

The Transformation of Man from State of Nature to Civil Society: A Philosophical Investigation

Anikpe Anthony Mbah

Department of Philosophy, Nnamdi Azikiwe University, Awka Anambra State

E-mail: mbahs2000@gmail.com

Anyim Benjamin Anyim

School of General Studies, Federal College of Agriculture, Ishiagu Ebonyi State

E-mail: ben.anyim@yahoo.com

Anyim-Ben Francisca Okorie.

Department of Public Administration, Federal College of Agriculture, Ishiagu Ebonyi State

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I. Introduction:

The relationship between man to man, the environment, and politics is one of the man most spheres of his social knowledge. This is paramount to him in building a civil society, been academic work, this paper is designed to examine man's transformation from the state of nature to civil society. i.e. (from primitive and crude state of existence to a modern or civil society), within this context, this paper tries to examine some theories in other to bring their touchstone which assisted to shape mankind in his socio-political abode and evolution. In this paper, the method of analysis is employed. In quest to comprehensively examine the general idea of man's transformation, this work is divided into sections. section one is the introduction, two contains the clarification of operative terms, three the concept of social contract theory from a historical perspective, four present the in-depth philosophical analysis of the different contractarian theories and finally, five deals with the concluding reflections

II. The Clarification of Operative Terms

Meaning of State

The term State etymologically is said to have ultimately derive from the latin word Status, meaning "condition" its cognates in some other languages namely: stato in latin, staat in German, estado in Spanish and etat in French respectively.¹ With the revival of the Roman law in 14th-century Europe, this Latin term came to refer to the legal standing of persons (such as the various "estates of the realm" noble, common, and clerical, and in particular the special status of the king. The word also had associations with Roman ideas (dating back to Cicero) about the "status reipublicae", the "condition of public matters". In time, the word lost its reference to particular social groups and became associated with the legal order of the entire society and the apparatus of its enforcement.² The absence of academic consensus on the most appropriate definition of the state.³ Makes the act of defining the term as part of an ideological conflict, because different definitions lead to different theories of state function, and as a result validate different political strategies.⁴ because of this, state refers to a set of different, but interrelated and often overlapping, theories about a certain range of political phenomena.⁵ According to Jeffrey and Painter, "if we define the 'essence' of the state in one place or era, we are liable to find that in another time or space something which is also understood to be a state has different 'essential' characteristics".⁶ A state is a type of polity that is an organized political community living under a single system of government.⁷ States may or may not be sovereign. For instance, federated states are members of a federal union, and may have only partial sovereignty, but are, nonetheless, states.⁸ Some states are subject to external sovereignty or hegemony, in which ultimate sovereignty lies in another state.⁹ States that are sovereign are known as sovereign states.

Meaning of Nature

The word nature is derived from the Latin word natura, or "essential qualities, innate disposition", and in ancient times, literally meant "birth".¹⁰ Natura is a Latin translation of the Greek word physis, which originally related to the intrinsic characteristics that plants, animals, and other features of the world develop of their own accord.¹¹ The concept of nature as a whole, the physical universe, is one of several expansions of the original notion; it began with certain core applications of the word by pre-Socratic philosophers, and has steadily gained currency ever since. This usage continued during the advent of modern scientific method in the last several centuries.¹²

Nature, in the broadest sense, is the natural, physical, or material world or universe. "Nature" can refer to the phenomena of the physical world, and also to life in general. The study of nature is a large part of science.¹³ Although humans are part of nature, human activity is often understood as a separate category from other natural phenomena. Within the various uses of the word today, "nature" often refers to geology and wildlife. Nature can refer to the general realm of living plants and animals, and in some cases to the processes associated with inanimate objects the way that particular types of things exist and change of their own accord, such as the weather and geology of the Earth. It is often taken to mean the "natural environment" or wilderness wild animals, rocks, forest, and in general those things that have not been substantially altered by human intervention, or which persist despite human intervention. For example, manufactured objects and human interaction generally are not considered part of nature, unless qualified as, for example, "human nature" or "the whole of nature". This more traditional concept of natural things which can still be found today implies a distinction between the natural and the artificial, with the artificial being understood as that which has been brought into being by a human consciousness or a human mind. Depending on the particular context, the term "natural" might also be distinguished from the unnatural or the supernatural.

