral standpoint only by abstracting from people's differences, people's natural endowments. This is problematic, according to Gauthier, because people's abilities and talents are part of who they are, part of their identity and must be incorporated in any theory of justice. In supposing that the just distribution of benefits and costs in social interaction is not to be related to the characteristics of the particular individuals who make up society, Rawls violates the integrity of human beings as they are and as they conceive themselves.... In his argument morality is divorced from the standpoint of the individual actor. And yet, it is essential to the success of Gauthier's argument for constrained maximization that the equal rationality assumption is interpreted in this strong and implausible way. If we allow that people are differentially talented (at deception, say, or the ability to detect deception), then it may well be rational for some individuals to defect from their agreements. And if there is enough uncertainty about dispositions, because there are some people who are good at hiding their dispositions, or others who have poor insights into the dispositions of others, then it will not be rational to adopt a constrained maximization disposition. And if that is the case, then it is unclear how the threshold number of constrained maximizers required by Gauthier's argument could arise in the first place.

MPP3-688 THE EQUAL RATIONALITY ASSUMPTION UNDERMINES GAUTHIER'S THEORY

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.224.

It is crucial to Gauthier's conception of morality as part of rational choice theory that the principles he arrives at are both self-interestedly rational and acceptable from an impartial moral standpoint. To achieve this reconciliation of morals and reason, Gauthier attempts to purge his principles of the effects of unequal power relations in society. Specifically, Gauthier imports a very strong and implausible equal rationality assumption into his argument for constrained maximization and for the Lockian Proviso, which enables him to arrive at principles which seem fair and impartial. The equal rationality assumption functions to sanitize the bargain of all sense of context, and particularly contexts of unequal power. This is unfortunate because it is precisely the promise of sensitivity to context, and appeal to the powerful motive of self-interest which always operates within contexts, that makes Gauthier's project so compelling in the first place. Thus, the equal rationality assumption robs the theory of its relevance and its mutual advantage character: it seems plausible that real self-interested agents, who have unequal power and talents, would in fact arrive at principles which reflect their ability to threaten weaker parties to the contract.

MPP3-689 GAUTHIER FALSELY ASSUMES PEOPLE ARE EQUALLY RATIONAL

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.216.

Both the threshold assumption and the assumption that agents can recognize the dispositions of others a high percentage of the time rely on Gauthier's idealized conception of equally rational agents. Being equally rational - with no psychological strengths and weaknesses - they are all able to detect dispositions with roughly the same degree of accuracy. And, being equally rational, agents will presumably reason identically - they will all recognize the advantage of constrained maximization in overcoming prisoner's dilemma-structured situations - and so the emergence of the threshold number of CMs, indeed a population of CMs, can be explained. But this serves only to reveal how strong, and implausible, the equal rationality assumption is. The assumption that people are rational or equally rational is used in game theory, in economics and in rational choice theory to mean only that agents are motivated to maximize their utility: it does not indicate that people have identical strengths and weaknesses, or identical powers of deception and insight. However, Gauthier is using the assumption to mask important differences between people, differences in their talents and abilities and preferences, those things on which rational agents usually base their decision about what it is rational for them to do, what will maximize their utility. In Gauthier's world, it seems, there are no good poker players; there are no people who find it rational to cultivate their considerable powers of deception rather than simply accept Gauthier's argument that the threat of being recognized will result in fewer opportunities for beneficial cooperation.

MPP3-690 PEOPLE CAN'T ACCURATELY DETERMINE OTHERS DISPOSITION TO COOPERATE

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.215-6. The relevance of Gauthier's argument is jeopardized also by his assumption that CMs and SMs can recognize each other a fairly high percentage of the time. Gauthier writes: 'Suppose a population evenly divided between constrained and straightforward maximizers. If the constrained maximizers are able to co-operate successfully in two-thirds of their encounters, and to avoid being exploited by straight-forward maximizers in four-fifths of their encounters, then constrained maximizers may expect to do better than their fellows'. In this crucial passage, Gauthier assumes, without argument, that people can detect the dispositions of others with a very high degree of accuracy. The assumption is unrealistic, especially when we recall that the only difference between a CM and a SM is the disposition they have induced in themselves regarding what it is self-interestedly rational to do. The motives of both are the same (self-interest). They diverge merely in having different conceptions of what it is rational to do in certain situations. How can people so accurately detect which people have adopted which rational meta-strategy - especially when, presumably, SMs seek to disguise their dispositions when interacting with CMs?

MPP3-691 GAUTHIER'S VIEW IS PSYCHOLOGICALLY IMPLAUSIBLE

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.215. Gauthier's argument for constrained maximization raises many questions, not the least of which is its relevance for people in the real, empirical world. One line of criticism focuses on the psychological plausibility of Gauthier's agents. Specifically, is it possible to choose dispositions? Is it possible to induce in oneself a disposition not merely to cooperate when one thinks one's partner will do so as well, but a disposition so strong that one will not defect even when there is no chance that defection will be penalized? Suppose, for example, that the sum of money from defection is so large that one will be immune from the consequences of defections - exclusion from further beneficial joint ventures is not much of a deterrent when one has the opportunity to leave the country or live very well on the proceeds of defection. This point is especially pertinent given that, on Gauthier's conception, the adoption of the disposition is justified in utility-maximizing terms, as a meta-strategy which is rational in certain situations. Why should we confine our attention to only two possible situations and two possible meta-strategies? There are other situations (e.g. large pay-offs) in which other strategies or dispositions might be effective in utility-maximizing terms.

MPP3-692 GAUTHIER'S CONTRACT ASSUMES TOO MUCH INFORMATION TO FUNCTION

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.192.

David Braybrooke, in a stimulating review, remarks that "Readers on the Right . . . will rejoice in the political coloring given Gauthier's *Morals by Agreement* by its broad commitment to private property rights, its born-again enthusiasm for the market, and its repeated denunciation of 'free riders' and 'parasites'...." But he goes on to argue that ". . . rejoicing on the Right and dismay on the Left are both mistaken. . .", that in fact Gauthier's theory cannot be used for real-world policy-making. ". . . [T]he degree of technical perfection to which Gauthier has brought social contract theory . . . has been gained at the expense of depriving the theory of any possibility of effective application. Its demands for information are fantastic--too fantastic ever to be met or even to allow the theory to be used as a guide to improvements within the reach of present social policy."

MPP3-693 GAUTHIER CAN'T RECONCILE RATIONALITY AND IMPARTIALITY

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.213-4. This chapter argues that Gauthier's quest to satisfy the impartiality requirement exerts pressure on his theory away from the premises of a pure mutual advantage conception and leads Gauthier to modify his argument in an impartialist direction. The integrity of Gauthier's derivation from the non-moral premises of self-interested reason is compromised at crucial points in his argument, namely, in his argument for keeping the agreements one makes, and bargaining from fair initial positions only. At crucial points in his argument, Gauthier departs from the assumptions of mutual advantage and attempts to derive principles which are impartially acceptable, and so could plausibly be described as moral principles. Moreover, in chapter VIII, 'The Archimedean Point', where Gauthier demonstrates the impartiality of his results, he suggests a more radical, more abstract (and more thoroughly impartial) justificatory conception than the one advanced hitherto. Ultimately, this chapter will argue, Gauthier is unable to reconcile the two elements of his moral theory: the rationality requirement (that it be acceptable to each individual self-interested agent); and the impartiality requirement of morality.

MPP3-694 RATIONALLY SELF-INTERESTED PEOPLE WOULDN'T AGREE TO GAUTHIER'S CONTRACT

Margaret Moore, Professor of Political Science, University of Waterloo, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.224.

Ultimately, the need to arrive at impartially acceptable principles leads Gauthier to modify his theory in an impartialist direction. In the chapter on the Archimedean point, Gauthier considers the effects of unequal power relations on the talents and abilities which his theory is sensitive to. As a result, the contract he describes is not one which rationally self-interested agents, with full knowledge of their abilities and preferences, would agree to, but a contract to determine what social structure would be impartially acceptable to abstract proto-people. This gap between the requirements of impartiality and the dictates of self-interest suggests, not surprisingly, that what is moral cannot be derived from self-interested reason; and that what is self-interestedly rational may not bear any resemblance to what is acceptable from an impartial moral standpoint.

MPP3-695 SPINOZA'S CONTRACT THEORY FAILS TO ACHIEVE ITS PURPOSE, THE PROTECTION OF RELIGIOUS FREEDOM

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.71.

The previous chapter presented the growth of contract theory in the seventeenth century almost wholly in British terms. Needless to say, however, contract theories did not cease to be produced elsewhere in Europe in this period. One such theory is that of the Dutchman Spinoza, but with this we may deal very briefly. For Spinoza's theory, though quite widely admired, is a strange one indeed. Politically speaking, his most passionate concern, it seems, was to defend religious freedom. Yet his theory outdoes Hobbes in deriving totally absolute sovereign authority from totally egoistic human nature, combining both with an unmitigated determinism and a corresponding denial of all moral obligation. Never, perhaps, has there been a theory less adapted to support its author's political views.

MPP3-696 PUFENDORF'S THEORY STRENGTHENS THE POSITION OF SUBJECTS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.73.

Nevertheless, Pufendorf's version of social contract theory seems to put subjects in a relatively strong moral position vis-a-vis their rulers, who are bound both by their contract with the people (as in Althusius and so many earlier theorists) and by natural law (as in Locke). Indeed, Pufendorf explicitly repudiates Hobbes on both these points, taking him to task for refusing 'to recognize any distinction between supreme and absolute sovereignty'.

MPP3-697 PUFENDORF ENCOURAGES ABSOLUTE OBEDIENCE TO THE STATE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.73-4.

The good citizen must 'have no thought of revolution' (POH, 116,144). In the end, therefore, Pufendorf's agreement with Hobbes about the horrors of the state of nature outweighs all else: while repudiating absolutism, and urging rulers to seek the welfare of the people above all, (POH, 121-2), he at the same time inculcates a duty of passive obedience. His thought is thus much in harmony with that so-called 'enlightened despotism' that was to develop in Germany and elsewhere in the eighteenth century. Pufendorf - who himself served three monarchs at different stages of his highly successful career- may have done something to help it grow.

MPP3-698 PUFENDORF INSISTS ON THE RECIPROCAL DUTIES OF SOVEREIGNS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.72-3.

Pufendorf again takes issue with Hobbes as to the way in which this political authority was constituted. Hobbes was wrong to suppose, Pufendorf thinks, that men would have agreed with one another on a total renunciation of their natural liberty to a sovereign, without receiving from him any reciprocal promise of protection (PJN, 977-80). To correct Hobbes, Pufendorf reverts to a version of the contract which is formally rather similar to that of Althusius. The establishment of a state requires two compacts: in the first, men agree to enter a 'permanent community' of 'fellow-citizens', that is, they pledge themselves to accept political authority. This first pact must also provide for the taking of a decision (Pufendorf calls it a decree) by the political community, as to how, and by whom, they will be ruled. The second pact is between these rulers, and the rest of the political community: the former 'bind themselves to take care of the common security and safety, the rest to yield them their obedience'.

MPP3-699 PUFENDORF RESTATES AND REFINES HOBBS' THEORY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.71-2.

In brief summary, Pufendorf's project may be described as follows: to endorse the political conclusions of Hobbes, but to divorce them from Hobbes's more shocking and scandalous arguments, to soften the bluntness with which he had stated them and to correct Hobbes's errors. In many respects the basic concepts and assumptions of Pufendorf's arguments are similar to those of Hobbes; he agrees that in the pre-political state of nature, where men had 'no common master', human selfishness and aggression were such as to produce 'the rule of passion, war, fear, poverty, ugliness, . . . ignorance and savagery'.

MPP3-700 NOZICK'S THEORY HAS CONTRACTARIAN ELEMENTS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.151.

Despite all this, Nozick's theory entails some significant commitments of a contractarian kind. Coercion to establish a minimal state would be legitimate, coercive redistribution of wealth by the state (he holds) is not, because (or rather if) it robs individuals of what is rightfully theirs; and it is rightfully theirs if they acquired it, by means of a free contract or other agreement, from its previous rightful owner.

MPP3-701 NOZICK'S THEORY IS BASED ON CONTRACTARIAN REASONING

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.6.

However, the important point is that while Nozick's argument avoids direct recourse to the social contract, his invisible hand explanation provides a contractarian reason for us to acknowledge the legitimacy of political obligations even if they are only to a much reduced state. Nozick's argument is significant in modern contractarian debates because it is consumed exclusively to the origin of our political obligations and consciously denies the redistributive implications that are central to Rawls's contractarian theory of justice.

MPP3-702 NOZICK'S IS NOT A SOCIAL CONTRACT THEORY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.149.

The terms of Nozick's criticism of Rawls (cited above) might suggest that the basis for his argument is some kind of contractarianism, and indeed his theory does bear an interesting relation to the social contract tradition, in that the concept of the state of nature plays a major role in it, and contracts or agreements made in the state of nature bulk large. Nevertheless, Nozick dissociates himself from the social contract tradition (N. 132), and in my view he is right to do so (though not for the reason he himself gives).

MPP3-703 NOZICK ARGUES THAT THE STATE EMERGES BY AN INVISIBLE HAND PROCESS

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.5-6.

However, whereas Locke argues our duty to preserve ourselves provides the rational basis for political obligations, Nozick argues that our rights create no duties other than those we freely assume. How then is the state possible? It is in answer to this that Nozick develops a peculiar 'invisible hand' version of the social contract. Nozick's argument takes the following form, in the state of nature each individual has the same fundamental rights including rights of enforcement. Given the inconveniences of the 'Lockian' state of nature individuals will group together into protective agencies or else consent to a protective agency to provide security and regularity in enforcement. These protective agencies acquire no special rights not already held by the individuals who consent to them as they are set up with the sole limited purpose of maintaining security. Over time the need to protect the members of a protective association will lead to the establishment of a dominant protective agency in a given territory. In the case of 'independents' who do not freely transfer their executive rights to the dominant protective agency, the dominant protective agency can enforce its will as a means of prohibiting the effects of dangerous private enforcements of justice upon its members, as long as it provides compensation in terms of security and protection. Thus while no one has expressly consented to the establishment of the state, and without relying on the, problematic notion of tacit consent, we have the emergence via an invisible hand process of an ultraminimal state.

MPP3-704 CONTRACTUALISM OFFERS A PLAUSIBLE ACCOUNT OF MORAL MOTIVATION

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.103-4.

Contractualism has been proposed as the alternative to utilitarianism before, notably by John Rawls in *A Theory of Justice* (Rawls 1971). Despite the wide discussion which this book has received, however, I think that the appeal of contractualism as a foundational view has been underrated. In particular, it has not been sufficiently appreciated that contractualism offers a particularly plausible account of moral motivation.

MPP3-705 CONTRACTUALISM CAN SERVE AS A CRITERION FOR MORALITY

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.110.

To give an example of what I mean by contractualism, a contractualist account of the nature of moral wrongness might be stated as follows. An act is wrong if its performance under the circumstances would be disallowed by any system of rules for the general regulation of behaviour which no one could reasonably reject as a basis for informed, unforced general agreement. This is intended as a characterization of the kind of property which moral wrongness is.

MPP3-706 CONTRACTUALISM EXCLUDES COERCED OR PREJUDICED DECISIONS

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.111.

The requirement that the hypothetical agreement which is the subject of moral argument be unforced is meant not only to rule out coercion, but also to exclude being forced to accept an agreement by being in a weak bargaining position, for example because others are able to hold out longer and hence to insist on better terms. Moral argument abstracts from such considerations. The only relevant pressure for agreement comes from the desire to find and agree on principles which no one who had this desire could reasonably reject. According to contractualism, moral argument concerns the possibility of agreement among persons who are all moved by this desire, and moved by it to the same degree. But this counter-factual assumption characterizes only the agreement with which morality is concerned, not the world to which moral principles are to apply. Those who are concerned with morality look for principles for application to their imperfect world which they could not reasonably reject, and which others in this world, who are not now moved by the desire for agreement, could not reasonably reject should they come to be so moved.

MPP3-707 RECIPROCITY ISN'T KEY TO CONTRACTARIAN MORALITY

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.114-5.

Some other possible restrictions on the scope of morality are more evidently rejectable. Morality might be restricted to those who have the capacity to observe its constraints, or to those who are able to confer some reciprocal benefit on other participants. But it is extremely implausible to suppose that the beings excluded by these requirements fall entirely outside the protection of morality. Contractualism as I have formulated it can explain why this is so: the absence of these capacities alone does nothing to undermine the possibility of justification to a being. What it may do in some cases, however, is to alter the justifications which are relevant. I suggest that whatever importance the capacities for deliberative control and reciprocal benefit may have is as factors altering the duties which beings have and the duties others have towards them, not as conditions whose absence suspends the moral framework altogether.

MPP3-708 CONTRACTARIANISM BETTER ACCOUNTS FOR OUR EXPERIENCE THAN UTILITARIANISM

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.116.

According to contractualism, the source of motivation that is directly triggered the belief that an action is wrong is the desire to be able to justify one's actions to others on grounds they could not reasonably reject. I find this an extremely plausible account of moral motivation - a better account of at least my moral experience than the natural utilitarian alternative and it seems to me to constitute a strong point for the contractualist view. We all might like to be in actual agreement with the people around us, but the desire which contractualism identifies as basic to morality does not lead us simply to conform to the standards accepted by others whatever these may be. The desire to be able to justify one's actions to others on grounds they could not reasonably reject will be satisfied when we know that there is adequate justification for our action even though others in fact refuse to accept it (perhaps because they have no interest in finding principles which we and others could not reasonably reject). Similarly, a person moved by this desire will not be satisfied by the fact that others accept a justification for his action if he regards this justification as spurious.

MPP3-709 MOST PEOPLE EXPERIENCE CONTRACTUALISM MOTIVES

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.117.

In fact it seems to me that the desire to be able to justify one's actions (and institutions) on grounds one takes to be acceptable is quite strong in most people. People are willing to go to considerable lengths, involving quite heavy sacrifices, in order to avoid admitting the unjustifiability of their actions and institutions. The notorious insufficiency of moral motivation as a way of getting people to do the right thing is not due to simple weakness of the underlying motive, but rather to the fact that it is easily deflected by self-interest and self-deception.

MPP3-710 CONTRACTUALISM ACCOUNTS FOR UTILITARIAN MORAL VALUES

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.118-9.

In particular, contractualism can account for the apparent moral significance of facts about individual well-being, which utilitarianism takes to be fundamental. Individual well-being will be morally significant, according to contractualism, not because it is intrinsically valuable or because promoting it is self-evidently a right-making characteristic, but simply because an individual could reasonably reject a form of argument that gave his well-being no weight.

MPP3-711 CONTRACTUALISM ACCOUNTS FOR THE MORAL FORCE OF RIGHTS AND FAIRNESS

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.119.

One effect of contractualism, then, is to break down the sharp distinction, which arguments for utilitarianism appeal to, between the status of individual well-being and that of other moral notions. A framework of moral argument is required to define our legitimate interests and to account for their moral force. This same contractualist framework can also account for the force of other moral notions such as rights, individual responsibility and procedural fairness.

MPP3-712 CONTRACTUALISM WOULD REJECT RULE UTILITARIANISM

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.120.

What seems less improbable is that contractualism should turn out to coincide with some form of 'two-level' utilitarianism. I cannot fully assess this possibility here. Contractualism does share with these theories the important features that the defense of individual actions must proceed via a defense of principles that would allow those acts. But contractualism differs from some forms of two level utilitarianism in an important way. The role of principles in contractualism is fundamental; they do not enter merely as devices for the promotion of acts that are right according to some other standard. Since it does not establish two potentially conflicting forms of moral reasoning, contractualism avoids the instability which often plagues rule utilitarianism.

MPP3-713 CONTRACTUALISM NEED NOT REQUIRE THE WELFARE OF THE WORST OFF TO BE MAXIMIZED

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.123.

Under contractualism, when we consider a principle our attention is naturally directed first to those who would do worst under it. This is because if anyone has reasonable grounds for objecting to the principle it is likely to be them. It does not follow, however, that contractualism always requires us to select the principle under which the expectations of the worse off are highest.

MPP3-714 THE SEARCH FOR GENERAL AGREEMENT IS THE ESSENCE OF MORALITY

Thomas Scanlon, Professor of Philosophy, Princeton, *UTILITARIANISM AND BEYOND*, 1982, p.128.