Meaning of State of Nature

The state of nature is a concept used in moral and political philosophy, religion, social contract theories and international law.¹⁴ to denote the hypothetical conditions of what the lives of people might have been like before societies came into existence. the advocates of the concept of state of nature are of the view that there must have been a time before organized societies existed, and this presumption raises questions such as: "What was life like before civil society?"; "How did government first emerge from such a starting position?," and; "What are the hypothetical reasons for entering a state of society by establishing a nation-state?". In some versions of social contract theory, there are no rights in the state of nature, only freedoms, and it is the contract that creates rights and obligations. In other versions the opposite occurs: the contract imposes restrictions upon individuals that curtail their natural rights.

Meaning of Social Contract

Social contract theory can be said to mean the view that persons' moral or political obligations are dependent upon a contract or agreement among them to form the society in which they live. The social contract or political contract in moral and political philosophy is a theory or model, originating during the Age of Enlightenment which addresses the questions of the origin of society and the legitimacy of the authority of the state over the individual.¹⁵ The Social contract arguments upholds that individuals have consented, either explicitly or tacitly, to surrender some of their freedoms and submit to the authority of the ruler or magistrate (or to the decision of a majority), in exchange for protection of their remaining rights.

Meaning of Civil Society

The term civil society goes back to Aristotle's phrase *koinōniapolitikē*, occurring in his *Politics*, where it refers to a 'community', commensurate with the Greek city-state (*polis*) characterized by a shared set of norms and ethos, in which free citizens on an equal footing lived under the rule of law.¹⁶ The *telos* or end of civil society, thus defined, was common wellbeing, in as man was defined as a 'political (social) animal'. Though the concept was mentioned in Roman writers, such as Cicero, it entered into Western political discourse following the translation of Aristotle's works into Latin (*societascivilis*) by late medieval and early Renaissance writers such as William of Moerbeke and Leonardo Bruni, where it often referred to the ancient notion of a republic (*res publica*). With the rise of a distinction between monarchical autonomy and public law, the term then gained currency to denote the corporate estates (*Ständestaat*) of a feudal elite of land-holders as opposed to the powers exercised by the prince.¹⁷ It had a long history in state theory, and was revived with particular force in recent times, in Eastern Europe, where dissidents such as Václav Havel employed it to denote the sphere of civic associations threatened by the intrusive holistic state-dominated regimes of Communist Eastern Europe.¹⁸

III. The Concept of Social Contract Theory: A Historical Perspective

The social contract theory antecedents are said to be found in antiquity, in Greek and Stoic philosophy and Roman and Canon Law, the heyday of the social contract was the mid-17th to early 19th centuries, when it emerged as the leading doctrine of political legitimacy. The starting point for most social contract theories is an examination of the human condition absent from any political order that Thomas Hobbes termed the "state of nature".¹⁹ In this condition, individuals' actions are bound only by their personal power and conscience. From this shared starting point, social contract theorists seek to demonstrate, in different ways, why a rational individual would voluntarily consent to give up their natural freedom to obtain the benefits of political order.

The Classical Thought Development

The concept of the social contract is posed by Glaucon, as described by Plato in *The Republic* Book II. That to do injustice is, by nature, good; to suffer injustice, evil; but that the evil is greater than the good.²⁰ And so when men have both done and suffered injustice and have had experience of both, not being able to avoid the one and obtain the other, they think that they had better agree among themselves to have neither; hence there arise laws and mutual covenants; and that which is ordained by law is termed by them lawful and just. This they affirm to be the origin and nature of justice, it is a mean or compromise, between the best of all, which is to do injustice and not be punished, and the worst of all, which is to suffer injustice without the power of retaliation; and justice, being at a middle point between the two, is tolerated not as a good, but as the lesser evil, and honoured by reason of the inability of men to do injustice. For no man who is worthy to be called a man would ever submit to such an agreement if he were able to resist; he would be mad if he did. Such is the received account the social contract theory also appears in *Crito*, another dialogue from Plato. Where Socrates in the early Platonic dialogue, *Crito*, makes a compelling argument as to why he must stay in prison and accept the death penalty, rather than escape and go into exile in another Greek city. He personifies the Laws of Athens, and, speaking in their voice, explains that he has acquired an overwhelming obligation to obey the Laws because they have made his entire way of life, and even the fact of his very existence, possible.²¹ Social contract formulations are preserved in many of the world's oldest records. The Buddhist text of the 2nd century BCE, *Mahāvastu* recounts the legend of Mahasammata. The story goes as follows:

In the early days of the cosmic cycle mankind lived on an immaterial plane, dancing on air in a sort of fairyland, where there was no need of food or clothing, and no private property, family, government or laws. Then gradually the process of cosmic decay began its work, and mankind became earthbound, and felt the need of food and shelter. As men lost their primeval glory, distinctions of class arose, and they entered into agreements with one another, accepting the institution of private property and the family. With this theft of a banana, murder, adultery, and other crime began, and so the people met together and decided to appoint one man from among them to maintain order in return for a share of the produce of their fields and herds. He was called "the Great Chosen One" (Mahasammata), and he received the title of raja because he pleased the people.²²

In his rock edicts, the Buddhist king Asoka was said to have argued for a broad and far reaching social contract. The Buddhist vinaya also reflects social contracts expected of the monks, one such instance is when the people of a certain town complained about monks felling saka trees, the Buddha tells his monks that they must stop and give way to social norms. Epicurus seems to have had a strong sense of social contract, with justice and law being rooted in mutual agreement and advantage, as evidenced by these lines, among others, from his *Principal Doctrines*:

Natural justice is a pledge of reciprocal benefit, to prevent one man from harming or being harmed by another. Those animals which are incapable of making binding agreements with one another not to inflict nor suffer harm are without either justice or injustice; and likewise for those peoples who either could not or would not form binding agreements not to inflict nor suffer harm. There never was such a thing as absolute justice, but only agreements made in mutual dealings among men in whatever places at various times providing against the infliction or suffering of harm.²³

The Renaissance Thought Development

On the angles of the renaissance, Quentin Skinner has argued that several critical modern innovations in contract theory are found in the writings from French Calvinists and Huguenots, whose work in turn was invoked by writers in the Low Countries who objected to their subjection to Spain and, later still, by Catholics in England.²⁴ Among these, Francisco Suárez, from the School of Salamanca, might be considered as an early theorist of the social contract, theorizing natural law in an attempt to limit the divine right of absolute monarchy. All of these groups were led to articulate notions of popular sovereignty by means of a social covenant or contract: all of these arguments began with proto-"state of nature" arguments, to the effect that the basis of politics is that everyone is by nature free of subjection to any government. However, these arguments relied on a corporatist theory found in Roman law, according to which "a populus" can exist as a distinct legal entity.

Therefore, these arguments held that a group of people can join a government because it has the capacity to exercise a single will and make decisions with a single voice in the absence of sovereign authority a notion rejected by Hobbes and later contract theorists.

IV. The Transformation of Man from State of Nature to Civil Society: A Philosophical Investigation

The philosophical investigation of man's transformation from the state of nature to civil society can only be actualized through proper and critical navigation of contractarian theories in order to bring to limelight the touchstone of this paper discussion. In this note, the examination of some contractarian theories and their tenets is of paramount. Haven said this, this paper begins thus:

The Ancient Contractarians Theories Examined

Social contract theory, nearly as old as philosophy itself, is the view that persons' moral and political obligations are dependent upon a contract or agreement among them to form the society in which they live.²⁵ Starting from founding fathers of moral philosophy, just as mention briefly above, Socrates In the early Platonic dialogue, *Crito*, makes a compelling argument as to why he must stay in prison and accept the death penalty, rather than escape and go into exile in another Greek city. He personifies the Laws of Athens, and, speaking in their voice, explains that he has acquired an overwhelming obligation to obey the Laws because they have made his entire way of life, and even the fact of his very existence, possible. They made it possible for his mother and father to marry, and therefore to have legitimate children, including himself. Having been born, the city of Athens, through its laws, then required that his father care for and educate him. Socrates' life and the way in which that life has flourished in Athens are each dependent upon the Laws. Importantly, however, this relationship between citizens and the Laws of the city are not coerced. Citizens once they have grown up, and have seen how the city conducts itself, can choose whether to leave, taking their property with them, or stay. Staying implies an agreement to abide by the Laws and accept the punishments that they mete out. And, having made an agreement that is itself just, Socrates asserts that he must keep to this agreement that he has made and obey the Laws, in this case, by staying and accepting the death penalty.

Furthermore, in Plato's most well-known dialogue, *Republic*, social contract theory is represented again, although this time less favorably. In Book II, Glaucon offers a candidate for an answer to the question "what is justice?" by representing a social contract explanation for the nature of justice.²⁶ What men would most want is to be able to commit injustices against others without the fear of reprisal, and what they most want to avoid is being treated unjustly by others without being able to do injustice in return. Justice then, he says, is the conventional result of the laws and covenants that men make in order to avoid these extremes. Being unable to commit injustice with impunity (as those who wear the ring of Gyges would), and fearing becoming victims themselves, men decide that it is in their interests to submit themselves to the convention of justice. Socrates rejects this view, and most of the rest of the dialogue centers on showing that justice is worth having for its own sake, and that the just man is the happy man. So, from Socrates' point of view, justice has a value that greatly exceeds the prudential value that Glaucon assigns to it.

Thomas Hobbes Contracts Theory

Hobbes in his political work set out his doctrine of the foundation of states and legitimate governments and creating an objective science of morality. In his social contract theory "*Leviathan*" written during the English Civil War; this book aimed describing the necessity of a strong central authority to avoid the evil of discord and civil war. Beginning from a mechanistic understanding of human beings and the passions, Hobbes postulates what life would be like without government, a condition which he calls the state of nature. In that state, each person would have a right, or license, to everything in the world. This, Hobbes argues, would lead to a "war of all against all" (*bellum omnium contra omnes*). The description contains what has been called one of the best known passages in English philosophy, which describes the natural state humankind would be in before the emergence of political community:²⁷

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, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.²⁸ Thomas Hobbes further argues that in such a state, people fear death, and lack both the things necessary to commodious living, and the hope of being able to toil to obtain them. So in order to avoid it, people accede to a social contract and establish

a civil society. According to Hobbes, society is a population beneath a sovereign authority, to whom all individuals in that society cede some rights for the sake of protection. Any power exercised by this authority cannot be resisted because the protector's sovereign power derives from individuals' surrendering their own sovereign power for protection. The individuals are thereby the authors of all decisions made by the sovereign.²⁹ "he that complaineth of injury from his sovereign complaineth that whereof he himself is the author, and therefore ought not to accuse any man but himself, no nor himself of injury because to do injury to one's self is impossible". There is no doctrine of separation of powers in Hobbes's discussion.³⁰ According to Hobbes, the sovereign must control civil, military, judicial, and ecclesiastical powers.

John Locke's Contracts Theory

John Locke in his political theory founded on social contract theory in contrary to Thomas, believed that human nature is characterised by reason and tolerance. Like Hobbes, Locke believed that human nature allowed people to be selfish. This is apparent with the introduction of currency. In a natural state all people were equal and independent, and everyone had a natural right to defend his "Life, health, Liberty, or Possessions".³¹ as a result of this, most scholars trace the phrase "life, liberty, and the pursuit of happiness," in the American Declaration of Independence, to Locke's theory of rights,³² this Locke's works known as *First Treatise and Second Treatise* profound influence on the Declaration of Independence and the Constitution of the United States. though other origins have been suggested.³³ Locke assumed that the sole right to defend in the state of nature was not enough, so people established a civil society to resolve conflicts in a civil way with help from government in a state of society. However, Locke never refers to Hobbes by name and may instead have been responding to other writers of the day.³⁴ Locke also advocated governmental separation of powers and believed that revolution is not only a right but an obligation in some circumstances.

The *First Treatise* is an extended attack on Sir Robert Filmer's *Patriarcha*. Locke's argument proceeds along two lines: first, he undercuts the Scriptural support that Filmer had offered for his thesis, and second he argues that the acceptance of Filmer's thesis can lead only to slavery.³⁵ (and absurdity). Locke chose Filmer as his target, he says, because of his reputation and because he "carried this Argument [*jure divino*] farthest, and is supposed to have brought it to perfection". Filmer's text presented an argument for a divinely ordained, hereditary, absolute monarchy. According to Filmer, the Biblical Adam in his role as father possessed unlimited power over his children and this authority passed down through the generations. Locke attacks this on several grounds. Accepting that fatherhood grants authority, he argues, it would do so only by the act of begetting, and so cannot be transmitted to one's children because only God can create life. Nor is the power of a father over his children absolute, as Filmer would have it; Locke points to the joint power parents share over their children outlined in the Bible. In the *Second Treatise* Locke returns to a discussion of parental power.

Filmer also suggested that Adam's absolute authority came from his ownership over all the world. To this, Locke rebuts that the world was originally held in common (a theme that will return in the *Second Treatise*). But, even if it were not, he argues, God's grant to Adam covered only the land and brute animals, not human beings. Nor could Adam, or his heir, leverage this grant to enslave mankind, for the law of nature forbids reducing one's fellows to a state of desperation, if one possesses a sufficient surplus to maintain oneself securely. And even if this charity were not commanded by reason, Locke continues, such a strategy for gaining dominion would prove only that the foundation of government lies in consent. Locke intimates in the *First Treatise* that the doctrine of divine right of kings (*jure divino*) will eventually be the downfall of all governments. In his final chapter Locke asks, "Who heir?" If Filmer is correct, there should be only one rightful king in all the world the heir of Adam. But since it is impossible to discover the true heir of Adam, no government, under Filmer's principles, can require that its members obey its rulers. Filmer must therefore say that men are duty-bound to obey their present rulers. Locke writes:

I think he is the first Politician, who, pretending to settle Government upon its true Basis, and to establish the Thrones of lawful Princes, ever told the World, That he was *properly a King*, whose Manner of Government was by *Supreme Power*, by what Means soever he obtained it; which in plain English is to say, that Regal and Supreme Power is properly and truly his, who can by any Means seize upon it; and if this be, to be *properly a King*, I wonder how he came to think of, or where he will find, an *Usurper*.³⁶

Locke in the *First Treatise* concludes that there is no evidence to support Filmer's hypothesis. According to Locke, no king has ever claimed that his authority rested upon his being the heir of Adam. It is Filmer, Locke alleges, that is the innovator in politics, not those who assert the natural equality and freedom of man.

In his *Second Treatise* Locke develops a number of notable themes. It begins with a depiction of the state of nature, wherein individuals are under no obligation to obey one another but are each themselves judge of what the law of nature requires. It also covers conquest and slavery, property, representative government, and the right of revolution. Locke defines the state of nature thus:

To properly understand political power and trace its origins, we must consider the state that all people are in naturally. That is a state of perfect freedom of acting and disposing of their own possessions and persons as they think fit within the bounds of the law of nature. People in this state do not have to ask permission to act or depend on the will of others to arrange matters on their behalf. The natural state is also one of equality in which all power and jurisdiction is reciprocal and no one has more than another. It is evident that all human beings as creatures belonging to the same species and rank and born indiscriminately with all the same natural advantages and faculties are equal amongst themselves. They have no relationship of subordination or subjection unless God (the lord and master of them all) had clearly set one person above another and conferred on him an undoubted right to dominion and sovereignty.³⁷