It is sometimes said that morality is a device for our mutual protection. According to contractualism, this view is partly true but in an important way incomplete. Our concern to protect our central interests will have an important effect on what we could reasonably agree to. It will thus have an important effect on the content of morality if contractualism is correct. To the degree that this morality is observed, these interests will gain from it. If we had no desire to be able to justify our actions to others on grounds they could reasonably accept, the hope of gaining this protection would give us reason to try to instill this desire in others, perhaps through mass hypnosis or conditioning, even if this also meant acquiring it ourselves. But given that we have this desire already, our concern with morality is less instrumental. The contrast might be put as follows. On one view, concern with protection is fundamental, and general agreement becomes relevant as a means or a necessary condition for securing this protection. On the other, contractualist view, the desire for protection is an important factor determining the content of morality because it determines what can reasonably be agreed to. But the idea of general agreement does not arise as a means of securing protection. It is, in a more fundamental sense, what morality is about.

MPP3-715 SCANLON'S IMPARTIALITY REQUIREMENT PRESUPPOSES EQUAL VALUE RATHER THAN DERIVING IT FROM CONTRACTUAL AGREEMENT

John Charvet, Reader in Politics, London School of Economics, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.186

The difference between this form of contractarianism and the Rawls-Scanlon version is that the latter's impartiality conditions invite interpretation as an external constraint imposed on the contract, and hence as presupposing the principle of equal value instead of deriving it from the reflective standpoint itself.

MPP3-716 SCANLON RELIES ON A PROBLEMATIC CONCEPT OF REASONABLENESS

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.9-10.

However, it has been argued that Scanlon, despite abandoning the 'original position', does not advance significantly beyond Rawls, because of his reliance on a conception of 'reasonableness'. This concept is no less problematic than a direct appeal to substantive moral principles, because whether someone regards the actions of another as unreasonable will at least in part depend on his or her moral or ethical commitments. An appeal to a public conception of 'reasonableness' simply begs the question about an impartial or neutral grounding for liberal political or moral principles. This inability of modern-day Kantians to ground an Archimedean point from which an impartial perspective can be justified has given rise to a debate within modern liberal political philosophy about the value of the contractarian enterprise as a strategy of justification.

MPP3-717 THE CONTRACTARIAN VIEW PROVIDES THE ONLY ACCEPTABLE MORALITY

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.148.

Why accept the contractarian view of morals? Because there is no other view that can serve the requirements: namely, of providing reasons to everyone for accepting it, no matter what their personal values or philosophy of life may be, and thus motivating this informal, yet society-wide "institution". Without resort to any obfuscating intuitions, of "self-evident rights" and the like, the contractarian view offers an intelligible account both of why it is rational to want a morality and of what, broadly speaking, the essentials of that morality must consist in: namely, those general rules that are universally advantageous to rational agents. We each need morality, first because we are vulnerable to the depredations of others, and second because we can all benefit from cooperation with others. So we need protection, in the form of the ability to rely on our fellows not to engage in activities harmful to us; and we need to be able to rely on those with whom we deal. We each need this regardless of what else we need or want or value.

MPP3-718 SOCIAL CONTRACT THEORY CREATES RIGHTS

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.270.

We must begin by observing that in contractarian theory we create rights, by granting them to people (on condition that they reciprocate, of course). To give another a certain right is, as Hobbes put it, to "lay down" our own liberties with regard to the matters in question. If I give you the right to cut corners across my yard, that means that I intentionally refrain from attempting to chase you off or punish you for doing so, and let you know that I do thus refrain.

MPP3-719 AN ACCEPTABLE MORALITY MUST BE THE MOST UNIVERSAL POSSIBLE

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.135.

Let us suppose that morality is a kind of club--the "morality club". Anyone can join--no problem. Those who join have certain responsibilities and certain rights, and we, the people who run this club, offer a package that we think no remotely reasonable person could really refuse; but nevertheless, some might. All we are saying is that our package is such that it must appeal to the widest set of people any set of principles could appeal to. Anyone who doesn't buy our package wouldn't buy any package compatible with living among his fellows on terms that they could possibly accept. If we can make good on this offer, then the objection that our morality is not, after all, truly universal is hollow. The respect in which it is nonuniversal is not one that could form the basis for any kind of reasonable complaint about the offer. It's still a take-it-or leave-it kind of offer, but it isn't remotely comparable to the restrictiveness of the y's and the z's. It's universal in the sense of being as nearly universal as any set of restrictive rules could be. And that, we can argue, is universal enough.

MPP3-720 THE ONE BASIC DUTY IS TO RESPECT THE CONSENT OF OTHERS

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.165.

Admittedly it is not quite true, as many people seem inclined to think, that libertarianism is a creed whose principles are canonically engraved in marble somewhere for all to see, but still, it does seem to me--and this is one of its attractions, isn't it?--that its basic idea can be stated quite simply. A summary of the findings in Part One goes roughly as follows: (1) Each person, A, has a determinate set of fundamental personal resources such that (2) A has the [negative] right to use those resources in whatever way A sees fit, provided that in doing so, A does not violate the similar right of any other person, B, over the use of B's resources. Or, more briefly yet: our sole basic duty is to refrain from utilizing the fundamental resources of others without their consent; and those resources include, at a minimum, the bodies and minds of those others.

MPP3-721 THE DISPOSITION TO COOPERATE IS NATURAL

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.140-1.

Gauthier insists that the rational agent, when acquainting himself with the facts of life in the form of Prisoner's Dilemma (and related problems), will see that she must modify, or perhaps reinterpret, her theory of rationality. The rational person will not Defect in the Prisoner's Dilemma game. Instead, she will adopt a disposition to cooperate, though not an unconditional disposition to take the cooperative option: she takes that option, provided those with whom she interacts are similarly inclined. This Gauthier calls "constrained maximization", as opposed to the disposition to take the money and run, which he calls "straight" maximization.

MPP3-722 COOPERATION WITHOUT A SOVEREIGN IS PREFERABLE

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.140.

The Sovereign is costly, in two important respects: both in the sense that its maintenance will require taxes, which you and I must pay, and in the very significant sense that its existence is dangerous-- it can take the money and doesn't even have to run, since it has all the guns. Suppose that A and B share the expense of maintaining the Sovereign. Then both are worse off than if they had simply cooperated in the first place, being able to rely on each other's word and thus to engage in exchanges without bearing the costs of the Sovereign. If the trouble with the State of Nature is that it is dominated by the State of Cooperation, then there is the same trouble with the Sovereign State: a state of voluntary cooperation dominates it. And since it is also theoretically impossible to come by a Sovereign, we seem to have a strong argument for cooperation, if it is possible.

MPP3-723 CONTRACTARIANISM DEFINED

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.131.

The theory we need is Contractarianism. The general idea of this theory is that the principles of morality are (or should be) those principles for directing everyone's conduct which it is reasonable for everyone to accept. They are the rules that everyone has good reason for wanting everyone to act on, and thus to internalize in himself or herself, and thus to reinforce in the case of everyone.

MPP3-724 CONTRACTARIANISM IS COMPELLING TO ANYONE BUT THE FOOL AND THE FANATIC

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.164-5.

The libertarian's, and in general the liberal's, case is simply that a clear-headed appraisal will confirm the wisdom of signing the social contract instead of bashing ahead as one will, and that this wisdom will be found to obtain in almost (if not quite) complete independence of what those values in particular are. For the totally imprudent or the totally fanatical, to be sure, the compellingness of politics or even of morality might be nil. For everyone else, though, the contractarian has a strong case. And just because of this substantial independence, it is a stronger case than can be made for any other political theory. Such is the contractarian's claim, at any rate. And Ripstein's arguments, though important and impressive, do not, to my mind dislodge it.

MPP3-724 LIBERTARIANISM WOULD BE THE RESULT OF A GENUINE SOCIAL CONTRACT

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.155.

Each rational agent wants, after all, to get the best possible deal, and not just to beat the state of nature. Exactly what the baseline should be for the real social contract, in which genuinely differing individuals agree to certain principles for the general social governance of their lives, is obviously not an easy problem. What will be argued here is that we will find substantial support for a libertarian or at least a near-libertarian principle as being the basic one, whatever else.

MPP3-725 LIBERTARIANISM MINIMIZES THE RISK OF WAR

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.321.

John Hospers writes, "The greater the hold of government upon the life of the individual citizen, the greater the risk of war." With this we may certainly agree, not only in principle and in theory but in the hindsight of history. Hospers goes on to claim that- "war is typically started by totalitarian (statist) nations against free (or at least freer) nations." The empirical claim has been upheld by Michael Doyle, who compiled a historical survey of wars for the purpose of testing Kant's hypothesis that the way to perpetual peace is by liberalization. His striking finding is that "even though liberal states have become involved in numerous wars with nonliberal states, constitutionally secure liberal states have yet to engage in war with one another." Doyle's criterion of liberalism is commonsensical, having mainly to do with the presence of representative government established and altered by election procedures. The likelihood of war given libertarianism, one can reasonably suppose, would be yet lower.

MPP3-726 CAPITALISM ISN'T WAR PRONE

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.22.

There was an ill-considered theory, at one time, that wars were due to "capitalism". As a hypothesis about the origin of the most sizable recent conflicts among nations, that view has little to recommend it, most especially because war is an inherently expensive way of getting something, whereas if it is a thing that is inherently capable of being transferred, then it is certainly going to be cheaper simply to buy it. This most especially includes human labor, by far the most likely service to be the object of beady-eyed capitalists abroad, but also resources of any other kind one can think of. Nations already at war may find it essential to appropriate such things as oil by force, but for erstwhile peaceable nations the idea is largely too absurd to contemplate.

MPP3-727 DEMOCRACY IS UNACCEPTABLY AUTHORITARIAN

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.214

The State claims to be an omniscient authority. Anything you do is something that the State must allow you to do: it has authority over all and sundry matters, and the citizen shall knuckle under, thank you very much. This is the theory of government under which humankind has lived for the past several thousand years. But a few moments' thought suffice to show us that it is a fraud, an outrage, a disgrace, and a travesty that no thinking person could put up with for a moment. The democratic theory of government represents an effort to modify the inherent authoritarianism of government to an extent that would give it some reasonable semblance of acceptability. But on the face of it, it doesn't help much, since it substitutes for the one or the few people asserting authority a mob of your fellow humans. But authorities must be authorized, and in the end the only person who can "authorize" anyone to do anything to you is you. All the rest is a sham, varying in degrees of barefacedness.

MPP3-728 GENERAL PUBLIC ACCEPTANCE DOESN'T MAKE AN ATTITUDE RIGHT

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.117.

Why couldn't there be a generally held attitude that, on reflection, seemed quite wrong? Suppose that some moral deviant--say, Jesus Christ in first-century Israel--comes along and says, "You have heard it said that you should hate your enemies; but I say unto you, love your enemies!" Christ presumably meant, in effect, to be claiming that loving your enemies is really the right thing to do, even though most people at the time didn't think so, and he knew this perfectly well. In fact, his knowledge of that fact seems to have played a significant role in his inclination to preach on the subject. Are we to say that what Christ said was just silly, even contradictory? Not very plausible, either as an account of what he meant, or as an account of what people took him to mean.

MPP3-729 SOCIAL CONTRACT THEORY JUSTIFIES ABORTION

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.272.

The primary and fundamental locus of rights, on the view we are exploring, is in the competent and rational adult. It is their concerns, whatever they may be, plus considerations of social interaction, that generate the general right to liberty that is our fundamental right. Prominent on the list of what is thus protected is our own bodies: to do as we think best with them and our associated faculties, and not have our persons subordinated to the views of others, is essential. If we view the question of abortion from this perspective, then, where must we emerge? Plainly, a human organism before birth is not, as it stands (or rather, snuggles), in a position to claim any rights. The female body in which that fetus lies is the exclusive property of the woman whose body it is. If it is her decision to terminate a pregnancy, then, very little can count against her, except for explicit and clearly made commitments on her part toward other relevant adults, such as her husband. (And even those must be very strongly made to reverse this elementary freedom.) Abortion is a plain right of the female person, and there is no scope for "fetal rights" to counteract this liberty.

MPP3-730 EDUCATIONAL FREEDOM WON'T RESULT IN BALKANIZATION

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.279-80.

This last matter brings up another profound issue. If we allow people real freedom in education, won't they bring up their children in all sorts of absurd or outrageous doctrines--at very least, pump them full of ideas quite alien to modern life? (Or perhaps, empty them out of other ideas essential to it?) And at worst, what about totally antihuman and antisocial ideas (Nazism, Ku Klux Klan, etc.)? There are really two issues here, not just one, and we must be careful to appreciate the difference. (1) On the one hand, there is the worry that people will be free to teach their children the wrong things; (2) and on the other hand, there is what we might call Balkanization. Vietnamese immigrants will get educated in Vietnamese (language and history both), Mexicans in Spanish, Ukrainians in Ukrainian, and by the time they finish school, they will be unable to talk with anybody but their ex-schoolmates. In larger terms, we shall have a society without unity. Let's deal with the Balkanization issue first. The objection seems to assume, for one thing, that people don't care about fitting in with the larger society that has taken them on. But that is hardly plausible and certainly contrary to what we know of most groups moving into such societies as those of Canada and the United States. They have come there for a better life, and this better life is available only to those who can interact efficiently with the people already there--people who are not about to learn some other language in order to deal with the newcomers.

MPP3-731 DRUG RELATED CRIME RESULTS FROM CRIMINALIZATION

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.295.

To take a case in point of quite extraordinary interest, consider the case of drugs--marijuana, cocaine, and the rest. The American way with these substances has been to outlaw them, and the case for doing so is sometimes put forward on the sort of grounds we have been considering above--for example, that they induce criminal behavior. But evidence for the proposition that they do so is rather scant except in one important respect: the fact that it is illegal generates a vast amount of crime, one that simply bears no proportion to the crime supposedly prevented by making the drugs illegal in the first place.

MPP3-732 CRIMINALIZATION RESULTS IN MASSIVE AMOUNTS OF CRIME

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.295.

Walter Block has succinctly put the point: "When a commodity is outlawed, in addition to all the usual costs of growing, harvesting, curing, transporting, merchandising, etc., the costs of evading the law and paying for the punishments meted out when the evasion fails, must be added [Block goes on to detail several more] But for these many extra costs imposed by the prohibition of heroin, the price would not differ in any significant way from the price of other crops (wheat, tobacco, soya beans, etc.)." Thus these products, which would be trivially cheap were they left to the market, become astronomically expensive--Block estimated the annual cost of a heroin habit at \$35,000 when he wrote; today it is no doubt at least twice that. But in order to meet these costs, the addict, who no doubt has been fired from her job by this time whether or not her addiction caused any real inability to perform it, is forced to turn to theft. However, stolen goods do not sell easily, as dealing in them is likewise (and in this case, properly) illegal. Thus the criminal must steal property worth several times what she will get for it to sustain her habit. One heroin addict, then, requires a career of grand larceny to sustain her habit. Needless to say, this results in an astronomical amount of theft. It has been estimated that over 90 percent of the theft in New York City--a place where it is difficult to find any dweller whose house or flat has not been raided in the last year or two--is committed by addicts. The public will take this as further evidence of the evils of drugs--but it is an evil engendered almost entirely by the fact that it is illegal, simply on the economic face of it alone.

MPP3-733 CONTRACTARIANISM DENIES RIGHTS TO CHILDREN AND ANIMALS

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.269-70.

Nor is that all. The very expressions 'abused' and 'misused' suggest that children do indeed have rights, at very least the same negative ones enjoyed by you and me. But if our derivation of rights is contractarian rather intuitional, then we have a problem even on this front. For infants are not rational creatures eligible for participation in the "social contract". The rational persons of contractarian theory need to be fairly competent adults, and not only rational but possessed of considerable personal powers. It was, indeed, these powers and the rational control exerted over them by their owners that made for the problems that Hobbesian contracts are designed to solve. But infants are not, or at least not in the same way, part of the problem, nor can they be part of that solution. The contractarian, evidently, will have to say that infants and young children (at least) do not have fundamental rights. (And the same, even more so, for animals, of course.)

MPP3-734 TAXATION VIOLATES THE LIBERTY PRINCIPLE

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.232.

The trouble is, as we have seen, that the only way of the State's being less "Scroogelike" about such things seems to violate some people's autonomy. If we assume that property rights are genuine implications of the liberty principle, then taxation is a *prima facie* violation of it, and so is the meddling insistence on providing unwanted services.

MPP3-735 PACIFISM IS A SELF-EXTERMINATING POLICY

Jan Narveson, Professor of Philosophy, University of Waterloo, *THE LIBERTARIAN IDEA*, 1988, p.323.

Some admire the pacifist, who would resist by suppressing the impulse to fight back under any provocation; but against a determined enemy pacifism is a self-extinguishing policy. In any case, there is no room for the view that pacifism is a duty of justice; that we have the right to defend ourselves is too fundamental a principle to be denied coherently.

MPP3-736 BURKE SAW THE SOCIAL CONTRACT AS INTERGENERATIONAL

C.B. Macpherson, Professor of Political Economy, University of Toronto, BURKE, 1980, p.45.

Burke was quite willing to see civil society as a contract, but of a very odd sort: it was between three sets of people, two of whom were non-existent. Society is indeed a contract. Subordinate contracts for objects of mere occasional interests may be dissolved at pleasure - but the state ought not to be considered as nothing better than a partnership agreement in a trade of pepper and coffee, calico or tobacco, or some other such low concern, to be taken up for a little temporary interest, and to be dissolved by the fancy of parties. It is to be looked on with other reverence; because it is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science; a partnership in all art; a partnership in every virtue, and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born.

MPP3-737 ALL GOVERNMENT IS LOOSELY BASED ON AN ORIGINAL CONTRACT

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.256-7.

When we consider how nearly equal all men are in their bodily force, and even in their mental powers and faculties, till cultivated by education; we must necessarily allow, that nothing but their own consent could, at first, associate them together, and subject them to any authority. The people, if we trace government to its first origin in the woods and deserts, are the source of all power and jurisdiction, and voluntarily, for the sake of peace and order, abandoned their native liberty, and received laws from their equal and companion. The conditions, upon which they were willing to submit, were either expressed, or were so clear and obvious, that it might well be esteemed superfluous to express them. If this, then, be meant by the original contract, it cannot be denied, that all government is, at first, founded on a contract, and that the most ancient rude combinations of mankind were formed chiefly by that principle.

MPP3-738 THE SOCIAL CONTRACT IS GROUNDED IN HUMAN NATURE

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.257.

In vain, are we asked in what records this charter of our liberties is registered. It was not written on parchment, nor yet on leaves or barks of trees. It preceded the use of writing and all the other civilized arts of life. But we trace it plainly in the nature of man, and in the equality, or something approaching equality, which we find in all the individuals of that species. The force, which now prevails, and which is founded on fleets and armies, is plainly political, and derived from authority, the effect of established government. A man's natural force consists only in the vigour of his limbs, and the firmness of his courage; which could never subject multitudes to the command of one. Nothing but their own consent, and their sense of the advantages resulting from peace and order, could have had that influence.

MPP3-739 THE ORIGINAL CONTRACT WASN'T EXPLICIT

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.257.

Yet even this consent was long very imperfect, and could not be the basis of a regular administration. The chieftain, who had probably acquired his influence during the continuance of war, ruled more by persuasion than command; and till he could employ force to reduce the refractory and disobedient, the society could scarcely be said to have attained a state of civil government. No compact or agreement, it is evident, was expressly formed for general submission; an idea far beyond the comprehension of savages: Each exertion of authority in the chieftain must have been particular, and called forth by the present exigencies of the case: The sensible utility, resulting from his interposition, made these exertions become daily more frequent; and their frequency gradually produced an habitual, and, if you please to call it so, a voluntary, and therefore precarious, acquiescence in the people.

MPP3-740 THE ORIGINAL CONTRACT ISN'T GROUNDED ON REASON

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.258-9.

Were you to preach, in most parts of the world, that political connexions are founded altogether on voluntary consent or a mutual promise, the magistrate would soon imprison you, as seditious, for loosening the ties of obedience; if your friends did not before shut you up as delirious, for advancing such absurdities. It is strange, that an act of the mind, which every individual is supposed to have formed, and after he came to the use of reason too, otherwise it could have no authority; that this act, I say, should be so much unknown to all of them, that, over the face of the whole earth, there scarcely remain any traces or memory of it.

MPP3-741 THE ORIGINAL CONTRACT LACKS AUTHORITY

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.259.

But the contract, on which government is founded, is said to be the original contract; and consequently may be supposed too old to fall under the knowledge of the present generation. If the agreement, by which savage men first associated and conjoined their force, be here meant, this is acknowledged to be real; but being so ancient, and being obliterated by a thousand changes of government and princes, it cannot now be supposed to retain any authority. If we would say any thing to the purpose, we must assert, that every particular government, which is lawful, and which imposes any duty of allegiance on the subject, was, at first, founded on consent and a voluntary compact. But besides that this supposes the consent of the fathers to bind the children, even to the most remote generations, (which republican writers will never allow) besides this, I say, it is not justified by history or experience, in any age or country of the world.

MPP3-742 THE LACK OF A CONTRACT CONCEPT IN ANTIQUITY PROVES IT INVALID

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.273.

The only passage I meet with in antiquity, where the obligation of obedience to government is ascribed to a promise, is in Plato's Crito: where Socrates refuses to escape from prison, because he had tacitly promised to obey the laws. Thus he builds a tory consequence of passive obedience, on a whig foundation of the original contract. New discoveries are not to be expected in these matters. If scarce any man, till very lately, ever imagined that government was founded on compact, it is certain that it cannot, in general, have any such foundation.

MPP3-743 FOR HUME, EXPERIENCE DENIES THE CONTRACT

Dario Castiglione, Lecturer in politics, University of Exeter, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.106-7.

According to Hume, the consensual theory of political obligation makes nonsense of people's own perception of the relationships in which they engage. What Hume referred to as the 'authority' of received opinion was in his view a forceful argument, not so much because these opinions matter in the courts of reason or philosophy, but because in common life received opinion is part of the very reality which needs to be explained. The apparent prescriptive value which Hume attributes to experience is not absolute, in the sense that there is no fixed record of experience which ought to be applied to our system of values; on the other hand, experience represents the limit of general philosophizing, because philosophy cannot overturn human nature. This kind of argument was of extreme importance in Hume's political philosophy, since he maintained that all sciences dealing with matters of fact - politics being one of them - are entirely based on experience. So, in rejecting experience, contract theorists were doing bad metaphysics. Moreover, by failing to recognize that some form of political obligation was at work in all of those instances where the consent of the people played no part - and, of course, these were by far the greatest number - they were unwittingly maintaining that political experience is only the product of unreason.

MPP3-744 LACK OF GENERAL PUBLIC AWARENESS REFUTES THE CONTRACT

Dario Castiglione, Lecturer in politics, University of Exeter, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.110.

According to Hume, people's lack of awareness, particularly in the case of posterity, cuts at the root of consensual theories of political obligation because it amounts to a clear proof that no act of the will has taken place: 'A tacit promise is, where the will is signified by other more diffuse signs than those of speech; but a will there must certainly be in the case, and that can never escape the person's notice, who exerted it, however silent or tacit'. Since a necessary condition for an act of the will is to be known to the person who exercises it, according to Hume, people's lack of awareness of having engaged in a covenant is conclusive proof that such an unknown promise is no promise at all.

MPP3-745 GOVERNMENTS AREN'T FORMED BY RATIONAL CONTRACT

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.260.

But where no force interposes, and election takes place; what is this election so highly vaunted? It is either the combination of a few great men, who decide for the whole, and will allow of no opposition: Or it is the fury of a multitude, that follow a seditious ringleader, who is not known, perhaps, to a dozen among them, and who owes his advancement merely to his own impudence, or to the momentary caprice of his fellows. Are these disorderly elections, which are rare too, of such mighty authority, as to be the only lawful foundation of all government and allegiance?

MPP3-746 EXISTING GOVERNMENTS AREN'T CONTRACTUAL; NOR IS CONTRACTUALISM

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.86.

Yet Hume entirely rejected the contractarian account of political obligation and legitimate political authority. More precisely, consent or contract is for Hume a sufficient ground for such obligation and authority, but by no means a necessary one. And this is fortunate, since no existing government was founded on voluntary compact; the original contract has been 'obliterated by a thousand changes of government and princes', with the result that 'almost all the governments which exist at present, or of which there remains any record . . . have been founded . . . either on usurpation or conquest'.

MPP3-747 CONSENT TO GOVERNMENT IS BASED ON FEAR, NOT VOLUNTARY CHOICE

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.262-3.

When a new government is established, by whatever means, the people are commonly dissatisfied with it, and pay obedience more from fear and necessity, than from any idea of allegiance or of moral obligation. The prince is watchful and jealous, and must carefully guard against every beginning or appearance of insurrection. Time, by degrees, removes all these difficulties, and accustoms the nation to regard, as their lawful or native princes, that family, which, at first, they considered as usurpers or foreign conquerors. In order to found this opinion, they have no recourse to any notion of voluntary consent or promise, which, they know, never was, in this case, either expected or demanded. The original establishment was formed by violence, and submitted to from necessity. The subsequent administration is also supported by power, and acquiesced in by the people, not as a matter of choice, but of obligation. They imagine not that their consent gives their prince a title: but they willingly consent, because they think, that, from long possession, he has acquired a title, independent of their choice or inclination.

MPP3-748 FORCE IS THE ORIGIN OF GOVERNMENTS, NOT CONSENT

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.261-2.

It is in vain to say, that all governments are or should be, at first, founded on popular consent, as much as the necessity of human affairs will admit. This favours entirely my pretension. I maintain, that human affairs will never admit of this consent; seldom of the appearance of it. But that conquest or usurpation, that is, in plain terms, force, by dissolving the ancient governments, is the origin of almost all the new ones, which were ever established in the world. And that in the few cases, where consent may seem to have taken place, it was commonly so irregular, so confined, or so much intermixed either with fraud or violence, that it cannot have any great authority.

MPP3-749 ALMOST ALL GOVERNMENTS ARE BASED ON CONQUEST OR USURPATION

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.259.

Almost all the governments, which exist at present, or of which there remains any record in story, have been founded originally, either on usurpation or conquest, or both, without any presence of a fair consent, or voluntary subjection of the people.

MPP3-750 FORCE OBLIVATES THE SOCIAL CONTRACT

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.260.

The face of the earth is continually changing, by the increase of small kingdoms into great empires, by the dissolution of great empires into smaller kingdoms, by the planting of colonies, by the migration of tribes. Is there any thing discoverable in all these events, but force and violence? Where is the mutual agreement or voluntary association so much talked of?

MPP3-751 GOVERNMENT POWER IS BASED ON TRADITION, NOT A RATIONAL CONTRACT

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.264-5.

Did one generation of men go off the stage at once, and another succeed, as is the case with silk-worms and butterflies, the new race if they had sense enough to choose their government, which surely is never the case with men, might voluntarily, and by general consent, establish their own form of civil polity, without any regard to the laws or precedents, which prevailed among their ancestors. But as human society is in perpetual flux, one man every hour going out of the world, another coming into it, it is necessary, in order to preserve stability in government, that the new brood should conform themselves to the established constitution, and nearly follow the path which their fathers, treading in the footsteps of theirs, had marked out to them. Some innovations must necessarily have place in every human institution, and it is happy where the enlightened genius of the age gives these a direction to the side of reason, liberty, and justice: but violent innovations no individual is entitled to make: they are even dangerous to be attempted by the legislature: more ill than good is ever to be expected from them: and if history affords examples to the contrary, they are not to be drawn into precedent, and are only to be regarded as proofs, that the science of politics affords few rules, which will not admit of some exception, and which may not sometimes be controlled by fortune and accident.

MPP3-752 THE PUBLIC WANTS TO SUBMIT TO AUTHORITY, NOT RULE ITSELF

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.266.

When we assert, that all lawful government arises from the consent of the people, we certainly do them a great deal more honour than they deserve, or even expect and desire from us. After the Roman dominions became too unwieldy for the republic to govern them, the people, over the whole known world, were extremely grateful to Augustus for that authority, which, by violence, he had established over them; and they showed an equal disposition to submit to the successor, whom he left them, by his last will and testament.

MPP3-753 CIVILIZED SOCIETY COULDN'T EXIST WITHOUT LAW

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.268.

In like manner, may it be said, that men could not live at all in society, at least in a civilized society, without laws and magistrates and judges, to prevent the encroachments of the strong upon the weak, of the violent upon the just and equitable. The obligation to allegiance being of like force and authority with the obligation to fidelity, we gain nothing by resolving the one into the other. The general interests or necessities of society are sufficient to establish both.

MPP3-754 THE DUTY OF OBEDIENCE DERIVES FROM THE NEED TO PRESERVE SOCIETY

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.268.

If the reason be asked of that obedience, which we are bound to pay to government, I readily answer, because society could not otherwise subsist: And this answer is clear and intelligible to all mankind.

MPP3-755 SOCIAL INTERESTS JUSTIFY OBEDIENCE TO GOVERNMENT

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.272.

The general obligation, which binds us to government, is the interest and necessities of society; and this obligation is very strong. The determination of it to this or that particular prince or form of government is frequently more uncertain and dubious. Present possession has considerable authority in these cases, and greater than in private property; because of the disorders which attend all revolutions and changes of government.

MPP3-756 GOVERNMENT IS ESSENTIAL FOR HUMAN SECURITY

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.255-6.

As it is impossible for the human race to subsist, at least in any comfortable or secure state, without the protection of government; this institution must certainly have been intended by that beneficent Being, who means the good of all his creatures: And as it has universally, in fact, taken place, in all countries and all ages; we may conclude, with still greater certainty, that it was intended by that omniscient Being, who can never be deceived by any event or operation.

MPP3-757 FOR HUME, GOVERNMENT IS JUSTIFIED BY ITS CONTINUING USEFULNESS, NOT AN INITIAL CONTRACT

David Boucher and Paul Kelly, Professors of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, 1994, p.20-1.

Hume, then, did not wish to deny that the origin of government might have rested upon consent. What he wanted to insist upon was the disjunction between its origin and continuing legitimacy. He could admire Grotius and Pufendorf for the emphasis they gave to self-interest in the formation of civil society, but deplored the road that they took in grounding political obligation in the natural law of keeping faith with one's promises. Whereas consent could legitimize the origins of government, interests are served by the continuing existence of its authority. As governments secure peace and commodious living it is not the consent of our ancestors, not even our own tacit consent, but the fact that it is in our interests that we are obligated to give our allegiance.

MPP3-758 UTILITY NOT FIDELITY JUSTIFIES OBEYING THE STATE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.139.

Without these natural duties civil or political society would disintegrate. If this is true, then a necessary condition for the existence of political society is that most people are willing to obey, and do obey, the commands of the sovereign (the state), even when a particular law is not conducive to their personal welfare. Most people recognize that the institution of political authority is necessary to protect and promote their individual well-being as well as the general well-being of society. Therefore, Hume argues, most individuals recognize a "duty of allegiance" as grounded on utilitarian considerations. It is simply useless, according to Hume, to try to ground the duty of allegiance on the duty of fidelity. In other words, Hume thinks he can better account for the nature of political obligation than the contractarians: i.e., we ought to obey the state simply because it is in our general interest to do so.

MPP3-759 GOVERNMENTS ARE LEGITIMATE DESPITE THEIR LACK OF CONTRACTUAL ORIGINS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.87.

Most existing governments are legitimate, men have an obligation to obey them, and the reason is simple: because society could not otherwise subsist (HTP, 209) (and without society, individuals could not subsist). In other words, Hume aims to destroy a fundamental presupposition of all contract theory from Engelbert of Volkersdorf onwards, by showing that the way in which government originated among men (by consent or even contract) is a quite separate question from why we should (or should not) obey it. This is true, even although the reasons why men first accepted government are exactly the same as the reasons why they should obey it now - for the sake of peaceful and orderly society.

MPP3-760 CONSENT ISN'T EMPIRICALLY THE BASIS FOR SOVEREIGNTY

David Hume, "Of the Original Contract," in *HUME'S ETHICAL WRITINGS*, Alasdair MacIntyre, ed., 1748, p.265-6.

Suppose, that an usurper, after having banished his lawful prince and royal family, should establish his dominion for ten or a dozen years in any country, and should preserve so exact a discipline in his troops, and so regular a disposition in his garrisons, that no insurrection had ever been raised, or even murmur heard, against his administration: Can it be asserted, that the people, who in their hearts abhor his treason, have tacitly consented to his authority, and promised him allegiance, merely because, from necessity, they live under his dominion? Suppose again their native prince restored, by means of an army, which he levies in foreign countries: They receive him with joy and exultation, and shew plainly with what reluctance they had submitted to any other yoke. I may now ask, upon what foundation the prince's title stands? Not on popular consent surely: For though the people willingly acquiesce in his authority, they never imagine, that their consent made him sovereign. They consent; because they apprehend him to be already, by birth, their lawful sovereign. And as to that tacit consent, which may now be inferred from their living under his dominion, this is no more than what they formerly gave to the tyrant and usurper.

MPP3-761 CONSENT IS RARELY INVOLVED IN THE FORMATION OF STATES

David Hume, "Of the Original Contract," in *HUME'S ETHICAL WRITINGS*, Alasdair MacIntyre, ed., 1748, p.262.

Reason, history, and experience shew us, that all political societies have had an origin much less accurate and regular; and were one to choose a period of time, when the people's consent was the least regarded in public transactions, it would be precisely on the establishment of a new government. In a settled constitution, their inclinations are often consulted; but during the fury of revolutions, conquests, and public convulsions, military force or political craft usually decides the controversy.

MPP3-762 TACIT CONSENT IS MEANINGLESS FOR MOST PEOPLE

David Hume, "Of the Original Contract," in *HUME'S ETHICAL WRITINGS*, Alasdair MacIntyre, ed., 1748, p.263.

Can we seriously say, that a poor peasant or partizan has a free choice to leave his county, when he knows no foreign language or manners, and lives from day to day, by the small wages which he acquires? We may as well assert, that a man, by remaining in a vessel, freely consents to the dominion of the master; though he was carried on board while asleep, and must leap into the ocean, and perish, the moment he leaves her.

MPP3-763 THERE IS NO TACIT CONSENT TO A SOCIAL CONTRACT

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.263.

Should it be said, that, by living under the dominion of a prince, which one might leave, every individual has given a tacit consent to his authority, and promised him obedience; it may be answered, that such an implied consent can only have place, where a man imagines, that the matter depends on his choice. But where he thinks (as all mankind do who are born under established governments) that by his birth he owes allegiance to a certain prince or certain form of government; it would be absurd to infer a consent or choice, which he expressly, in this case, renounces and disclaims.

MPP3-764 TACIT CONSENT IS MEANINGLESS

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.86.

But what of the Lockean notion that 'by living under the dominion of a prince, which one might leave' every individual has given a tacit consent to his authority, and promised him obedience'? Hume deals with this suggestion in devastating fashion. There can be no consent and no promise where there is no choice; but no one (philosophers apart) who is born under an established government supposes he has any choice in this matter. Objectively speaking, only a minority at best could have any choice. 'Can we seriously say that a poor peasant or artisan has a free choice to leave his country, when he knows no foreign language or manners, and lives from day to day, by the small wages which he acquires? We may as well assert that a man, by remaining in a vessel, freely consents to the dominion of the master, though he was carried on board while asleep, and must leap into the ocean, and perish, the moment he leaves her.' (HTP, 196-9,203).

MPP3-765 SUBMISSION TO THE STATE IS NEVER REALLY VOLUNTARY

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.138-9.

I will add in the spirit of Hume, that there is even a stronger argument against any form of consent: theory. In order to generate a moral obligation, consent must involve an overt voluntary act like a promise or an oath. However, we are born as members of a particular state, and there is no way in which we can seriously say that we have promised to obey its laws and institutions. The fact that we receive benefits from the state and its respective institutions (including the law) is not sufficient to generate a political obligation, understood as a self-assumed moral obligation, since we are never or hardly ever asked whether we promise to obey in exchange for benefits. The state is not like a private club that one decides to join, promising to observe its rules. The fact that we live under the jurisdiction of a state does not imply, in any real sense, that we have voluntarily promised to abide by its laws and regulations. Even to acquiesce and not openly challenge the authority of the state is not sufficient to generate political obligations, since our acquiescence can be a matter of habit, intimidation, or simply apathy.

MPP3-766 NEITHER EXPRESS NOR TACIT CONSENT JUSTIFIES OBEDIENCE

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.138.

Even if we assume that political authority originated with the consent or acquiescence of our ancestors, it does not follow, Hume argues, that present generations are morally bound by that original agreement. This objection works against Locke, who uses past consent to justify present obligations. Yet Locke could have argued that the above objection applies only to "express" rather than to "tacit" consent. But this is precisely Hume's target. The fact that a person lives under the jurisdiction of a particular government with the possibility of departing from it if he or she desires to do so does not, according to Hume, imply "tacit consent." It is simply false, as Hume argues, that most people have a real option to abandon everything and move to a different place. The above objections against express and tacit consent seem to be sound. These objections work against Hobbes, Locke, and Rousseau to the extent they use consent to justify political authority and thereby the political obligation of the citizens to such an authority.

MPP3-767 FOR HUME, CONTRACTUALISM EXCESSIVELY ENCOURAGED REBELLION

Dario Castiglione, Lecturer in politics, University of Exeter, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.104.

Indeed Hume considered the 'fury and justice' of the people to be a greater threat to the benefits provided by government than the sovereign's encroaching powers, even more threatening than royal aspirations to absolute government, and in extreme circumstances worse than tyranny itself. From this it followed that theories founded on principles prone to undermine the security and stability of government were to be rejected as theories incapable of explaining both the very existence of government and the sense of allegiance from which government draws its support, and which it in turn tries to engender and reinforce. 'Original contract' theories were this kind of theory, giving, in Hume's view, too much prominence to the right of resistance, and investing the people with a reserve power over the established government, a power whose exercise they also prescribed whenever governments deviated from their appointed course.

MPP3-768 SOCIAL CONTRACT THEORY RESTS ON AN UNTENABLE PARADOX

David Hume, "Of the Original Contract," in *HUME'S ETHICAL WRITINGS*, Alasdair MacIntyre, ed., 1748, p.272-3.

And nothing is a clearer proof, that a theory of this kind is erroneous, than to find, that it leads to paradoxes, repugnant to the common sentiments of mankind, and to the practice and opinion of all nations and all. The doctrine, which founds all lawful government on an original contract, or consent of the people, is plainly of this kind; nor has the most noted of its partizans, in prosecution of it, scrupled to affirm, that absolute monarchy is inconsistent with civil society, and so can be no form of civil government at all; and that the supreme power in a state cannot take from any man, by taxes and impositions, any part of his property, without his own consent or that of his representatives. What authority any moral reasoning can have, which leads into opinions so wide of the general practice of mankind, in every place but this single kingdom, it is easy to determine.

MPP3-769 HUME'S CRITIQUE ISN'T SIMPLY BASED ON HISTORICAL IMPLAUSIBILITY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.85-6.

At any rate, the next critic of contract theory to be considered, the Scottish philosopher David Hume, who is also one of the most penetrating of all, construed the idea more broadly than Filmer, and did not rest his case on its historical implausibility. On the contrary, Hume, in his famous essay 'Of the Original Contract', published in 1742, explicitly allowed that 'if we trace government to its first origin in the woods and deserts' it is undeniable that it was 'at first, founded on a contract'. By this he does not mean that men then subscribed to a 'compact or agreement .. expressly formed for general submission' - they were much too uncultivated to conceive of such a thing. Nevertheless, Hume argues, men are so nearly equal in bodily force ('and even in their mental powers till cultivated by education'), that 'nothing but their own consent could, at first, associate them together, and subject them to any authority'. The potential advantages of such authority are reasonably evident - namely, peace and order- and provided a sufficient motive as well as sufficiently obvious conditions (which need not have been made explicit) for submission. In this sense, Hume accepts the contention that government was first founded on an original contract (HTP, 195-6).

MPP3-770 FOR HUME, HYPOTHETICAL CONTRACTS ARE QUESTION BEGGING

Dario Castiglione, Lecturer in politics, University of Exeter, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.110-1.

Hume's answer to the quasi-contract argument was formulated in a letter to Hutcheson himself, where it is said that this interpretation of the nature of political obligation amounts to a de facto rejection of Locke's theory. Indeed, in his letter, Hume regretted that Hutcheson had not made this point 'more express'. The reason underlying Hume's reading is easy to see and follows from what has already been said about Hume's conviction that the presence of some form of actual consent is an intrinsic part of contract making. Hutcheson's quasi-contract has no contractarian force, or so Hume believed, because it is entirely founded on interest. Hutcheson thought differently, for he considered the obligation of quasi-contract to derive from the 'natural' sense of justice. Moreover, he considered quasi-contract obligations to hold in the same way in private and public law. Both conceptual moves were, of course, incompatible with Hume's own understanding of natural and moral obligations. But the relevant point within the context of the post-Rawlsian debate (or the post-Kantian, for that matter) is that in Hume's view hypothetical contracts beg the very question they are meant to answer, for they seem ultimately to rest on non-contractarian principles of obligations. This is, after all, a very much disputed point in the current literature.