Locke argues. However, that the fact that the natural state of humanity is without an institutionalized government does not mean it is lawless. Human beings are still subject to the laws of God and nature. In contrast to Hobbes, who posited the state of nature as a hypothetical possibility, Locke takes great pains to show that such a state did indeed exist. Actually, it still exists in the area of international relations where there is not and is never likely to be any legitimate overarching government (i.e., one directly chosen by all the people subject to it). Whereas Hobbes stresses the disadvantages of the state of nature, Locke points to its good points. It is free, if full of continual dangers.³⁸ Finally, the proper alternative to the natural state is not political dictatorship or tyranny but democratically elected government and the effective protection of basic human rights to life, liberty, and property under the rule of law. Because nobody in the natural state has the political power to tell others what to do, however, everybody has the right to authoritatively pronounce justice and administer punishment for breaches of the natural law. Thus, men are not free to do whatever they please. "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... no one ought to harm another in his life, health, liberty, or possessions".³⁹ The specifics of this law are unwritten, however, and so each is likely to misapply it in his own case. Lacking any commonly recognized, impartial judge, there is no way to correct these misapplications or to effectively restrain those who violate the law of nature. The law of nature is therefore ill enforced in the state of nature. On this Locke observes thus:

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 control 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.⁴⁰

It is to avoid the state of war that often occurs in the state of nature, and to protect their private property that men enter into civil or political society, i.e., state of society civil society.

Jean-Jacques Rousseau Contract Theory

The Rousseau Social Contract theory outlines the basis for a legitimate political order within a framework of classical republicanism. The treatise titled *Economie Politique (Discourse on Political Economy)* begins with the dramatic opening lines, "Man is born free, and everywhere he is in chains."⁴¹ Those who think themselves the masters of others are indeed greater slaves than they. This work published in 1762 became one of the most influential works of political philosophy in the Western tradition. Rousseau claimed that the state of nature was a primitive condition without law or morality, which human beings left for the benefits and necessity of cooperation. According to him, as society developed, division of labour and private property required the human race to adopt institutions of law. In the degenerate phase of society, man is prone to be in frequent competition with his fellow men while also becoming increasingly dependent on them. This double pressure threatens both his survival and his freedom.

According to Rousseau, by joining together into civil society through the social contract and abandoning their claims of natural right, individuals can both preserve themselves and remain free. This is because submission to the authority of the general will of the people as a whole guarantees individuals against being subordinated to the wills of others and also ensures that they obey themselves because they are, collectively, the authors of the law. He argues that sovereignty (or the power to make the laws) should be in the hands of the people, he also makes a sharp distinction between the sovereign and the government. The government is composed of magistrates, charged with implementing and enforcing the general will. The "sovereign" is the rule of law, ideally decided on by direct democracy in an assembly.⁴² Rousseau in Book III, Chapter XV opposed the idea that the people should exercise sovereignty via a representative assembly. He approved the kind of republican government of the city-state.

John Rawls Contract Theory

Rawls' in his work "*A Theory of Justice*" of which he published in 1971 includes a thought he called the "original position". The original position is Rawls' hypothetical scenario in which a group of persons is set with the task of reaching an agreement about the kind of political and economic structure they want for a society, which they will then occupy. Each individual, however, deliberates behind a "veil of ignorance": each lacks knowledge, for example, of his or her gender, race, age, intelligence, wealth, skills, education and religion. The only thing that a given member knows about themselves is that they are in possession of the basic capacities necessary to fully and willfully participate in an enduring system of mutual cooperation; each knows they can be a member of the society. He argues that the enterprise of political philosophy will be greatly benefited by a specification of the correct standpoint a person should take in his or her thinking about justice. Simple because when we think about what it would mean for a just state of affairs to obtain between persons, we eliminate certain features (such as hair or eye color, height, race, etc.) and fixate upon others. Rawls's original position is meant to encode all of our intuitions about which features are relevant, and which are irrelevant, for the purposes of deliberating well about justice.