MPP3-771 CONSENT OFFERS THE BEST BASIS FOR GOVERNMENT

David Hume, "Of the Original Contract," in HUME'S ETHICAL WRITINGS, Alasdair MacIntyre, ed., 1748, p.262.

My intention here is not to exclude the consent of the people from being one just foundation of government where it has place. It is surely the best and most sacred of any. I only pretend, that it has very seldom had place in any degree, and never almost in its full extent. And that therefore some other foundation of government must also be admitted.

MPP3-772 HUME DOESN'T JUSTIFY POLITICAL OBLIGATION

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.146.

For Hume obedience is justified in terms of utility; we ought to obey the law of the land because it is in our general interest to do so. But by the same token, if the laws are unfair and detrimental to our wellbeing, then it is in our general interest to disobey. Therefore, for Hume obedience as well as disobedience can be justified in terms of utility. However, if we recognize that the utilitarian promotion of the general welfare is only one moral obligation among many, then our obligation to promote the general welfare does not always take precedence over all other obligations, such as our obligation to promote justice (understood as the protection of important rights), our obligation to keep our promises, or our obligation to render aid to people in need of it. There are conflicts of obligations, and there are no preestablished rules to settle these conflicts. Our "duty," understood as our weightiest obligation, to do or refrain from doing something will ultimately depend on the character of the concrete situation or issue in question.

MPP3-773 UTILITARIAN CONSIDERATIONS AREN'T THE ONLY ONES TO CONSIDER

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.140.

Hume has not shown. however--he instead has assumed--that all moral obligations are reducible to utilitarian considerations. I do not think we have any reason to accept this assumption. It is more reasonable to assume that there are many kinds of moral obligations such as obligations of justice, promise-keeping, gratitude, fair-play, beneficence, etc. These are competing obligations, and whether one will override the other in a concrete situation will depend on a number of different moral considerations and the context in which the conflict of obligations takes place. What Hume has shown (and this is an important contribution) is that any account of political authority must take utilitarian considerations seriously. What he has failed to show is that these are the only important moral considerations in matters political.

MPP3-774 THE HISTORICAL OBJECTION TO THE CONTRACT IS BESIDE THE POINT

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.138.

I turn now to Hume's objections against contractarianism. Hume argues that the social contract is nonhistorical. We do not have any evidence, past or present, he contends. to support the view that government originated in a contract. But this historical objection simply misses the point. The social contract approach is not used as a historical explanation for the origin of political society, but rather as a heuristic device to assess the nature of political authority and the relationship of the citizens to such an authority. Accordingly, the social contract should be understood as a metaphor to ground the political obligation of the citizens to the state and its institutions. The citizens ought to act "as if" they have consented to abide by such a hypothetical contract.

MPP3-775 HUME FAILED TO UNDERSTAND THE TREND TOWARDS DEMOCRACY

Dario Castiglione, Lecturer in politics, University of Exeter, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.111.

Something more positive can instead be said on the political import of Hume's arguments against social contract theories. Although, as I hope to have shown, his criticisms were always insightful and often compelling, on the whole, they proved somewhat unimaginative. Hume did not see, or perhaps only partially understood and rejected as a threatening development, modern politics' trend towards democratization and popular sovereignty. It is significant that, when he was told that amongst Rousseau's works the one for which Rousseau himself expressed a particular predilection was the Social Contract, he said that this was a 'preposterous' idea. How wrong he was.

MPP3-776 UTILITARIANISM IS A MORE REASONABLE GROUND FOR POLITICAL OBLIGATION THAN CONTRACTUALISM

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.153.

Hume's argument that the concepts of explicit and tacit consent are inadequate tools to generate political obligation seems to be sound, and his argument grounding allegiance on utilitarian considerations is more reasonable than the contractarian fiction grounding allegiance on a nonexistent contract.

MPP3-777 OBEDIENCE ISN'T BASED ON CONTRACT BUT A UTILITARIAN ASSESSMENT OF THE COSTS OF REBELLION

John Dinwiddy, Reader in Modern History, University of London, BENTHAM, 1989, p.74-5.

He defined a political society as one in which some people, the 'subjects', were in the habit of paying obedience to a person or set of persons, the 'governor' or 'governors'. This habit of obedience could be weakened or eroded and could 'suffer interruptions', and the subjects could not be regarded as obliged to obey the sovereign power any longer than they saw it as being in their interest to do so: they could only be expected to obey 'for so long as the probable mischiefs of obedience are less than the probable mischiefs of resistance' (C/F 434, 444). If they were disposed to revolt, they would not be restrained by a 'fiction' or 'metaphysico-legal' argument to the effect that they had somehow 'consented' and 'submitted' to the government they lived under.. Something much more substantial would be needed to retain their allegiance, and perhaps the most basic message of the Fragment was that the best way to avoid an accumulation of discontent, leading conceivably to a withdrawal of obedience and a dissolution of political society, was to allow freedom of criticism and latitude for improvement--to allow, as Bentham himself put it, 'that liberty which is Reformation's harbinger'.

MPP3-778 UTILITARIAN ARGUMENTS FOR OBEDIENCE TO GOVT MORE COMPELLING THAN CONTRACTUAL ONES

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.115.

Most individuals recognize that the institution of government or sovereignty is necessary to protect and promote their individual well-being as well as the general well-being of society. Therefore, most individuals recognize a "duty of allegiance" grounded on utilitarian considerations. Thus, according to Hume, it is simply useless to try to ground the duty of allegiance on the duty of fidelity. To the question, why ought we to obey the government? Hume responds, "because society could not otherwise subsist." The contractarians, on the other hand, would respond, "because we should keep our word." The problem is that once we inquire why we should keep our promises, the contractarians do not have a satisfactory answer. They are faced with a dilemma. If they justify the duty of fidelity on utilitarian grounds, then why bother to postulate this duty to justify the duty of allegiance? Why bother, that is, if we can account for the latter by appealing directly to utilitarian considerations regardless of whether we have promised? On the other hand, if the contractarians argue that we ought to keep our promises because this is right, that too is false because we know that this is not always the case. Sometimes utilitarian considerations override our promises. In consequence, Hume thinks he has a better explanation than the contractarians; namely, we ought to obey the government because it is in our general interest to do so.

MPP3-779 BOTH HUME AND BENTHAM REJECTED THE SOCIAL CONTRACT ON UTILITARIAN GROUNDS

John Dinwiddy, Reader in Modern History, University of London, BENTHAM, 1989, p.74.

No doubt the primary purpose of this work was to weaken the forces of legal conservatism by confuting and discrediting Blackstone. But as well as demonstrating that Blackstone's reasoning was confused and specious, Bentham was setting up utility as the only proper and reliable source of legitimation in government, in opposition to the familiar doctrine of a notional contract, which Blackstone had restated. That doctrine had already come under fire from David Hume, who argued that the foundation of men's obligation to obey government lay not in any tacit promise or compact, but in the 'interests and necessities of human society' and in the fact that without such obedience society could not subsist. Bentham, too, wished to demystify the notions of political authority and obligation. He wanted to lay bare the essentials of a functioning political system, and to make it clear that it was only in terms of utility that the relationship between rulers and ruled could be meaningfully analysed.

MPP3-780 FOR BENTHAM, RESPECT FOR THE CONTRACT RESTS ON UTILITARIAN REASONS

David Boucher and Paul Kelly, Professors of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, 1994, p.21.

Bentham in attacking Sir William Blackstone's use of the idea of an original contract follows Hume in claiming that the social contract idea is actually redundant in explaining our obligations to government. This is because the institution of promise-keeping is itself not morally basic but instead conventional, therefore the appeal to an original promise cannot do any work unless we already have a prior reason to keep our promises. When a social contract theorist is asked why individuals should keep their promises, they can answer only in terms of utilitarian or consequentialist reasons.

MPP3-781 FOR BENTHAM, GOVERNMENT IS BASED ON HABITUAL OBEDIENCE, NOT CONTRACT

David Boucher and Paul Kelly, Professors of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, 1994, p.22.

Bentham argues instead that political society does not emerge from an original contract but is merely the result or a habit of obedience. He writes: When a number of persons (whom we may style subjects) are supposed to be in the habit of paying obedience to a person, or an assemblage of persons, of a known and certain description (whom we may call governor or governors) such persons altogether (subjects and governors) are said to be in a state of political SOCIETY. This habit of obedience will continue as long as the governor or governors act in the interest of the governed, or more precisely endeavour as far as possible to maximize the greatest happiness of the greatest number. Thus neither is the origin of society to be explained by the original contract, nor is it the case that political obligations derive from an original promise; instead they are conventional and based upon consequentialist reasons.

MPP3-782 SOCIAL CONTRACT THEORY DOESN'T SUCCESSFULLY MEDiate BETWEEN FREEDOM AND GOVERNMENT

John Dinwiddy, Reader in Modern History, University of London, BENTHAM, 1989, p.75.

Most of the time, Bentham saw Blackstone's arguments--and especially his use of contract theory--as having a strong tendency to inculcate submission. Yet he considered that in one respect, in his invocation of natural law, Blackstone had veered to the opposite extreme. Blackstone said that no human laws should be 'suffered to contradict' the law of nature, and indeed that men were 'bound to transgress' any human law which did contradict it. According to Bentham, who regarded the law of nature as 'nothing but a phrase', 'the natural tendency of such doctrine is to impel a man . . . to rise up in arms against any law whatsoever that he happens not to like'. Blackstone, then, had signally failed to deal convincingly with one of the most difficult problems in the field of politics, the problem of 'adjusting the claims of those two jealous antagonists, Liberty and Government'. In Bentham's view it was only the principle of utility that could guide men safely through the straits between the two.

MPP3-783 UTILITARIANISM IS CONSISTENT WITH CONTRACTUALISM

David Boucher and Paul Kelly, Professors of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, 1994, p.22-3.

However, recently there has been a renewal of interest in contractarianism as a foundational strategy in the work of utilitarians such as John Harsanyi. Harsanyi uses the idea of a rational bargain as justification of a utilitarian principle. The bargain does not provide reasons independent of utility for obeying the law, or acknowledging political authority, but the rational agreement does ground the principles on which these obligations are indirectly based. Harsanyi's conception of the social contract places him in the moral contract tradition yet he is also one of the most significant modern defenders of utilitarianism, a tradition that at least with Hume, Bentham and Mill was inimical to contractarianism.

MPP3-784 REJECTING THE SOCIAL CONTRACT LEADS TO DESPOTISM

John Dinwiddy, Reader in Modern History, University of London, BENTHAM, 1989, p.118.

With regard to the latter part of the century, Dicey may have been nearer the mark than he was in his treatment of the earlier period. In a chapter called 'The Debt of Collectivism to Benthamism' he maintained that, through championing what amounted to untrammelled parliamentary sovereignty and majority rule and through savaging the concepts of a social contract and natural rights, Bentham had made an unintentional but significant contribution to the trend [which Dicey associated with the years since 1870] towards 'democratic despotism' and 'socialistic' policies.

MPP3-785 UTILITARIANISM COULD JUSTIFY SADISTIC TORTURE

Jan Narveson, Professor of Philosophy, University of Waterloo, THE LIBERTARIAN IDEA, 1988, p.151.

At a minimum, this increases the complexity of utilitarian arithmetic. And of course it raises such familiar problems as how the utilitarian is to deal with the case where a hundred people get great pleasure from seeing the hundred and first suffer considerable pain. Of course that seems unintuitive to us, at least, and I have expressed dissatisfaction with resort to intuition for fundamental purposes above. But not many theorists would live happily with the suggestion that in the case in question, the right thing to do is to torture Mr. 101 for the general entertainment.

MPP3-786 FOR HEGEL, SOCIETY PRECEDES THE INDIVIDUAL

David Boucher and Paul Kelly, Professors of Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, 1994, p.18.

For Hegel, however, it was important to show that the pre-civil state of nature assumed of its members characteristics that they could acquire only in society. The private rights of contract and property are used to legitimize the public rights produced by the legal and social institutions of the state, whereas in reality the opposite is the case, private rights are generated and legitimized by the sphere of public rights. A variation on this Hegelian argument is found in communitarian and Marxist critiques as well as in contemporary feminism.

MPP3-787 MEMBERSHIP IN THE STATE PRECEDES CONTRACT

Bruce Haddock, Lecturer in Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.150.

Hegel's position, however, is much more complex. He accepts that the state is a factum, a product of human endeavour and in some sense an expression of human nature. What he is unhappy with is the kind of willing involved in the making of contracts. The identity of interest between contracting parties extends no further than the object at the centre of their transaction. In Hegel's terminology, derived from Roman law, this is merely a 'common will'. The state, however, in his view, is a genuine unity, embracing an entire institutional and cultural context. Haphazard agreement on specific ends cannot create this sort of unity but rather depends upon it. As Hegel puts the point, 'the individual is already by nature a citizen' of the state. It is thus absurd to suppose 'that the arbitrary will of everyone is capable of founding a state' since 'it is absolutely necessary for each individual to live within the state'. The necessity in question here is both logical and actual. And relationships based upon necessity cannot be explained in terms of the happenstance of individual decision.

MPP3-788 COMMUNITY PRECEDES CONTRACT

Bruce Haddock, Lecturer in Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.147.

That Hegel was in some sense a critic of social contract theory is beyond dispute. Indeed he was widely regarded, especially by an earlier generation of political theorists, as the philosopher who had most effectively undermined the doctrine's credibility. Gough, for example, in his classic study of the different guises assumed by the social contract from antiquity to modern times, admits that Hegel's 'portrait of human life is closer to history and reality than the abstractions of the contractarian school' and that he had 'enunciated a political philosophy totally at variance with everything' the social contract tradition had stood for. Lessnoff has reiterated the point arguing that, in Hegel's view, contract 'fails to do justice to the grandeur and majesty of the state, and the obligations it is thereby entitled to impose on the individual'. The claim is that the community, and the state which expresses the identity of that community, logically and actually precedes the individual constituents of the community.

MPP3-789 MEMBERSHIP IN THE STATE ISN'T OPTIONAL

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.99-100.

The mistake of contract theory, according to Hegel, is to conceive of the state as if it were an aspect of civil society. 'The state', he asserts, 'is not contract at all, nor is its fundamental essence the unconditional protection and guarantee of the life and property of members of the public as individuals'. To suppose that it is, Hegel suggests, is grossly to underrate the value of the state as such, to deny its true 'majesty and absolute authority', even (Hegel says) its divinity. Its only membership in the state which gives the individual his true individuality. The state is far too important to be considered the property of its individual members, or a mere means to advance their ends. Membership of the state is not, for the individual, something 'optional' (as the contractarian idiom suggests), but is his 'supreme duty'. Hence the state has 'supreme right against the individual' (emphasis added); as a 'higher entity', it is entitled to demand of the individual sacrifice of his 'very life and property'.

MPP3-790 THE STATE ISN'T A VOLUNTARY ASSOCIATION

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.140.

According to Hegel, since individuals are born as members of a particular state, they have no right to decide whether they want to be citizens of it. He contends that "the rational end of man is life in the state, and if there is no state there, reason at once demands that one be founded." Consequently, for Hegel the state is an imperative of reason rather than, as the contractarians maintain, a voluntary association. The state, according to Hegel, is a necessary condition for the concrete realization of the positive freedom of each citizen.

MPP3-791 THE STATE IS AN END IN ITSELF--IT CAN'T DEPEND ON INDIVIDUAL CHOICE

Bruce Haddock, Lecturer in Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.150.

But if it is wrong to base the state on the contingent wills of individuals, will in a different sense is nevertheless the basis of the state. Individuals acquire self-awareness in an institutional framework and by degrees, recognize that institutional framework as the public face of their personal identities. Hegel describes the state as 'the actuality of the substantial will, an actuality which it possesses in the particular self-consciousness when this has been raised to its universality'. Crucially, however, the will in question here is 'rational in and for itself' and the state which embodies it is an 'absolute and unmoved end in itself'. What Hegel cannot allow is that an unmoved end in itself, the necessary condition for the fulfillment of individuals, should be dependent upon individual caprice.

MPP3-792 THE INDIVIDUAL FINDS FULFILLMENT THROUGH THE STATE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.122.

The individual finds a place first as a member of a family in an ethical order, and later as a member of a corporation or guild in civil society. Ultimately, the individual finds dignity or substantive freedom as a member of the state. It is through being a citizen of a particular state that the individual is somebody; it is through the state that the individual is able to concretize the notion of freedom. The state, as Hegel sees it, is a necessary condition for the realization of individual as well as universal freedom. He writes: The state is the actuality of the ethical Idea.... The state exists immediately in custom, mediately in individual self-consciousness, knowledge, and activity, while self-consciousness in virtue of its sentiment towards the state finds in the state, as its essence and the end and product of its activity, its substantive freedom. Consequently, the state as the concrete embodiment of universal freedom "has supreme right against the individual, whose supreme duty is to be a member of the state." The state, according to Hegel, is absolutely rational. If this is so, then the individual members of the state are rational insofar as they perform their duties--insofar as they are positively free.

MPP3-793 LIFE IN THE STATE IS THE RATIONAL END OF HUMAN LIFE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.123-4.

Similarly, Hegel contends that "the rational end of men is life in the state, and if there is no state there, reason at once demands that one be founded." This is compatible with Kant's ideas; but Hegel goes one step further by defending the view that the foundation of the state is an imperative of reason, since the state is necessary for the concrete realization of the freedom of each citizen.

MPP3-794 THE RIGHTS OF THE STATE OUTWEIGH THE RIGHTS OF INDIVIDUALS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.119-20.

Yet freedom as Idea is dialectical: it has a form and a content. Form corresponds to the abstract universality of the will as our ability to choose. Content can be private, when it is concerned with the interests of particular persons, or public, when it is concerned with the common good. Accordingly, when there is a conflict or collision of rights, as Hegel puts it, the realm of the public, the right of the state, overrides the private realm, the abstract rights of persons.

MPP3-795 THE SOCIAL ETHICS OF THE PUBLIC REALM TAKE PRECEDENCE OVER PRIVATE ETHICS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.120-1.

Public right, as the embodiment of objective freedom, takes precedence over private right, as the embodiment of subjective freedom. This recognizes ethical life or social ethics as the supremacy of the public realm over and above the private realm. "Ethical life is the concept of freedom developed into the existing world and the nature of self-consciousness." This concept of freedom is expressed through the valid laws and the institutions of a particular community. The members of this community are objectively free to the extent to which they recognize these laws and institutions as binding upon them, to the extent, that is, to which they recognize them as duties.

MPP3-796 POSITIVE SOCIAL FREEDOM IS MORE IMPORTANT THAN NEGATIVE FREEDOMS AGAINST SOCIETY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.121-2.

It is important to notice that for Hegel "freedom," understood in the metaphysical sense as the ability to choose, has a negative connotation. This kind of freedom can be called negative or subjective freedom in contrast to substantive or positive freedom. The latter is a higher form of freedom: substantive or positive freedom is the recognition and fulfillment of our duties in a just ethical community. It is the fulfillment of our potentialities as essentially free beings. Thus, even though metaphysical freedom logically precedes the realization of substantive or positive freedom, the latter has priority from an axiological perspective. Hegel points this out when he argues: The right of individuals to be subjectively destined to freedom is fulfilled when they belong to an actual ethical order, because their conviction of their freedom finds its truth in such an objective order, and it is in an ethical order that they are actually in possession of their own essence or their own inner universality. Consequently, in an ethical order, Hegel contends, "right and duty coalesce . . . a man has rights insofar as he has duties, and duties insofar as he has rights." This means that if we are free in the positive sense, we have a right to do our duty. And our duties will depend on the position that we occupy in the ethical order (society) and on the kind of ethical order we belong to.

MPP3-797 PRIVATE RIGHTS DEPEND ON PUBLIC RIGHTS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.141.