In this state of affairs, Rawls posits two basic capacities that the individuals would know themselves to possess. First, each individual knows that he has the capacity to form, pursue, and revise a conception of the good, or life plan. Exactly what sort of conception of the good is however, the individual does not yet know. It may be, for example, religious or secular, but at the start, the individual in the original position does not know which. Second, each individual understands him or herself to have the capacity to develop a sense of justice and a generally effective desire to abide by it. Knowing only these two features of themselves, the group will deliberate in order to design a social structure, during which each person will seek his or her maximal advantage. The idea is that proposals that we would ordinarily think of as unjust such as that blacks or women should not be allowed to hold public office will not be proposed, in this Rawls' original position, because it would be *irrational* to propose them. Rawls develops his original position by modeling it, in certain respects at least, after the "initial situations" of various social contract thinkers who came before him, including Thomas Hobbes, John Locke and Jean-Jacques Rousseau. Each social contractarian constructs his/her initial situation somewhat differently, having in mind a unique political morality they intend the thought experiment to generate.⁴³ Iain King has suggested the original position draws on Rawls' experiences in post-war Japan, where the US Army was challenged with designing new social and political authorities for the country, while "imagining away all that had gone before".⁴² In social justice processes, each person early on makes decisions about which features of persons to consider and which to ignore. Rawls's aspiration is to have created a thought experiment whereby a version of that process is carried to its completion, illuminating the correct standpoint a

person should take in his or her thinking about justice. If he has succeeded, then the original position thought experiment may function as a full specification of the moral standpoint we should attempt to achieve when deliberating about social justice.

David Gauthier's Contract Theory

David Gauthier in his work titled "*Morals By Agreement*" employed a contemporary contractarian theory approach to grounding morality in rationality in order to defeat the moral skeptic.⁴⁴ He assumes that humans can have no natural harmony of interests, and that there is much for each individual to gain through cooperation. According to Gauthier, moral constraint on the pursuit of individual self-interest is required because cooperative activities almost inevitably involve a prisoner's dilemma: a situation in which the best individual outcomes can be had by those who cheat on the agreement while the others keep their part of the bargain. This leads to the socially and individually sub-optimal outcome wherein each can expect to be cheated by the other. But by disposing themselves to act according to the requirements of morality whenever others are also so disposed they can gain each other's trust and cooperate successfully.

The contractarian element of the theory comes in the derivation of the moral norms. According to Gauthier, the compliance problem is the problem of justifying rational compliance with the norms that have been accepted which must drive the justification of the initial situation and the conduct of the contracting situation.⁴⁵ Gauthier likens the contract situation to a bargain, in which each party is trying to negotiate the moral rules that will allow them to realize optimal utility, and then he argues in favour of a bargaining solution that he calls "minimax relative concession." The idea of minimax relative concession is that each bargainer will be most concerned with the concessions that she makes from her ideal outcome relative to the concessions that others make. If she sees her concessions as reasonable relative to the others, considering that she wants to ensure as much for herself as she can while securing agreement (and thereby avoiding the zero-point: no share of the cooperative surplus) and subsequent compliance from the others, then she will agree to it. What would then be the reasonable outcome? Gauthier argues that it is the outcome that minimizes the maximum relative concessions of each party to the bargain.

Equally important to the solution as the procedure is the starting point from which the parties begin. For Gauthier there is no veil of ignorance each party to the contract is fully informed of their personal attributes and holdings. But Gauthier argues that the initial position must have been arrived at non-coercively if compliance to the agreement is to be secured. He thus adopts what he calls the "Lockean proviso" (modeled after Locke's description of the initial situation of his social contract): that one cannot have bettered himself by worsening others. In sum, the moral norms that rational contractors will adopt (and comply with), according to Gauthier, are those norms that would be reached by the contractors beginning from a position each has attained through her own actions which have not worsened anyone else, and adopting as their principle for agreement the rule of minimax relative concession. Gauthier concludes that contractarianism produces liberal individuals, who seem well suited to join the kind of society that Rawls envisioned.

V. Concluding Reflections

The social contract theories of most contractarians argue that the justification of the state depends on showing that everyone would, in some way, consent to it. By relying on consent, social contract theory seemed to suppose a voluntaristic conception of political justice and obligation: what is just depends on what people choose to agree to, what they will. This agreement, whether real or imagined, gives some sort of reasonable legitimacy to this society, the co-habitation of humanity in it, the laws that govern it and the state that preserves it.