The second Hegelian objection against contractarianism seems fatal. According to Hegel, contractual relations are valid within the realm of private rights (contractual and property rights) among individuals in civil society, but from this it does not follow that the contractarian paradigm can be applied to the foundation and legitimacy of the state. This paradigm is defective because the validity of private rights is parasitic upon the validity of public rights as defined by the laws and institutions of the state. If the realm of private rights is parasitic upon the realm of public rights, then the former cannot legitimize (morally justify) the latter. In fact, the opposite is true: the legitimization of private rights depends upon and is determined by the realm of public rights.

MPP3-798 PRIVATE CONTRACTUAL RIGHTS CAN'T DETERMINE PUBLIC RIGHTS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.124.

Hegel argues that contractual relations are valid within the realm of private rights and civil society. But it does not follow this paradigm can be applied to the foundation and legitimacy of the state, because the validity of private rights (contractual and property rights) is parasitic upon the validity of public rights as defined by the laws and institutions of the state. Bobbio puts it succinctly when he states that Hegel's objection to contractarianism is logical rather than historical. If the realm of private rights is parasitic upon the realm of public rights, then the former cannot legitimize (morally justify) the latter. The opposite is true; the moral justification of private rights depends upon and is determined by the realm of public rights.

MPP3-799 POLITICAL RELATIONSHIPS ARE PRIMARY, CONTRACTUAL ONES SECONDARY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.23.

The state is not, for Hegel, a contractual relation designed to protect the property rights of individuals, nor is it to be deemed the private property of the monarch. From early in his writings Hegel was contemptuous of 'the form of such an inferior relation as the contractual one [having] forced its way into the absolute majesty of the ethical totality'. A contractual relationship, he later argues, 'is a casual tie arising from the subjective need and choice of the parties'. The political relationship is qualitatively different in that it is absolutely necessary, objective and released from considerations of choice or caprice.

MPP3-800 CONTRACTS ARE PRIVATE AND DON'T CAPTURE THE PUBLIC NATURE OF POLITICAL OBLIGATION

Bruce Haddock, Lecturer in Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.149.

In the passages of the *Philosophy of Right* where Hegel focuses directly on social contract theory, he emphasizes the arbitrariness of contractual decisions. In his fullest discussion of contract in the conventional legal sense, he highlights the contingent identity of the wills of two contracting parties, expressed in a common interest in a particular object. The contracting parties happen to agree on the value of an object. In all other respects they are utterly indifferent to one another. Can such a relationship be seen as the hypothetical archetype depicting a modern citizen's relationship with the state? Hegel's answer is emphatically no. He sees contractual relationships as specifically private. In the feudal period, Hegel grants, 'political rights and duties were regarded as, and declared to be, the immediate private property of particular individuals in opposition to the right of the sovereign and the state.' But he denies categorically that the 'rights of the sovereign and the state' should be regarded as the product of 'the arbitrary will of those who have combined to form a state'. In this respect, it makes no difference 'whether it is assumed that the state is a contract of all with all, or a contract of all with the sovereign and government'. In each case, the presuppositions of the sphere of private property would have been transferred to the qualitatively distinct realm of ethical life and the state.

MPP3-801 SOCIAL CONTRACT THEORY OVEREMPHASIZES CONTRACTUAL OVER NON-CONTRACTUAL BONDS

Bruce Haddock, Lecturer in Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.147.

It may be possible to regard individuals in some aspects of their lives as narrowly self-interested calculators of advantage; and in these spheres it might be proper to invoke the image of contract as a means of rendering their mutual relations intelligible. But contractual relations at the micro-level presuppose wider bonds which are not themselves contractual. To treat the state itself as the product of an actual or even hypothetical contract would thus invert the logical relationship which obtains between contractual and other obligations. Far from helping to clarify our understanding of political obligation, contractual language would actually muddy the issue, confusing our duty to fulfil voluntarily incurred commitments with the grounds for the fulfillment of our duties. Taken in conjunction with Hegel's more general insistence that cultures, practices, institutions, and so on should be seen as products of a progressively emerging historical process, these theoretical arguments would seem to make the idea of contract redundant. It could serve neither as a historical explanation of the establishment of states nor as a hypothetical explanation of the basis of obligation to the state.

MPP3-802 CONTRACTUALISM IS BASED ON THE ARBITRARY WILL OF INDIVIDUALS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.123.

Hegel's criticism of the social contract tradition is that, by basing the state on contractual relations, it bases its legitimacy on the arbitrary will of individuals. But, since individuals are born as members of a particular state, they do not have the right to decide whether they want to be members of it. As Hegel explains it: It does not lie with an individual's arbitrary will to separate himself from the state, because we are already citizens of the state by birth. The rational end of man is life in the state, and if there is no state there, reason at once demands that one be founded. Permission to enter a state or leave it must be given by the state; this then is not a matter which depends on an individual's arbitrary will and therefore the state does not rest on contract, for contract presupposes arbitrariness. It is false to maintain that the foundation of the state is something at the option of all its members. It is nearer the truth to say that it is absolutely necessary for every individual to be a citizen.

MPP3-803 FOR HEGEL, CONTRACTUALISM FALSELY ASSUMES INDIVIDUAL AUTONOMY RATHER THAN SOCIAL UNITY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.23.

The idea of an original contract, or a continuing contract between the people and the monarch, is anathema to Hegel's whole conception of philosophy because it assumes the separateness and autonomy of individuals rather than their unity. It conceives the state as a voluntary association with obligations freely chosen, and gives priority to private over public right, ignoring the fact that the former is dependent upon the latter and not the other way around as contract theory claims. The language of contract transfers from civil society, the realm of capricious wills and individual interest, a relationship totally inappropriate for characterizing that which pertains between the individual and the state.

MPP3-804 CONTRACTUALISM REDUCES THE LEGITIMACY OF THE STATE

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.140.

Hegel, like the contractarian theorists, recognizes the importance of the "will" or power of choice of the individual, but, unlike them, he sees the individual as an integral dependent part of the community or state. Thus, Hegel's first important objection to the social contract tradition is that it bases the foundation of the state on contractual relations, thereby reducing its legitimacy (moral justification of authority) to the arbitrary will of individuals.

MPP3-805 THE CONTRACTUAL STATE IS INHERENTLY UNSTABLE

Bruce Haddock, Lecturer in Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.150-1.

Hegel grants that Rousseau has 'put forward the will as the principle of the state'; but while Rousseau's perspective is limited to the 'determinate form of the individual will', his argument is vulnerable to the objections which Hegel had previously advanced against contractual theories of the state. The agreement of individuals, even the unanimous agreement of all members of a community, would still be an entirely contingent affair. A state so constituted might be regarded as authorized to proceed no further than the opinions of its members in its institutions and policies. And if these opinions should prove to be fickle, the state itself would be as insubstantial as a passing fancy. Any government-imposed limitation could be treated as illegitimate. A political form constituted by arbitrary agreement would thus be inherently unstable. Successive attempts in the French revolutionary period to erect a state on the sort of foundation proposed by Rousseau had issued in nothing but a 'fury of destruction'. Failure in these cases Hegel interpreted as a direct consequence of theoretical error.

MPP3-806 AUTONOMY REQUIRES THE SOCIAL CONTEXT THAT CONTRACTUALISM DENIES

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.26.

The social or 'cultural options thesis' is also developed from Hegel's own criticisms of Kant's conception of autonomy. Here the point being made is not that the conception of the autonomous subject is incoherent but rather that the exercise of genuine moral autonomy requires a particular social context. Autonomy cannot be exercised in abstraction from a social context. Genuine autonomy requires a rich and diverse culture in which autonomous individuals can make genuine and informed choices among realistic and valuable life options. Such a culture is corroded by the neutralist liberalism that follows from contemporary social contract theory and the atomistic individualism it is built upon.

MPP3-807 CONTRACTUALISM NEGLECTS SOCIAL AND HISTORICAL DETERMINATES OF HUMAN NATURE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.103-4.

There is no reason to be impressed by his extreme statism, which we have already discussed, but Hegel has another reason for objecting to social contract theory, and one which cannot be dismissed so quickly. This is his attack on the concept of the state of nature, which is such an integral part of contract theory in its classic form; it is men in a state of nature who make the contract. Hegel does not believe the state of nature ever existed, but this is not the crucial point, not that is, if we are considering contract theory in its hypothetical version. Even in this version, the theory involves a deduction from what it would be in the interest of individuals in the state of nature to agree to. It thus depends crucially on postulates of universal human nature, and in two ways: it is this universal human nature that will determine the characteristics of the state of nature (a state of war, or whatever), and also will motivate men to contract out of it. But this whole conception, according to Hegel, is nothing but a 'nebulous' theoretical abstraction without any reality, and a thoroughly misleading one. Man is a social and historical being, his individuality determined by his particular culture. Not only does he always exist within a particular society and culture (Volk) that differs from others, and at a particular period of historical development, but any attempt to distil out of this human diversity a constant and unchanging 'essence' of man is bound to be totally arbitrary (HN, 63-5; HH, 54-6). Man shorn of his culturally determined attributes ceases to be man.

MPP3-808 FREEDOM REQUIRES RECOGNITION OF DUTY

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.121.

It is, Hegel contends, only through the recognition of duty that a human being becomes objectively free; "in duty the individual finds his liberation." It is also through the recognition of duties that an individual "acquires his substantive freedom." To this extent Hegel's position is similar to those of Kant, and even more, Rousseau.

MPP3-809 FOR HEGEL, CONTRACTUALISM MISUNDERSTANDS THE NATURE OF THE STATE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.99.

If the specific meaning of contract theory is, as suggested, the derivation of political obligation from the self-interest of individuals, then just this very feature has been the object of a highly influential attack, from the nineteenth-century German philosopher Hegel. According to Hegel, a contract theory of the state rests on an utter misapprehension of the state's true nature. The nature of contract, to Hegel, is clear enough. Individuals are free to make contracts in regard to whatever is their own property; contracts result from a coincidence of individual wills, what Hegel calls a 'common will' of the parties (HR, 57-9). Contract is appropriate to, and characteristic of, the sphere of human activity which Hegel calls 'civil society', a term which, in significant contrast to many contractarian thinkers, he distinguishes from 'the state', and which for him includes, notably, economic transactions.

MPP3-810 HEGEL'S CRITICISMS OF CONTRACTUALISM ARE FATAL TO THE POSITION

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.140.

Idealists such as Hegel and Green advance a number of succinct and fatal criticisms of contractarianism. Hegel challenges the contractarian tradition on two main grounds. First, in the spirit of Aristotle, he argues against the contractarian explanation of political authority as resting on a voluntary association of independent individuals and presents a communitarian model in which the individual is an integral part of the community. Second, Hegel contends that the contractarian paradigm of political obligation is incoherent.

MPP3-811 HYPOTHETICAL CONTRACTS ONLY GENERATE HYPOTHETICAL OBLIGATIONS

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.141-2.

If the contractarians, to avoid this logical objection, claim that the social contract approach is simply a heuristic device to explain the origin of the state and to justify its authority, one wonders whether this adds anything to our present understanding of the notion of political authority. As E. F. Carritt contends, If it be urged that the contract is not historical but only a "logical analysis" of our allegiance, this only means that we ought to obey "just as if" we had contracted to do so. Such "analysis" might as fairly be applied to our duties of beneficence--we ought to spare pain just as if we had promised. The assumption is that all duties are ultimately contractual; an explicit promise would be otiose. The point, according to the Hegelian objection, is that from a hypothetical contract in a hypothetical situation only hypothetical obligations follow. But hypothetical obligations are not concrete obligations and, by the same token, a hypothetical contract is not a real contract at all. If political authority can indeed be morally justified, it must be justified either on utilitarian grounds or on considerations of justice or both, but not on hypothetical considerations.

MPP3-812 HEGEL DOESN'T REQUIRE OBEDIENCE TO TYRANNY

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.122-3.

From these considerations it is evident that Hegel's theory of political obligation does not amount to an argument for absolute obedience to any actual state regardless of how arbitrary and tyrannical it might be. For one thing, Hegel is talking about the Idea of the state, which deals not only with actual states but also with the nature or concept of it. Hegel's argument for the justification of political obligation runs as follows: The state is the highest ethical order through which concrete freedom becomes possible; individuals can be free in the positive sense only insofar as they are members of the state, and only to the extent to which they fulfill their duties in it; freedom in the positive sense is a desirable goal; therefore, individuals are morally obliged to respect the state only if the latter provides the necessary conditions for the realization of concrete freedom.

MPP3-813 HEGEL'S PHILOSOPHY ISN'T INHERENTLY ANTI-DEMOCRATIC

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.124.

These considerations suggest that the ideal state would be democratic; but, according to Hegel, this is far from true. The state ought not to be democratic; it must be a parliamentary monarchy. But Hegel does not, in my opinion, present reasonable arguments for this conclusion. I agree with Plamenatz when he contends that democracy might not be a sufficient condition of freedom, but it may very well be a necessary condition of it. In this respect Rousseau is closer to the truth than Hegel. Individuals are free, according to Rousseau, when (1) they act according to self-prescribed moral rules which are sanctioned by the law, and (2) they are able to participate in the making of the same laws on equal grounds with the other members of society. I think these two conditions are compatible with the spirit of Hegel's political philosophy.

MPP3-814 HEGEL RECOGNIZES THE NEED TO UNITE RIGHTS WITH WELFARE

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.120.

Hegel, unlike contractarian philosophers, does not make a distinction between the good and the concrete rights and duties of the individual members of a community. But he does distinguish between the good and abstract rights and duties. For him, "the good is . . . freedom realized, the absolute end and aim of the world." Hegelian freedom and welfare are necessarily connected; we cannot achieve one without the other. Consequently, "welfare without right is not a good" and "right without welfare is not the good."

MPP3-815 THERE'S NO JUSTIFICATION OF THE STATE OTHER THAN THE INTERESTS OF INDIVIDUALS

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.100.

This is not the whole of Hegel's objection to contract theory, but it is convenient to consider now the argument outlined above. At first glance, it does not seem convincing. In spite of the exalted, not to say bombastic, language applied to the state by Hegel, it remains unclear just what alternative to the interests of individuals he proposes to offer as the justification of its authority or the criterion of its constitution. At one point, indeed, he seems (despite himself) almost to allow an individualistic justification - that membership in the state is a necessary condition of the genuine individuality of individuals. This, to be sure, is a disputable and somewhat obscure claim; but if we take it to mean that only as a member of a state can a person realise his full human potential, then that is certainly the invocation of an individualistic criterion. Yet if the state is entitled to demand the sacrifice of the individual's very life, his individuality cannot after all be the justification of the state.

MPP3-816 HEGEL DOESN'T ENTIRELY REJECT THE SOCIAL CONTRACT

Bruce Haddock, Lecturer in Politics, University of Wales, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.60-1.

My point, however, is that the conventional assimilation of Hegel to the communitarian position can, in fact, be misleading. Hegel's was not so much a rejection of individualism as an elaboration of its social presuppositions. Within these terms of reference, his response to contract is especially instructive. He seeks to extract a kernel of sense from traditional contract theory by detaching mutual recognition from its familiar atomistic framework. He is thus enabled to do justice to the ordinary business of practical life (involving individuals formulating plans and objectives, variously cooperating and colliding with one another) without reducing the state to the status of a contrivance to further the pursuit of individual advantage. This, to be sure, does not make him a social contract theorist, no matter how far the terms of the doctrine might be stretched. It does highlight, however, the danger of accepting at face value his sweeping dismissal of some of the more obvious shortcomings of the theory. He is content to treat social contract as a misleading philosophical fiction; but he does not deny that it has a significant point to make. His contention is that the point can be better made in a rather different narrative.

MPP3-817 HOBBS EFFECTIVELY ANSWERS HEGEL'S CRITICISM CONCERNING THE DUTY TO DEFEND THE STATE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.101-2.

As for Hobbes, he has less to say about the state's right of punishment than about the subject's duty to fight on its behalf in war. This duty is not absolute, according to Hobbes; just as a man cannot give up his right to defend his body against attack, so he cannot unconditionally undertake to expose it to attack in battle, whenever the sovereign so commands (though for Hobbes, of course, there is no injustice in such a command by a sovereign). However, there is one crucial case where a subject is obliged 'not only to go to the battle, but also not to run from it, without his captain's leave'; namely, 'when the defence of the Commonwealth, requireth at once the help of all that are able to bear arms ...; because otherwise the institution of the Commonwealth [would be] in vain' (HL, 268 70). In other words, since the survival of the state is in the individual's interest, so too is an obligation to fight for it in a defensive war. As Hobbes might have said, such an obligation, while of course risky, 'is less hurtful than the want of it' (cf. p.55 above). And he could say exactly the same about punishment, including perhaps capital punishment. This seems to give a fully adequate answer to Hegel's objection to contract theory, as well as providing a far better criterion than Hegel's as to when the citizen is obliged to respond to the state's call to make the supreme sacrifice. We can now safely reject Hegel's accusation that contract theory unduly exalts the dignity of the individual and his interests by comparison with those of the state.

MPP3-818 HEGEL MISUNDERSTOOD ROUSSEAU

Bruce Haddock, Lecturer in Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.151.

Whether or not Hegel's interpretation of Rousseau is defensible is quite another question. He consistently disregards Rousseau's crucial distinction between the general will and the will of all. And though it may be the case that Rousseau's characterization of the general will fails to meet Hegel's stringent requirements (Rousseau does, after all, equate the general will with the common interest of the community, where Hegel insists that unity in the state must transcend the accidental coincidence of shared interests), it is nevertheless misleading to claim that the general will is arbitrary and capricious. It was precisely the capriciousness of individual willing that Rousseau had sought to overcome with his distinction. His insistence, indeed, 'that the general will is always rightful and always tends to the public good' might have been supposed to have gone at least some of the way towards meeting Hegel's requirements. Hegel, however, both in the *Philosophy of Right* and in the much fuller statement in his *Lectures on the History of Philosophy*, misses the point.

MPP3-819 HEGEL FAILS TO JUSTIFY POLITICAL OBLIGATION

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.146-7.

Hegel and Green also fail in their attempt to ground political obligation. They argue that obedience is justified in terms of the moral qualities of the state, but from this it does not follow that one ought to obey all laws and regulations emanating from such an authority. I agree with Hegel and Green that the institution of the state is an imperative of reason, since it is within the boundaries of political society that we develop our moral personality as free moral agents. But this is not sufficient to generate a general *prima facie* moral obligation to obey the state and its institutions, since other important moral obligations conflict with the state's laws and regulations. If that is so, then obedience as well as disobedience is in need of moral justification. To argue, as some philosophers do, that within a relatively just political system there is a presumption in favor of obedience but that disobedience needs justification is simply to beg the question. If we take moral autonomy seriously, then whether or not we ought to obey a particular rule or law will ultimately depend on its moral qualities.

MPP3-820 MARX REJECTED SOCIAL CONTRACT THEORY AS INSUFFICIENTLY EMPIRICAL

Lawrence Wilde, Reader in Politics, Nottingham Trent University, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.165.

The third point on which Marx's method radically departed from social contract theory was his commitment to empirically grounded research and his distrust of the high level of abstraction at which so much previous political theory had been couched. It is quite clear that Marx was not interested in doing political theory in the same way as Hobbes, Locke or Rousseau, or, for that matter, most of the writers in the established canon of political thought.

MPP3-821 LIBERAL INDIVIDUALISM RELIES ON HISTORICAL FICTIONS

Lawrence Wilde, Reader in Politics, Nottingham Trent University, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.165.

In the introduction to the *Grundrisse* Marx condemned the liberal theoretical practice of treating historically detached and isolated individuals as the starting-point for scientific work. Referring to this facet of the methodologies employed by Adam Smith and David Ricardo, he dismissed it as originating in one of 'the unimaginative fancies of the eighteenth century'. He argued that these writers were not simply trying to recapture what was deemed to be natural, they were pushing a view of the individual as an 'anticipation of bourgeois society'. Even Rousseau was merely using the fiction of the natural in *The Social Contract* to justify his own view of the ideal society. Bourgeois society had its origins in the sixteenth century and was maturing in the eighteenth, and Marx considered that the idealized view of the individual was a product of this development of free competition. The early individualists were guilty of taking relationships between abstract free individuals as the ideal form, and projecting them into the past as something natural. They saw the individual 'not as an historical result, but as the starting point of history'.

MPP3-822 FOR MARX, THE SOCIAL CONTRACT WAS AN IDEOLOGICAL FICTION

Lawrence Wilde, Reader in Politics, Nottingham Trent University, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.164.

Three main aspects of Marx's method clashed with the assumptions of the social contract tradition. The first was his opposition to the individualist premises employed in contract theory. Marx considered that the function of this individualism was to universalize and de-historicize a conception of human nature which was in fact a product of the market society which it served to justify. He considered the idea of the atomized individual coming into society as a contracting agent to be an ideological fiction.

MPP3-823 MARXISTS GENERALLY ATTACK THE SOCIAL CONTRACT THEORY AS IDEOLOGICAL

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.106

The concept of ideology is a part of the Marxist theory of society, according to which ideas are generally a reflection of social (ultimately economic) reality, and dominant ideas reflect the position, interests and world-view of the dominant social class. These interests are, however, characteristically presented as universal interests. Thus ideologies are systematically one-sided and misleading. It is obvious that the theory of ideology provides a ready method of attacking contract theory. Of the writers to be considered in this section of our discussion, some are indeed Marxists, while those who are not have undoubtedly been influenced by the Marxist theory.

MPP3-824 CONTRACTUALISM IS INDICTED AS AN IDEOLOGICAL DEFENSE OF CAPITALISM

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.106.

Individualistic social contract theories share a common starting point - the 'abstract' individual - but arrive at various conclusions because (it may be charged) the 'abstract' individual is a vacuous concept which the theorist may fill in as he pleases. One line of attack is on what all such theories have in common - the postulate of the 'abstract' individual; another is on the openness of this postulate to arbitrary manipulation (which renders the theories diverse). The two lines of attack come together, however, in the notion that one, historically specific, type of society, more than others, approximates (or appears to approximate) to a collection of individuals, and that contract theorists characteristically understand (or misunderstand) the nature of the human individual *per se* in terms of the characteristics of members of this type of society. Individualistic contract theory, in brief, is on this account a product, a reflection and a justification of 'individualistic' society; which latter may also be called liberal society, market society, or capitalism. So viewed contract theory appears as an ideology of this form of society.

MPP3-825 ACCORDING TO PASHUKANIS, CONTRACTUALISM IS A BOURGEOIS IDEOLOGY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.109-10.

These are the terms in which Pashukanis interprets social contract theory: 'the natural law doctrine produces a state out of a contract of separate and isolated individuals'. Clearly, then, social contract theory is for Pashukanis a bourgeois ideology. And the individual contractors of individualist contract theory are not only separate and isolated, they are also held to be naturally free and equal - like participants in a market economy. Social contract theory extends to the sphere of political authority, as a basic premise, the freedom and equality that characterize the subject of rights in private law; a freedom and equality, ultimately, of the possessor of goods engaged in acts of exchange with other goods possessors. According to bourgeois conceptions, the legitimacy of transactions depends on a coincidence of wills of the individuals involved - in other words, on contract. Social contract theory reproduces this conception in the sphere of political authority.

MPP3-826 PATEMAN CONFIRMS MACPHERSON'S INDICTMENT OF CONTRACT THEORY AS A RATIONALIZATION OF CAPITALISM

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.107-8.

Thus a later commentator, Carole Pateman, has suggested that the 'free and equal' individuals who populate the contractarians' state of nature reflect the (formally?) free and equal individuals required for the operation of the market, in which, indeed, contract is a central mode of relationship between agents. In these economic contracts, agents are assumed to be actuated by self-interest, just as they are in social contract theory (Pateman 1979, pp.50,169). Thus for both Macpherson and Pateman, the political arrangements defended by Hobbes and Locke on contractarian grounds are those which are needed to stabilise capitalist society and which appear legitimate to those who accept its operational principles.

MPP3-827 PASHUKANIS SEES CONTRACTUALISM AS DISTORTING THE NATURE OF CAPITALIST SOCIETY

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.110-1.

According to Pashukanis, the theory both reflects and distorts the reality of capitalist society (P. 183). We have already seen, at least in a general way, how it reflects it: the isolated, free and equal individuals who make the social contract reflect the isolated, free and equal possessors of goods whose contracts structure a capitalist economy. Or rather, an ideal rather than a real capitalist economy. For, in reality, the 'free and equal goods possessors meeting in the market are free only in the abstract relationship of acquisition and alienation' - free and equal, that is, only in their equal legal right freely to acquire and alienate property. In real life, far from being free and equal, they are bound to one another by 'relations of dependence': the relation of shopkeeper to big wholesaler, of peasant to landlord, of debtor to creditor, of proletarian to capitalist. This is one way in which social contract theory, with its postulate of free and equal individuals, distorts the reality that gave it birth - a form of distortion which it shares with the entire system of civil law (P. 190,164). But besides this it is distortive in ways peculiar to itself. The relationship of political authority, according to Pashukanis, is really in contradiction to the individual freedom and equality embodied, at least to some extent, in economic market transactions; hence the attempt to understand the former in terms of the latter must 'always appear as an ideological perversion of the facts'. Here 'ideological' means not only delusive (political authority is not, and cannot be, the outcome of agreement among free and equal individuals), but delusive in a way favourable to the bourgeoisie - for it distorts the reality of political power in capitalist society, which is the rule of the bourgeoisie, in its own interest, over the rest of society. In fact all government is class government, and social contract theory only obscures this fundamental fact (P. 149,182-3,187).

MPP3-828 FOR MARX, THE CONTRACT VIEW ONLY MAKES SENSE WITHIN A CAPITALIST

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.24.

The classic social contract theorists present a distillation of man's condition in the emerging capitalist mode of production as if it were the universal natural condition of mankind. Social contract arguments are therefore irrelevant from Marx's perspective for three reasons, first, because man's natural condition is not static as the contractarians assumed; second, because any political arrangements legitimized in a social contract agreement are merely going to reflect the imbalance of forces built into the capitalist mode of production, thus any agreement made is not going to have any moral force, so social contract arguments of the Kantian sort are also redundant; and third, because the nature of present politics is determined by the mode of production, any genuine attempt to secure human emancipation is possible only with the revolutionary overthrow of capitalism.

MPP3-829 MARX'S VIEW OF INNATE SOCIALITY DENIES THE CONTRACT

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.234.

Marx's critique of contractarianism and liberalism as bourgeois ideology builds upon Hegel's account of the individual as a social creation, although he gives this argument a materialist interpretation. Like Hegel he denies that individuals can have a pre-social existence or that their identities are given prior to social interaction. Whilst he devotes little attention directly to the idea of a social contract (see Wilde's Chapter 9) his critique of abstract individualism is by implication also an attack on Hobbesian contractarianism in which individuals are presented as naturally competitive and appetitive in an environment of scarcity. This Hobbesian situation is not for Marx, indicative of man's natural condition, rather it merely signifies his condition in one historical epoch which is shaped by the capitalist mode of production.

MPP3-830 MACPHERSON INDICTS HOBBS' CONTRACT AS REFLECTING CAPITALISM, NOT HUMAN NATURE
Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.107.

According to Hobbes, the natural relation of men is a relation of fundamental equality, and a relation of intrinsic competition for power. Macpherson stresses that for Hobbes the fundamental equality of man is not an equality of natural right that is derivative from a fundamental factual equality of condition, in fact an equal vulnerability to the invasions of others. This natural equality in insecurity, and natural competitiveness for power over others, are the basic premises from which Hobbes deduces his contract theory. According to Macpherson's interpretation, both premises reflect features, not of the human condition as such, but of possessive market society, of capitalism. It is subservience to the capitalist market and its vagaries which creates for everyone a basic equality of insecurity; it is in the capitalist market that men compete to exercise power by controlling other men. In no other form of economic system is this so; in a traditional hierarchical society, for example, while certainly some men exercise power over others, the distinctions between superiors and inferiors are fixed - there is no universal competitive struggle, no equality in insecurity (Macpherson, 1962, pp.68-70, 87-8). Though Macpherson does not exactly say so, it appears as if he sees the natural freedom of men postulated by Hobbes as grounded in this universal competitiveness of the capitalist market economy - a freedom to compete for power, to invade others (ibid., pp.53-60, 100). In any case an analysis similar to Macpherson's analysis of Hobbes can quite easily be extended to social contract theory more generally.

MPP3-831 WARS DON'T PROVE ESSENTIAL SELFISHNESS

Lawrence Wilde, Reader in Politics, Nottingham Trent University, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.166.

Does not the history of wars suggest that the Hobbesian conception of natural man as a competitive power seeker has a core of truth? The problem with this appeal to intuitive truth is that no account of human existence in society can be taken to affirm or deny a notion of essential human nature which is allegedly present prior to society. Wars cannot be taken to evidence the view that humans are essentially and naturally motivated primarily by greed and fear; they demonstrate only that humans are capable of making war. Taking this propensity to be stipulative of what it is to be human is arbitrary and highly ideological, for its pervasive insinuation in the popular consciousness has supported both the liberal view of the primacy of the individual over society and the conservative view that humans need to be controlled if order is to be maintained. Marx recognized these dangerous implications and devoted great energy to combating this narrow individualism. He consistently rejected attempts to promote the individual as the primary unit of analysis in social investigation.

MPP3-832 PASHUKANIS INDICTS CONTRACTUALISM AS ATOMIZING THE SOCIETY

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.109.

With this in mind, let us consider another argument to the effect that contract theory accords with a capitalist view of human nature. The argument is that of the distinguished Soviet legal theorist Evgeny Pashukanis. According to Pashukanis law itself (probably he has in mind civil law rather than criminal law) is a reflection of a particular social form, namely the relationship between 'possessors of goods'. It presupposes an 'atomized economy', one which has the consequence that 'society itself seems to be an endless chain of juridic relationships between individuals. These individuals are conceived as the possessors of legal rights; law itself specifies the conditions of functioning of an individualistic society based on a capitalist economy (P. 138,140,166-7). So far Pashukanis's analysis is a sociology of law. But he goes further. The doctrine of natural law (so closely allied to social contract theory) extends to the sphere of political philosophy the conceptions of individualistic private law. Hence Pashukanis's verdict that 'the natural law school was the most brilliant exponent of bourgeois ideology' and nurtured 'the great classics of bourgeois political science': works which purported to lay down standards ('the natural conditions of existence', as Pashukanis puts it) for society as such, but really formulated the standards ('conditions of existence') of bourgeois society (P. 127,188).

MPP3-833 LIBERAL SOCIETY SUBSTITUTES FORMAL FOR SUBSTANTIVE FREEDOM

Lawrence Wilde, Reader in Politics, Nottingham Trent University, THE SOCIAL CONTRACT FROM HOBBS TO RAWLS, David Boucher and Paul Kelly, eds., 1994, p.164-5.

The second aspect is closely related, for he believed that the formal freedom postulated in liberal theory provided the framework of a society in which the majority of people enjoyed little substantive freedom. In contrast to the idealization of the abstract individual, Marx held to the view that the market societies based on this individualism necessarily denied the possibility of a truly human existence to the people who brought only their own labour power to the market. The alienation theme in Marx's writings implied a conception of what it was that made us! essentially human, namely, our capacity to create according to a plan. Our creative capacity as social beings was evident in the productive achievements of humankind, but the compulsive processes of production deprived the producers of any experience of creativity. The human essence was in contradiction with human existence in capitalism, and this contradiction could be resolved only by the abolition of capitalism and its replacement by communism. Under capitalism, legally 'free' individuals were free 'like someone who has brought his own hide to the market and now has nothing else to expect but a tanning'. In other words, the formal freedoms of liberal society masked the denial of human freedom for the mass of workers; there was only a semblance of human freedom. Against this Marx posited the grand but always vague ideal of 'the true realm of freedom'.

MPP3-834 CONTRACTUALISM PRECEDED CAPITALISM
 Michael Lessnoff, Professor of Politics, University of Glasgow,
 SOCIAL CONTRACT, 1986, p.112.

As for the source of the contractarian postulates of the natural freedom and equality of all men, it is indeed obvious from this study that they long antedate the rise of capitalism, and derive (as Macpherson indeed recognised) from a long tradition of Christian and Stoic speculation. From the standpoint of the theory of ideology it is particularly interesting that these ideas arose, in the ancient world, in startling and self-conscious contradiction to the contemporary social and economic reality (in which, for example, slavery was normal).

MPP3-835 REPUDIATION OF CAPITALISM NEED NOT ENTAIL REPUDIATING CONTRACTUALISM

Michael Lessnoff, Professor of Politics, University of Glasgow,
 SOCIAL CONTRACT, 1986, p.113.

Undeniably, capitalism is an individualistic economic system, and the 'classic' social contract is an individualistic political theory. This, however, is a resemblance of a rather general kind; it certainly does not follow that, if capitalism is to be repudiated, social contract theory therefore must be too.

MPP3-836 CONTRACTUALISM AND CAPITALISM HAVE COMMON ROOTS

Michael Lessnoff, Professor of Politics, University of Glasgow,
 SOCIAL CONTRACT, 1986, p.112-3.

To say all this is not to deny that there is some affinity between the individualistic premises of 'classical' social contract theory, and the individualism of a market economy that operates through contracts. But the causal relations between them are likely to be more complicated than those that Pashukanis seems to propose. Quite likely, truth are to a greater or lesser degree the heirs of that Christian individualism and Stoic-derived tradition of Roman law which we have briefly surveyed in an earlier chapter (see pp.23-4 above). Both of these currents of thought bequeathed to the sixteenth and later centuries, not only the conceptions of natural human equality and liberty, but also a concern with contracts (or, in the Christian case, covenants). The importance of Calvinism, with its stress on covenant theology, in the genesis of the classical phase of social contract theory, should not be forgotten.

MPP3-837 CONTRACTUALISM ISN'T AN IDEOLOGICAL DEFENSE OF CAPITALISM

Michael Lessnoff, Professor of Politics, University of Glasgow,
 SOCIAL CONTRACT, 1986, p.112.

If we consider social contract theory, however, we find that, on Pashukanis's account, its premises do not correspond to the underlying socio-economic reality of capitalism, but in fact contradict them; for it postulates the natural freedom and equality of all individuals, whereas the socio-economic reality of capitalism is (says Pashukanis) inequality and dependence of one class on another. But this is not to say that those postulates of the theory distort that reality - for the theory does not offer any description of social reality, but is prescriptive. If, then, social contract theory is a prescriptive theory whose basic postulates contradict the real social relations of capitalism, it is very hard to see how capitalism could be the source of these basic postulates of the theory, or how these postulates could entail a justification of capitalist society, or a defence of the interests of the bourgeoisie. In fact, the great variety of contract theories shows that the basic postulates of the theory do not entail defence of any particular system - and in the case of Rousseau, in particular, led to a passionate attack on the status quo in the name of social equality.

MPP3-838 KANT DOESN'T OVEREMPHASIZE PROPERTY RIGHTS

Vicente Medina, Professor of Philosophy, Bergen Community College,
 SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.73.

A general misconception held by some Marxist scholars of Kant's political philosophy is that the justification of the state is grounded solely or essentially on the protection and promotion of the right to private property. This is simply false. Kant, like Locke, argues that the institution of the state is justified because it protects and promotes all rights, innate or acquired, among which the right to private property plays an important role. But for Kant, as for Locke, the right to liberty is the most important of all rights. The importance of the right to own property is proportional to the extent to which it helps protect and promote freedom.

MPP3-839 MACPHERSON'S INDICTMENT OF HOBBS IS QUESTION BEGGING

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.108.

From all of this arise a number of different though overlapping issues. I propose first to consider Macpherson's account of Hobbes. It is, in my opinion, more ingenious than convincing. What, one wonders, entitles Macpherson so firmly to set aside Hobbes's own avowed interpretation of the 'natural condition of mankind'? Macpherson, of course, is correct to point to Hobbes's stress on the factual equality of all men, and on their equal vulnerability to invasion by others. But according to Hobbes this equality of vulnerability is simply a consequence of men's physical constitution, and it is significant because of their propensity to attack one another physically in competition for power and glory. This is a much more fundamental competitiveness of the human condition than any to be found in the capitalist market. As for an empirical source for Hobbes's interpretations of human nature, why is it necessary to look further than the English Civil War, and the whole history of human warfare? Macpherson's assumption that its source must be found in some appropriate economic system seems a classic example of begging the question. Rather, Hobbes seems heir to a long tradition of speculation about government, which saw it as the necessary remedy for the human propensity for self-destructive fighting, a tradition from which he differs only in his much greater precision and clarity of analysis, and which he passed on to his contractarian successors.

MPP3-840 THE MARXIST CRITIQUE OF THE STATE DOESN'T OFFER A VIABLE ALTERNATIVE

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.111.

Pashukanis's argument raises many issues which are hard to treat adequately in the space available. One difficulty stems from his orthodox Marxist view, noted above, that all government is class government. If this were so, it would follow that any justification of government whatsoever (not just social contract theory) would be delusive and presumably ideological, even if (like contract theory much more often than not) it is concerned to place limits on government authority. The underlying premise here - that one may seriously envisage a society so ideally structured in respect of its economic base (in a word, communism) that no political authority is necessary (P. 156) - is one that many find hard to swallow.

MPP3-841 REPUDIATION OF RIGHTS LEADS TO STALINIST TERROR

Michael Lessnoff, Professor of Politics, University of Glasgow, SOCIAL CONTRACT, 1986, p.113.

Whether the individualism of contract theory is a strength or a weakness remains an open question; certainly there is no need to agree with Pashukanis that 'the category, subject of rights [in application to individuals], is in reality an abstraction from acts of exchange in the market' (P. 166). For the category, 'subject of rights' is not a purely legal one, as Pashukanis explicitly recognised. It is also a moral one, and as such was analysed, and repudiated, by him, in terms similar to those he applied to law. Thus: 'Man as a moral subject . . . is no more than a condition of exchange according to the {capitalist} law of value'; hence 'the moral law must reveal itself as a rule of intercourse of commodity producers . . . The basic concepts of morality have therefore no meaning of any kind if they are dissociated from commodity-producing [that is, capitalist] society' (P. 194-7). To read these words of Pashukanis is a somewhat chilling experience, in view of the fact that he himself was to perish, in 1937, in Stalin's terror - that orgy of lawlessness and amorality.

MPP3-842 THE STATE IS A NATURAL NOT AN ARTIFICIAL PRODUCT

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.129.

In Green's view, "it is a mistake then to think of the state as an aggregation of individuals under a sovereign." The state "presupposes other forms of community, with the rights that arise out of them," such as the family and tribes. Thus the state is not, as contractarians argue, an artificial product of the self-interest of individuals, but a natural outcome of human desire for the protection and promotion of a common good. Therefore, so long as we think in terms of the contractarian paradigm, we will be unable to develop an adequate theory of obligation. We will not be able to explain adequately "the rights of individuals against each other or against the state, or of the rights of the state over individuals."

MPP3-843 SELF-DEVELOPMENT AND MORALITY REQUIRE THE STATE

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.128.

We ought to accept the authority of the state, according to Green, because it is only through the self-conscious recognition of certain ends, and through the mutually recognized freedom of all in society supervised by the state, that we come to develop our moral capacity and a life of our own. It is through the state and its institutions, Green says, that "man is moralised." In this respect Green agrees with both Hegel and Rousseau. For him, as for Rousseau, a necessary condition for being free is being able to act according to self-prescribed laws. Only through the recognition of self-imposed regulations, as members of a legal community, can our capacity for moral agency be actualized. Political obligation and morality in general have a "common source," the "rational recognition" by people in general of a "common well-being" or common good.

MPP3-844 MORAL LIFE OUTSIDE THE STATE IS IMPOSSIBLE

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.142-3.

Green's second argument against contractarianism, like Hegel's, is fatal. He argues that moral life outside the state is simply impossible. It is through the state and its institutions that individuals develop their moral personality. If this is true, then life in political society is an imperative of reason. The state or political society, Green contends, is not, as contractarians argue, an artificial product of the self-interest of independent and self-contained individuals, but a mutual outcome of the development of people's moral personality for the protection and promotion of a common good. Only through the state and its institutions, Green argues, can our moral rights ("implicit rights") be made concrete rights ("explicit rights"). Consequently, the realm of public rights (the rights of the state and its institutions) takes precedence over the realm of private rights (contractual and property rights).

MPP3-845 PUBLIC RIGHTS TAKE PRECEDENCE OVER PRIVATE RIGHTS

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.130.

These "implicit rights" are made "explicit rights" only through the state (the society of societies). If this is the case, the realm of "public rights" (the rights of the state and its institutions) takes precedence over the realm of "private rights" (the rights of individuals as members of a particular community), since it is only through "public rights" as they are embodied in the state and its institutions that our "implicit rights" become "explicit." This is a Hegelian argument. Green, like Hegel, recognizes that the realm of private rights precedes the realm of public rights. However, in terms of being morally valuable, public rights (the rights of the state and its institutions) are more important than private rights, since it is only through the state and its institutions that our "implicit rights" become "explicit," and since it is only through the state, as the embodiment of a common good, that we can achieve our self-realization as moral persons.