Mankind's transformation from the crude state of existence to a more advanced civil society has obviously recorded a progressive development for humanity. In spite of the reservations that many thinkers hold for the contract theories, owing to some subtle and unfavorable adverse effects they impose on humanity, we also submit that it is tenable to argue that these contractarians have given to humanity, through the instrumentality of the social contract, a tool that keeps driving history to desirable ends. This historical fiction has, nevertheless, translated into a productive reality given that, its benchmark and that of civil society. However, this work is of the view that such theory is only a superlatively excellent and intuitive formulation, which has helped to shape many liberal democracies of different developed nations.

Endnotes

1. Hay, Colin, *The State of Nature*. Cambridge University Press.2001 p. 1469
2. https://en.wikipedia.org/wiki/State_%28polity%29#cite_ref-70
3. Erika Cudworth, Timothy Hall, John McGovern, *The Modern State: Theories and Ideologies*. (Edinburgh University Press 2007) p.1
4. Ibid
5. Ibid
6. Painter, Joe; Jeffrey, Alex, "Political Geography " 2nd ed. {London: SAGE Publications Ltd. 2009). p. 21.
7. Thompson, Della, ed. "state". *Concise Oxford English Dictionary (9th ed.)* (Oxford University Press 1995).
8. Ibid
9. https://en.wikipedia.org/wiki/State_%28polity%29#cite_note-2
10. Harper, Douglas. "nature". Online Etymology Dictionary. Retrieved 2016-05-23
11. Guthrie, W.K.C. *Pre-Socratic Tradition from Parmenides to Democritus* (volume 2 of his *History of Greek Philosophy*, Cambridge UP, 1965).
12. https://en.wikipedia.org/wiki/Nature#cite_note-etymonline-nature-1
13. Ibid
14. https://en.wikipedia.org/wiki/State_of_nature
15. J. W. Gough, *The Social Contract* (Oxford: Clarendon Press, 1936), pp. 2–3
16. https://en.wikipedia.org/wiki/Civil_society
17. Jean L. Cohen, *Civil Society and Political Theory*, MIT Press, 1994 p.86
18. Frederick W. Powell, *The Politics of Civil Society: Neoliberalism Or Social Left?*, Policy Press, 2007. pp. 119–120, pp. 148–149
19. Ross Harrison, *Locke, Hobbs, and Confusion's Masterpiece* (Cambridge University Press, 2003), p. 70
20. https://en.wikipedia.org/wiki/Social_contract
21. Ibid
22. Ibid
23. Vincent Cook (2000-08-26). "Principal Doctrines". *Epicurus*. Retrieved 2016-05-26.
24. Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2: The Age of the Reformation* (Cambridge, 1978)
25. <http://www.iep.utm.edu/soc-cont/>
26. Ibid
27. Gaskin. "Introduction". *Human Nature and De Corpore Politico*. Oxford University Press. p. xxx.
28. "Chapter XIII.: Of the Natural Condition of Mankind As Concerning Their Felicity, and Misery." *Leviathan*
29. Gaskin. "Of the Rights of Sovereigns by Institution". *Leviathan*. Oxford University Press. p. 117
30. "1000 Makers of the Millennium", page 42. Dorling Kindersley, 1999
31. *Locke, John, Second Treatise of Government (10th ed.)*, Project Gutenberg, 1690) retrieved 25 May 2016
32. Zuckert, Michael (1996), *The Natural Rights Republic*, Notre Dame University Press, pp. 73–85
33. Wills, Garry, *Inventing America: Jefferson's Declaration of Independence*, (Boston: Houghton Mifflin Company. 2002)
34. https://en.wikipedia.org/wiki/John_Locke#cite_note-36
35. Ibid
36. Locke John, *Two Treatises on Civil Government*, (London: Dent Press, 1924) p.79
37. Ibid. p.11
38. Locke John, *Two Treatises of Government and A Letter Concerning Toleration*.(Yale University Press 2003).
39. Ibid. p.6
40. Ibid.123
41. https://en.wikipedia.org/wiki/The_Social_Contract
42. Rousseau Jean-Jacques. *The Basic Political Writings*, Trans. Donald A. Cress,. (Hackett Publishing Company 1987)
43. <http://www.iep.utm.edu/rawls/>
44. plato.stanford.edu/entries/contractarianism/
45. *ibid*