MPP3-846 WE DON'T HAVE RIGHTS AGAINST THE COMMON GOOD

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.130.

The state, Green argues, "presupposes rights" which we possess by virtue of recognizing each other as equals (isoi kai homoioi). We have rights, that is, to the extent that we recognize an equal capacity for moral agency in others. But it does not follow that we have rights against society or against the state. This, Green argues, is impossible. He does, however, recognize that the laws of actual states "may be inconsistent with the true end of the state as the sustainer and harmoniser of social relations." We are only allowed to disobey the state by appealing to a "common good" rather than, as the contractarians suggest, by appealing to violations of rights because the recognition and promotion of a common good is what makes the actual exercise of rights possible.

MPP3-847 WE SHOULD OBEY THE STATE BECAUSE IT IS THE PRECONDITION FOR THE COMMON GOOD

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.128.

The contractarians, according to Green, cannot present an adequate answer to the following question: Why ought we obey the sovereign or the state? The contractarians contend that we have a moral obligation to obey the sovereign because we have consented to the sovereign's authority. This explanation, Green argues, is not sufficient to account for our obligations. On the contrary, he contends: It is only as members of a society, as recognising common interests and objects, that individuals come to have . . . rights, and the power, which in a political society they have to obey, is derived from the development and systematization of those institutions for the regulation of a common life without which they would have no rights at all. For Green it is only through a mutual recognition of a common good that we come to acquire rights. Insofar as the state is the vehicle that provides the necessary conditions for bringing about this common good, we ought to obey it.

MPP3-848 RIGHTS AREN'T MEANINGFUL UNLESS THEY ARE RECOGNIZED BY SOCIETY

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.127.

He explains the justification of rights in a teleological way: "A right is a power claimed and recognised as contributory to a common, good"; therefore, "no one therefore can have a right except (1) as a member of a society, and (2) of a society in which some common good is recognized by the members of the society as their own ideal good, as that which should be for each of them." Green is committed to the view that one has a right only if (1) one has the capacity to claim it, and (2) it is recognized or accepted by the members of society as contributing to the ideal of a common good. Later he contends that "rights are made by recognition. There is no right but thinking makes it so."

MPP3-849 ITS ABILITY TO PRODUCE POSITIVE FREEDOM, NOT A CONTRACT, JUSTIFIES THE STATE

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.131.

Green maintains, in the spirit of Rousseau, that "the actual powers of the noblest savage do not admit of comparison with those of the humblest citizen of a law-abiding state." It is the law that make us truly free. We are free to the extent that we act according to self-prescribed rules and insofar as we recognize a similar capacity in others. He contends: If the ideal of true freedom is the maximum of power for all members of human society alike to make the best of themselves' we are right in refusing to ascribe the glory of freedom to a state in which the apparent elevation of the few is founded on the degradation of the many, and in ranking modern society, founded as it is on free industry. with all its confusion and ignorant license and waste of effort, above the most splendid of ancient republics. Green, like Hegel, assesses the legitimacy of a state and its institutions in terms of whether it provides the necessary conditions for the exercise of true freedom, both positive and negative, and not in terms of whether it rests on some contract, real or hypothetical, into which individuals might or might not have entered in the distant past.

MPP3-850 POSITIVE FREEDOM IS MORE IMPORTANT THAN NEGATIVE

Vicente Medina, Professor of Philosophy, Bergen Community College, SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?, 1990, p.130-1.

Keeping in mind this dichotomy between "private rights" and "public rights," we can see that Green's political philosophy, like Hegel's, is a philosophy of positive freedom. The contractarian philosophers in general, with the exception of Rousseau, put great emphasis on the concept of negative freedom, understood as the absence of external constraints. Contrary to this and to laissez-faire liberalism or libertarianism, Green argues that freedom is more than the absence of external constraints: When we speak of freedom as something to be so highly prized, we mean a positive power or capacity of doing or enjoying something worth doing or enjoying' and that, too, something that we do or enjoy in common with others. It is through the development of these capacities in every member of society that we measure moral progress. In short, "positive freedom" is the capacity of individuals to "make the most and best of themselves." True freedom is both negative and positive. Like the dichotomy between "private rights" and "public rights," "negative freedom" precedes "positive freedom," in the sense that negative freedom is a necessary condition for exercising positive freedom. We need to be free from external constraints (negative freedom) before we can be free to make the most and best of ourselves (positive freedom). But from an axiological point of view, the positive aspect of freedom is more important than its negative aspect, since it allows us to become what we ought to be--namely, autonomous individuals with a common objective: to make the most and best of ourselves by recognizing a similar capacity in others.

MPP3-851 CONTRACTUALLY DOESN'T GENERATE A COMPREHENSIVE THEORY OF POLITICAL OBLIGATION

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.127.

Green rejects the contractarian conception of political obligation and natural rights, in general, as being inadequate to generate a comprehensive theory of political obligation. The reason why certain powers should be recognised as belonging to the state and certain other powers as secured by the state to individuals, lies in the fact that these powers are necessary to the fulfillment of man's vocation as a moral being.

MPP3-852 RIGHTS DON'T JUST DERIVE FROM SOCIAL MEMBERSHIP

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.142.

Green contends that "a right is a power claimed and recognized as contributory to a common good." Accordingly, we have a right only if (1) we have the capacity to claim it and (2) it is recognized by the members of society as contributing to the ideal of a common good. Thus, Green argues, these rights and obligations "do not belong to individuals as they might be in a state of nature.... They belong to them as members of a society." This criticism against contractarian philosophers seems unacceptable. The contractarians, unlike Green, argue that we possess natural rights by virtue of our nature. If so, according to them, natural rights are moral rights we possess whether society recognizes them or not. Neither recognition nor contribution to a common good appear to be necessary for ascribing natural rights (moral rights) to moral agents. The fact that there is no power to enforce these rights does not mean that we have no valid moral reasons to respect them.

MPP3-853 GREEN'S CRITICISM OF THE CONTRACT ARE ORIGINAL AND STILL RELEVANT

Vicente Medina, Professor of Philosophy, Bergen Community College, *SOCIAL CONTRACT THEORIES: POLITICAL OBLIGATION OR ANARCHY?*, 1990, p.125.

T. H. Green, like Hegel, is a severe critic of the social contract tradition. The objections he adduces against the latter are also similar to Hegel's: (1) the artificiality of the contractarian paradigm of political obligation, (2) the supremacy, to a certain extent, of the public realm (the state and its institutions) over the private realm (the individual and his family), and (3) the defective nature of the contractarian understanding of freedom (negative freedom) as the absence of external constraints. This, however, is not to say that Green is not an original thinker. His Lectures on the Principles of Political Obligation, together with his lectures on "Liberal Legislation and Freedom of Contract" and "On the Different Senses of 'Freedom' as Applied to Will and to the Moral Progress of Man," constitute a substantive and original contribution to the history of political philosophy. Green's reformulation of traditional laissez-faire liberalism into what Ramon Lemos calls "positive liberalism" is more relevant than ever to the contemporary debate about the nature of liberalism.

MPP3-854 COMMUNITARIANISM REJECTS CONTRACTUALISM

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.24-5.

Whereas Marx holds out the possibility of genuine 'community' only after the revolutionary transformation of society and the withering away of the very state that Hegel saw as fulfilling man's rational nature, a more recent strand of Hegelian inspired anti-contractarianism has resurrected the idea of community as a moral ideal or source, without placing this ideal either at the end of history or necessarily identifying it with the state. This communitarian strand of criticism includes contemporary philosophers such as Charles Taylor, Michael Sandel, Alisdair MacIntyre and Michael Walzer among others. These various communitarians differ in significant respects. MacIntyre, for example, presents his anti-contractarianism as part of a damning indictment of post-enlightenment culture, whereas Taylor and Walzer want to salvage key 'liberal' values but derive them from noncontractarian foundations. However, what they all share is a rejection of the resurrection of Kantian contractarianism inspired by Rawls's *A Theory of Justice*. Sandel's argument is presented as a direct communitarian critique of Rawls's liberal contractarian argument and therefore will be considered here as representative of the key aims of the other communitarians.

MPP3-855 COMMUNITARIANISM UNDERMINES THE SOCIAL CONTRACT

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.231-2.

The communitarian critique of the social contract device leaves liberalism with a 'motivation' problem: how to connect the personal perspective with the impersonal perspective of the public realm. Communitarians such as Sandel have assumed that not only is the contractarian method undermined but also the whole liberal enterprise of drawing jurisdictional boundaries between private and public life. The claim is that resolving this 'motivation' problem is not possible with the conceptual resources of liberal political theory, instead the problem has to be overcome by combining the personal and impersonal perspectives within a shared conception of the common good. These shared conceptions of the common good provide the resources from which identities are formed, therefore the person is seen as a social creation and not independent of such constitutive communities. Given this fact communitarians argue that moral and political theory does not take the form of showing how the two distinct realms of the personal and the political can be reconciled, rather it proceeds by articulating the shared resources of a community or tradition. The ideas of will and contract play no useful part in this enterprise.

MPP3-856 INDIVIDUALS ARE EMBEDDED IN SOCIETY; THUS, THEY CAN'T FORM A SOCIAL CONTRACT

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.25.

The 'embeddedness thesis' takes a variety of forms but in Sandel's case is directed against what he calls Rawls's use of an 'unencumbered self' in his account of the original position. Rawls argues that in order to prevent individuals adopting principles of justice that are in their own interest, they must be denied knowledge of key aspects of their personality. There are two points to be made here. First, Sandel claims that this is a metaphysically suspect account of personal identity for it assumes that individuals can distance themselves from all of their attributes in this way and yet remain significantly distinct individuals. Sandel, following Hegel, argues that this is implausible as our identities are constituted by our social attachments and our commitments to conceptions of the good. Without these, we are not merely left with an impoverished account of the individual but with no real individual at all: behind Rawls's 'veil of ignorance' the individual disappears altogether. The implication of this for social contract theory is that it undermines the possibility of any kind of bargain or interpersonal agreement. For if it is the case that behind the 'veil of ignorance' all the individuating factors of personality are excluded then the idea of separate individuals disappears. Thus instead of an agreement or an interpersonal choice we have a situation of recognition of validity on the part of an impersonal subject.

MPP3-857 CONTRACTUALIST INDIVIDUALISM UNDERMINES MORAL AUTHORITY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.26.

A more radical version of this argument which sees the individualism of post-enlightenment culture as a threat to morality itself is offered by Alasdair MacIntyre. MacIntyre sees the individualist challenge to the idea of moral authority as the chief loss of modern culture. The primacy of the individual, and individual judgement and will, undermines the possibility of moral authority and the only way this can be rescued is by recovering a conception of community as a shared moral inheritance in which individuals can find objective moral criteria. MacIntyre is influenced by Aristotle and Aquinas as well as Hegel, in seeing community as a common life constructed around a shared conception of the Good.

MPP3-858 GIERKE CRITICIZES CONTRACTUALISM FOR FAILING TO RECOGNIZE THE ORGANIC UNITY OF THE STATE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.102.

Despite his respect for the theory and for its major exponents, Gierke felt nevertheless that it fundamentally misconceived the true relation between the individual and the state. The theory of a contract of rulership, he felt, was never able to arrive at a real notion of the state at all, the state as a unity, that is, but always conceived it dualistically, as a combination of 'ruler' and 'people'; and even the later, 'classical' phase of contract theory also could not adequately conceptualize the state's unity, but saw it only as a 'collectivity' of individuals (or of lesser social units themselves collectivities of individuals or families), or else as their 'representative' (as in the case of Hobbes's sovereign). In either case, Gierke complains, the state is given a basically individualistic interpretation, ultimately resolving itself into an aggregate of mere legal connections between individuals. And this is wrong because, for Gierke, the state is an independent entity on its own account. It is, he suggests, an 'organic unity', even a "person" with its own will and personality.

MPP3-859 OUR SOCIAL NATURE DOESN'T CREATE POLITICAL OBLIGATIONS

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.104-5.

It is true that individuals have obligations that are independent of their consent; but Pitkin's argument from the social nature of man does nothing to establish this (and in particular fails to establish that political obligation is independent of consent). If we reject the Gierkean notion that society is a personality separable from its individual members, then all our obligations are owed to individuals, and obligations 'to society' are simply obligations to its members. What then is the bearing of man's social nature on these obligations? At this point Pitkin seems to conflate, in a way that is rather common, two different kinds of relationship. All of us owe a great deal to certain of our fellows - notably our parents, and other benefactors - and, arguably, we therefore have corresponding consent-independent obligations to them. In addition to this, we - and our parents and benefactors too - are part of a complex matrix of relations between individuals (which, loosely speaking, constitutes 'society') by which everybody is greatly influenced and which, to a large extent, makes the individual what he is. This is the social nature of man. But from this general causal nexus nothing follows about obligations; it can seem to do so only by conflating it with the benefits which each person receives from other specific persons, which do (arguably) generate obligations. The conflation is the easier, in that those to whom we normally owe most - our parents - are also perhaps the primary channel through which social influences shape us. (None of this, incidentally, is meant to show that we have no obligations to those from whom we have received no benefits; but these obligations have nothing to do with the fact that we are shaped by social influences). So far as political obligation is concerned, Pitkin would have been on much stronger ground if she had argued that it derives from receipt of benefit rather than from our social nature.

MPP3-860 SOCIOLOGICAL HOLISM IS IMPLAUSIBLE

Michael Lessnoff, Professor of Politics, University of Glasgow, *SOCIAL CONTRACT*, 1986, p.103.

The general drift of sociological holism is to deny that social groups are to be identified with any combination of individuals; and if they are, in fact, themselves 'persons', presumably they may, for example, have rights that cannot be identified with, or justified in terms of, the rights or interests of any individual or individuals. There is no space here for an adequate discussion of these issues (I have in fact considered them elsewhere). Suffice it, for present purposes, to say that if the reader is persuaded by this holistic interpretation of social groups, he will be sympathetic to Gierke's objections to contract theory; and if not, not. Personally I am unpersuaded. But Gierke does have this merit: he makes clear that the rejection of methodological individualism means denying not only that social groups are aggregates of individuals, but also that they are to be understood in terms of relations between individuals. He thus, to my mind, shows up the implausibility of the still widely-held holistic doctrine.

MPP3-861 COMMUNITARIANISM FAILS TO OFFER AN APPEALING ALTERNATIVE

Paul Kelly, Professor of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.232.

Whilst the communitarian critique of social contract theory has some merit, the positive agenda of communitarianism is deeply problematic. Not only is the project of grounding a shared common good no more easy than attempting to reconcile the claims of the personal and impartial realms, but the aspiration of returning to such a shared common life runs up against two problems. First, most societies that might serve as potential constitutive communities look pretty unpleasant; second, there is the problem of the fact of pluralism in most modern western societies. Pluralism challenges not only the possibility of gaining consensus on a conception of the good but also the possibility of reconciling constitutive communities with the political structures of modern nation-states.

MPP3-862 COMMUNITARIANS LACK A VIABLE ALTERNATIVE

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.26.

The problem for MacIntyre and other communitarians, is specifying what form that common life should take and how we get from our present situation of decline to this new moral ideal. Marx presents one answer, but it is not an answer that many feel compelling given the history of the twentieth century. If communitarians also put off the realization of community then we are left with the problem of what to do here and now. If, on the other hand, they attempt to recover a politics appropriate to our present circumstances then it is often the case that their conclusions are disappointingly similar to the abstract liberalism to which they take such exception. Whilst the communitarian critique poses difficulties for contractarian defences of liberal political principles, it is much less damaging to the liberal political theory than is often claimed.

MPP3-863 THE CLASSIC CONTRACT THEORISTS EXCLUDED WOMEN

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.192.

This reading focused on certain slippages, contradictions and omissions noticeable within the classical texts, notably those of Hobbes and Locke, when they are read from the perspective of women. In Rousseau's work these would evolve into an explicit legitimization of women's exclusion from citizenship, but even among his predecessors it was possible to discern a quiet subversion of the radically egalitarian logic of contractarian argument. Although women's eventual enfranchisement would ostensibly overturn their exclusion, by allowing them to express the same hypothetical consent to the state as men during elections, the arguments and oppositions utilized by early liberal thinkers (in particular the public/private divide) continue both to exclude many women from active citizenship and discursively to construct them as bearers of feminine personalities and female bodies inimical to civic virtue.

MPP3-864 WOMEN ARE EXCLUDED FROM FULL CONTRACTUAL CITIZENSHIP

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.195.

Finally, although Locke begins with morally equal persons and holds an egalitarian psychology, each being born a blank slate on which experience writes, women probably fail to develop their rationality sufficiently to register consent. For despite each being born with the potential for reason, it requires development. A precondition and sign of this is autonomy, manifested as material independence and success. But marriage would seem to rob women of these credentials since domestic dependency deprives them of control over their working or its products, and thus of the symbols of autonomy, while their toils (both productive and domestic under conditions of early capitalism) would generally keep their reason immature due to lack of time for education and reflection. Although Locke nowhere says that women are naturally irrational, then, their natural infirmity will probably commit them to a situation where, having consented to marriage, they would be unable to sustain or develop the mature rationality needed for active expressions of citizenship. Overall, then, women seem to be excluded from full citizenship, while their tacit consent to political association appears to be both inevitable and irrelevant due to their (subordinate) positioning in the private sphere.

MPP3-865 CONTRACTARIANISM STILL DENIES EQUAL STATUS TO WOMEN

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.17.

Thus Filmer's patriarchalism is considered because, first, it forms part of the context out of which modern civil contractarianism emerged in the sixteenth and seventeenth centuries, second, it forms the immediate target of Locke's theory in the Two Treatises, and third, it has a renewed resonance in contemporary feminist critiques of contractarianism such as Carole Pateman's, which argue that civil contractarian arguments while dispensing with patriarchalism have merely replaced it with what she calls fraternal patriarchy, which continues to deny full equality and status to women.

MPP3-866 CONTRACTUALISM IS BASED ON A UNIQUELY MALE PSYCHOLOGY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.28.

A development of some of these strands of criticism is to be found in the 'different voice' feminism of Nancy Chodorow and Carol Gilligan. These theorists challenge the idea of a universal moral psychology concerned with justice, rights and principles, offering instead an account of these categories as male and contrasting them with female 'ethic of care' based on the categories of empathy, proximity and relatedness. The male emphasis on rights, justice and principles is premised upon the separated and oppositional nature of males, which is reflected in the state of nature narratives of classic contract theory. This oppositional character of male moral theorizing has its origin in the developmental psychology of males with their need to separate and distance themselves from their mother, something that is far less important to female children.

MPP3-867 FORMAL ANALYSIS IS MYSTIFYING AND MASCULINE

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.207.

But many feminists also insist that these practices themselves entail an intrusion of 'feminine' (and mainly women's) orientations - towards relatedness; care for others in their otherness; reciprocal, collective life; compassionate judgement; openness to ambiguity - into the sterile politics of the 'neutral', impersonal, contractual, masculine state. From this perspective, questions concerning the social contract, and contractual relations more generally, cannot be separated from the social, psychological and discursive constructions of gender; as far as feminists are concerned, their purely formal analysis is only another example of a mystifying and masculine approach.

MPP3-868 DIFFERENCE FEMINISM REJECTS CONTRACTUALISM AS INHERENTLY GENDER BIASED
 Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.198.

So far I have focused on feminist interpretations of classic contract theorists to show how the tradition is implicated in excluding women from citizenship. However, the social contract also offers a paradigm for free and equal relationships within liberal states, thus raising broader questions about the style and ethics of association. This shift in focus corresponds to a reorientation of feminist thinking which, having identified women's exclusion within existing theories and practices, now turns its attention to broader criticisms of those theories and practices themselves, perceiving them as fundamentally gender-biased in their presentation of a particular set of masculine norms as universal. Inclusion in this unreconstructed politics is then inadequate. This change of interpretative emphasis is associated with a broader movement within recent feminisms, from equality (between women and men) to difference (between feminine and masculine inscriptions).

MPP3-869 LIBERAL CONTRACTUALISM IGNORES THE FEMALE VOICE

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.197.

Although Hegel would be no more inclined than Rousseau to allow female citizenship, their acknowledgement that women's particular ethical modes do contribute to the ethos of a communitarian state beyond the alienation of bourgeois society, is missing from the harsher self-interested politics of Hobbes, Locke or liberal contractarianism generally. In this they perhaps, ironically, anticipate recent feminist (and communitarian) suggestions that liberal political and ethical relations need restructuring to accommodate a different - more 'feminine' - voice, which would infuse an ethic of responsibility and care, a concern for concrete others, into the detached and impersonal individualism of the modern polity.

MPP3-870 CONTRACTUALISM IS A MASCULINE PERSPECTIVE

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.191.

Second, contract theory is about paradigmatic social relations within a liberal society. In its more recent versions these relate to morality more than political obligation, but they retain many of the same assumptions regarding the orientations and capacities of the individuals who participate. In this context, and in line with developments within feminist theory, there has been a shift from analysing the place of actual women within the contract to interpretations of contractarianism as a mode of discourse that privileges masculinity as a norm.

MPP3-871 THE CONTRACT OBSCURES THE HISTORICAL BASES OF FEMALE SUBORDINATION

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.195.

Because Hobbes and Locke are not very clear about the status of women, who simply disappear from their arguments at crucial stages, feminist scholars have been obliged to reconstruct the missing steps according to asides or absences within their texts. Overall, as we have seen, a radically individualist logic is formally applied in presenting all persons as free to enter contracts, but because assumptions about women's natural incapacity slip in, their acts of self-interested and rational agency seem limited to marital, rather than social, contracts. Besides inconsistently importing naturalistic criteria of exclusion into modern theories whose foundations in principle precluded them, however, these allusions to natural infirmity mystified the historical and structural reasons why women were socially and economically disadvantaged and why many are indeed still obliged to accept patriarchal arrangements that negate more than a formal accession to citizenship.

MPP3-872 THE CONTRACT DOESN'T EXPLAIN THE EMERGENCE OF PATRIARCHY

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.192.

The egalitarian premises of the early contract theories lie in their descriptions of the state of nature, a fiction introduced to refute the possibility of naturally stable or justifiable patterns of authority. Individuals, whether they be material bodies (Hobbes), moral works of God (Locke) or primordial savages (Rousseau), are sufficiently equal in status and ability both to mount credible challenges to any power and to aspire to power themselves. For although there are natural differences, these are neither great enough to ensure or legitimize lasting victory, nor distributed in any systematic way, such as along sex or gender lines. Yet in every case, women end up in patriarchal families and are more or less explicitly excluded from participation in the contract and full citizenship.

MPP3-873 FEMINISTS INDICT CONTRACTUALISM FOR FALSELY ASSUMING NATURAL FREEDOM AND EQUALITY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.27.

The concept of the social contract has particularly attracted the attention of feminist theorists because of its conception of the natural condition of man as being one of freedom and equality. It is in relation to the politics of the subject and individual identity that feminists have made the most significant and radical challenges to contractarian modes of thought.

MPP3-874 CONTRACTUAL RELATIONS ARE INHERENTLY PATRIARCHAL

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.205.

Moreover, because women cannot therefore be the proprietors of their persons, since their bodies are at the disposal of men, they cannot exercise the possessive individualism which is the criterion of citizenship. Although women will gain access to the latter, Pateman argues that modern positions of subordination, such as that of the wife, are created through contract. Nor do women enter such contracts as abstractly equal individuals, but as embodied women whose bodies cannot be contracted out for use (such as sexual services or surrogate motherhood) while leaving the individual free, as contract theories and possessive individualism assume, both because their bodies are intrinsic to women's identity as women, and because they carry within them the subordination established by the sexual contract. 'In the victory of contract, the patriarchal construction of sexual difference as mastery and subjection remains intact and repressed'. Pateman's conclusion is therefore both that modern patriarchy takes contractual (fraternal) form, and that contractual relations are inherently patriarchal (masculine), so that it would be disingenuous for feminists to adopt them as a model of free and equal gender relations.

MPP3-875 THE PROPERTY PROTECTING STATE SUBORDINATES WOMEN

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.194.

Second, the primary function of the state is to preserve property, but the majority of women have handed over that responsibility to husbands. It will therefore be men who make the relevant decisions here, most notably those instituting a commonwealth to guarantee natural property rights. Even if we interpret property in its broader sense as encompassing natural rights to life and liberty as well as possessions, women do not seem to have much direct interest in the state's services. Much of their liberty, as well as their estate, has been transferred to the husband; they will benefit from the state's protection of their lives, but in practical terms their strong and able spouses would be of more immediate value. It would seem then to follow that women's interests are largely satisfied within the private sphere, where they have little direct concern with politics and where their husbands anyway take the important decisions, thereby mediating women's relationship with the state. If men's consent is shown to be voluntary because they can withdraw it by emigrating, women simply retreat into the private realm where the only consent they need give is to marriage.

MPP3-876 CONTRACTUALISM IS BASED ON SEXUAL SUBORDINATION

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.27.

For feminist critics of the contract tradition such as Carole Pateman, the whole conception of society as a contractual association between free and equal subjects is part of the problem that has to be addressed if women are to emancipate themselves from the male dominance of modern societies. The classic contractarians such as Locke, Kant and Rousseau are criticized not merely because they explicitly excluded women from the category of rational subjects who could consent to political rule. The idea of the individual as a free and equal subject is a peculiarly male category because it is conceptualized around a pre-existing sexual division of labour in which women are consigned to the tasks and responsibilities of the domestic sphere, thus freeing men to exercise their free wills in the public or political realm. It is only because of this pre-existing domestic subordination of women that male subjects could be free and equal subjects.

MPP3-877 CONTRACTUALISM REPLACES PATERNAL WITH FRATERNAL PATRIARCHY

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.27.

Pateman continues her alternative account of the modern contract tradition by arguing it is based on the replacement of patriarchy by fraternity, in which the dominance of the father is replaced by the sexual dominance of men over women. The unequal right of the patriarch to the bodies of women is replaced by the equal right of men to exercise sexual dominance over women.

MPP3-878 FOR PATEMAN THE SOCIAL CONTRACT IS A SEXUAL CONTRACT TO CONTROL WOMEN

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.204-5.

For Pateman, the social contract presupposes and sustains an integral sexual contract whereby the brothers acquire rights over women's bodies. 'Modern patriarchy is fraternal in form and the original contract is a fraternal pact'. According to Freud, the brothers kill the father out of jealousy for his access to women which he denies them. He presents this as the origin of kinship relations: thenceforth each child relieves the guilt of parricide through the Oedipus complex, whereby the boy renounces his mother and identifies with his father, thereby sustaining the incest taboo and acquiring a male identity. Pateman (problematically, in my opinion) conflates the original historical act with the social contract between brothers. According to her reconstruction, the primal patriarch must have possessed a woman to become a father in the first place and because of his unrestrained will, this must be interpreted as rape. It is this sex-right that the brothers then inherit, sharing it through the non-incestuous kinship relations whereby women are exchanged, and constraining their rivalries through civil law, which now has a 'completely different basis' from the primal father's rule. This is the sexual contract, which in modern social contract theory is displaced on to the marriage contract, although this is not its sole manifestation. It is true then that patriarchy (qua father-right) is overthrown, but what the brothers share is not a father but their sex-right over women.

MPP3-879 CONTRACTUALISM RETARDS WOMEN'S ADVANCEMENT

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.28.

Difference feminists such as Iris Marion Young and Seyla Benhabib have argued that in order to achieve genuine emancipation from the male dominant power structures of modern society, what is needed is not merely gender neutral policies of redistribution, but a rethinking of the goals of political theory addressed to the problems of institutional domination. This approach has taken many feminist theorists into the field of democratic theory and away from the terms of liberal political theory with its emphasis on contract and impartial agreement between equal subjects. Equal rights are of little value in a world where the exercise of those rights is itself frustrated by the structures of gender domination in modern society.

MPP3-880 CONVERSATION SHOULD REPLACE CONTRACT AS THE MODEL FOR GOVERNMENT

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.206-7.

Overall, contemporary democratic theorists, communitarians and feminists seem to be in broad agreement in challenging the liberal model of contract, which institutes impersonal rules and authorities to which obedience is then due, on the one hand, and presents a model of self-interested exchanges and rational choices as the paradigm for public relationships on the other. In the democratic, discursive ethics which is their alternative, conversation rather than contract (voices rather than choices) is the model, intersubjectively enjoined by individuals or groups in their particularity. Although consent remains essential, the goal is no longer consensus but ongoing negotiation within a broadened public space; a dialogue among actual, encumbered, situated selves. This may only mean empowering women's voices to participate, among others, in negotiating the form of public values and style of institutions; in enjoining an incessant debate concerning the very foundations of the social contract (regarding the processes of political association and the good life) and, more specifically' actually practicing new ones.

MPP3-881 FEMINISTS GENERALLY REJECT CONTRACTUALISM

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.206.

The responses of feminism to social contract theory have been, as this chapter shows, primarily critical. The theory has been condemned for its exclusions of women and deconstructed to reveal multiple levels of gendered thinking. Both its individualism and its theory of justice have been identified with specifically masculine norms.

MPP3-882 HOBBSIAN AUTHORITY DENIES DIFFERENCE

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.202.

Jones makes further important, but more cultural, points regarding the gender of Hobbesian authority. On a symbolic level, she argues, 'the concept of sovereignty as unity negated the possibility of including divisible [i.e. reproductive, sometimes pregnant] bodies - women's bodies - in the scheme.' Nor can this unity accommodate difference. The formal, unified and universal; form authority takes in Leviathan, where it is authorized to speak for all, cannot accommodate the diversity and particularity of persons, such as their female embodiment or their gender. Nor can it acknowledge their connectedness, as well as separation, that is forged out of this specificity. (Seyla Benhabib similarly criticizes more contemporary contract theory in its Rawlsian form, where the veil of ignorance precisely requires that we ignore particularity. Under its conditions, 'the other as different from the self disappears'.)

MPP3-883 THE CONTRACT IS A PARTICULARLY MASCULINE MODE OF THOUGHT

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.202.

Ironically, what had seemed to be the radical aspect of Hobbes's theory, namely the ungendered nature of his individuals, is now seen as a further indication of its masculinism, where this is 'rooted in the universalizing form that authority as sovereignty took in his system, and not simply in the fact that women, as individuals, were not fully included as contract makers'. While the self-interested nature of contractors is condemned by feminists as a particularly masculine mode, then, so is the commitment to disinterested rules of impartial justice.

MPP3-884 HOBBS AUTHORITY EXCLUDES WOMEN

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.203.

Feminists have been interested in this deconstructive approach because it discloses how masculinity operates as a powerful code for representational mastery, while the feminine is a metaphor for the disorderly and chaotic; for the differences that play within language to deny stable meaning. Kathleen Jones, for example, conveys the play of gendered oppositions at work within political thinking when she criticizes a Hobbesian understanding of authority: When political authority is defined as the rightful imposition of order on disorder, or the substitution of an artificial unity for a lived diversity in community, it excludes women and the symbolically female from its practice axiomatically. Women represent disorder.

MPP3-885 HOBBS' CONCEPT OF AUTHORITY EMBODIES MALE PARANOIA

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.200-1.

On the one hand then, we find typically masculine egos operating in the state of nature, for whom 'relations' are based on combat or, subsequently, on limited and impersonal contractual exchanges. Since the founding contract does not change human nature or the ethos of interpersonal relations, it is these discrete egos which will also constitute civil society and its paradigms. Thus human nature and the socio-political relationships which are declared universal are in fact specifically masculine. On the other hand, sovereignty is defined, according to Di Stefano, in terms of a rejection of the intensely personal and complex bonds of maternal authority, favouring instead the impersonal and external reign of the father who is unconcerned with the particular identities of his subjects. The conception of authority itself is thus a gendered one that embodies male paranoia. Finally, great significance is placed on a passage in *De Cive* where Hobbes invites us to consider men as mushrooms, sprung from the earth into full maturity (i.e. not born of, or nurtured by, woman). This image is claimed to remain latent throughout *Leviathan*, thereby rendering men self-sufficient orphans and again denying the mother and a place for women or reproduction generally.

MPP3-886 HOBBS DESCRIBES WOMEN AS INHERENTLY SUBORDINATE

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.193.

As in the state, so in the family, Hobbes insists that authority must be unified, but why should it be the woman who acquiesces? Hobbes does not tell us explicitly, but it is possible to offer a plausible reconstruction of his thinking by following through its logic in the light of certain comments he does make. Thus it is true that in the state of nature, men as a group are not strong enough to overpower women as a group, thereby precluding the stability of their rule without women's consent. However, most individual men can subdue most individual women - perhaps because, as Carole Pateman has suggested, the latter are defending their infants as well as themselves. But Hobbes also contends that 'men are, naturally fitter than women, for actions of labour and danger'. As in the historically more evident commonwealths by acquisition, it is then in the rational self-interest of the vanquished, in this case individual women, to submit and consent to being ruled in return for protection. Indeed this is also what weaker men do when they consent to their subordination as servants rather than slaves, and women's position seems hereafter to be most like that of conjugal servant. In civil society this male privilege becomes institutionalized in marriage laws, which must also apply to that minority of women who avoided the naturalistic imperative to submit.

MPP3-887 WOMEN DIDN'T HAVE THE OPPORTUNITY TO MEANINGFULLY CONSENT TO LOCKE'S CONTRACT

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.195.

Fourth, although Locke has not explicitly excluded women from the social contract, it seems unlikely that they would have had much opportunity to express consent. Following the initial agreement, when they would have had little motivation or authority to participate, few would inherit property and most would therefore be denied that most explicit opportunity for consenting. At best their acquiescence would remain tacit; they would not be full members of the political community but among the ranks of those who are obliged only to obey.

MPP3-888 LOCKE SUPPORTS BOTH PUBLIC AND PRIVATE PATRIARCHY

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.194.

Third, Locke, like Hobbes, realized that most political associations evolve historically rather than being instituted by contract, and here he suggests that it is 'obvious to conceive how easy it was... for the Father of the Family to become the Prince of it' and 'almost natural for Children by a tacit, and scarce avoidable consent to make way for the Father's Authority and Government'. Private patriarchy is clearly assumed here and this would in most cases then slip imperceptibly into public patriarchy.

MPP3-889 LOCKE SUBORDINATES WOMEN TO A LESSER ROLE

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.194.

As in *Leviathan*, the argument remains implicit, but Locke seems to employ the same logic: that because of natural weaknesses, most women will find it rational to acknowledge their husband's authority and will place their property under it, although there may be exceptions where an individual woman is in a particularly strong position and things can in principle be otherwise. In Locke's case the example is not Amazons but queens. Because women participate in both contractual relations through marriage, and natural relations through reproduction, they seem to occupy a boundary position which might have been resolved either way as far as their participation in the social contract is concerned. However, under the terms of the marriage contract, most consent to an inferior position within the family and although this need not necessarily restrict them to the private sphere, this seems most likely for a number of reasons.

MPP3-890 ROUSSEAU FALSELY ASSUMES NATURAL FREEDOM

David Boucher and Paul Kelly, Professors of Politics, University of Wales, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, 1994, p.27.

Similarly when Rousseau claims in *The Social Contract* that 'Man is born free, but everywhere he is in chains', he chooses to ignore the fact that no person is born free of authorities, duties or responsibilities, as all children male or female are born to parents, and these parents have natural obligations to them and are not therefore free to abandon them. That said the burden of these responsibilities and duties towards children has been unequally distributed as is illustrated by Rousseau's abandonment of his own children. Consequently, while 'men' might well be free and equal subjects, women certainly are not, and are rarely even considered equal bearers of rights because of their different, less rational natures.

MPP3-891 ROUSSEAU DESCRIBES WOMEN AS LACKING THE ABILITY TO POLITICALLY CONSENT

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.196.

Although in *The Social Contract* Rousseau insists that the General Will must be an expression of the active and continuous consent of all citizens, lest it express mere particularity, it is evident from *Emile* that it does not include women although Rousseau nowhere acknowledges that a specifically masculine will must therefore result. Indeed he presents it as one of the characteristics of male citizens that they have the capacity for enlightened and autonomous judgments of a universal interest, whereas he describes women as lacking the ability to transcend their particular wills, which are (rightly) focused on the needs of their own families, and as therefore lacking in the autonomy, judgment and capacity for abstract reasoning that would qualify them to express consent.

MPP3-892 ROUSSEAU WOULD TRAIN WOMEN TO PERPETUATE SEXISM

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.196.

Femininity is described by Rousseau as a combination of modesty, chastity, docility, submissiveness, coquettishness, cunning, heteronomy and irrationality. It is to be reinforced nevertheless by an appropriate education and a firm male hand. A woman's education must therefore be planned in relation to man. To be pleasing in his sight, to win his respect and love, to train him in childhood, to tend him in manhood, to counsel and console, to make his life pleasant and happy, these are the duties of woman for all time, and this is what she should be taught while she is young.

MPP3-893 ROUSSEAU CONSTRUCTED FEMININITY AS ANTITHETICAL TO CITIZENSHIP

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.196.

Because Rousseau's social contract entails active and ongoing participation, rather than being the one-off or tacit affair of Hobbes or Locke, women's exclusion has far more significant consequences for social arrangements generally. For, Hobbes and Locke, few citizens would be politically active after the initial contract unless its terms were abrogated. But Rousseau's theory was presented as a call for popular (male) sovereignty and radical democracy. Because of this, and because Rousseau had constructed femininity as antithetical to citizenship, society had to be strictly regulated along gender lines. He operates with a set of clear oppositions here: masculine/ feminine, public/private, culture/nature, universal/particular. The norms of feminine behaviour and the spaces appropriate to its expression are strictly delineated. Any transgression of their boundaries is profoundly subversive since effeminate men or virilized women would destroy the very foundations of the legitimate state.

MPP3-894 ROUSSEAU EXPLICITLY EXCLUDED WOMEN FROM THE CONTRACT

Diana Coole, Lecturer in politics, University of London, *THE SOCIAL CONTRACT FROM HOBBS TO RAWLS*, David Boucher and Paul Kelly, eds., 1994, p.195-6.

In Rousseau's work, feminists have needed to look no further than *Emile* (chapter 5) to discover an explicit exclusion of women from participation in the social contract. Rather than allowing naturalist assumptions to slip in and subvert the egalitarian logic of his work, Rousseau is quite clear that there is a natural difference between men and women and that this manifests itself both in women's role and subservience within the family, and in the havoc they wreak should they gain a political voice. Nevertheless there is a crucial slippage, in Rousseau's narrative of the natural state in his *Discourse on the Origin of Inequality*, where he moves from a state of nature originally populated by free and equal individuals, to a second stage of apparently natural patriarchal families. He bases his subsequent accounts of sex/gender relations on this latter golden age without explaining its origins, although they are clearly not contractual.

**MPP3-895 HISTORICALLY, CONTRACTUALISM
OPPOSED PATRIARCHALISM**

Michael Lessnoff, Professor of Politics, University of Glasgow,
SOCIAL CONTRACT, 1986, p.9.

To the patriarchalists, just as children are naturally subject to the father who begot them, so private citizens are naturally subject to the father of their country, their king. Not, of course, that he is literally their father - rather, he is the inheritor of the natural authority of fathers. According to Sir Robert Filmer, author of Patriarcha, this authority originally inhered in Adam, the father of the human race, and passed by biological - that is, natural - descent to his heirs. As the race increased in numbers, so too did families, turning thereby into kingdoms, but the basis of authority did not alter (F. 11-13). This version of patriarchalism is also a version of supernaturalism in that it is ultimately based on the will of God. From the point of view of social contract theory, its main significance is as an important rival to the latter at the period of its highest development. Contract theorists devoted a good deal of their attention to the relation between the family and civil society, and to giving an alternative account to the patriarchalist one.

**MPP3-896 BOTH HOBBS AND LOCKE REJECTED
PATRIARCHALISM**

Michael Lessnoff, Professor of Politics, University of Glasgow,
SOCIAL CONTRACT, 1986, p.68-9.

It is interesting to compare Locke's response to patriarchalism with that of Hobbes. Hobbes rejected patriarchalist premises in a more thorough-going way - not so much by contrasting family and commonwealth, as by rejecting the patriarchalist account, not just of the commonwealth, but also of the family itself. Natural dominion over a child, Hobbes asserts, belongs not to the father, but to the mother, 'seeing the infant is first in the power of the mother', and in any case 'it cannot be known who is the father, unless it be declared by the mother'. Paternal power, therefore, derives not from 'generation', but from consent both the consent of the mother, in an agreement with the father, and the consent of the child, 'either express, or by other sufficient arguments declared'.