

Social Contract as the Basis of Public Morality

Chukwuma Joseph Nnaemeka

Abstract

The term social contract which means an assemblage of people's ideas and will to surrender their private sovereignty as obtained in the state of nature. That is, the age that lacked civilization and politics, some people said that the age also lacked morality. This is what I want to examine in the cause of this paper, to show how it forms the root to public morality. Morality could be contested as a private issue, especially as it emanates from the conscience of an individual, but just as Plato saw society as a man writ large, we shall treat morality here in this public conception, as codes of conduct edit, by laws and laws in general. It is therefore my wish to present a defence for the assertion that it is the social contract theory that gave birth to public morality as we have it today. This is because we all know that every society of human beings is hinged on a set of rules, norms and values, laws, dos and don'ts as it may apply to most of the enlightened societies where the majority of people are educated, the public morality is often enshrined in a document called 'constitution'. If there is no social contract the issue is that it will be difficult to have a generally adopted kind of morality, which people respect as a good law. The people who accept a law must have either contributed in making the law, amending the law or enforcing it all aimed are geared towards achieving peaceful co-existence in the society. This is why we have some government agents, like the police, army, prison etc. And the principles of power separation among the executive,

legislature and judiciary all with the sole aim of maintaining a peaceful and cordial state. A cursory look in between lines will convince whoever, that for all these to be in place, there must have been an exhibition of the social contract.

Introduction

Civilization and enlightenment were introduced to the Society by the then human inhabitants and occupants of the Society at a particular period in time when they deemed it necessary. Some said it was at the renaissance period. There could not have been any social change without first of all a social agreement to have the change. Social contract theory is an age long theory in philosophy and the social sciences. Some say it is as old as philosophy itself others are of the view that the social contract theory is as old as the society, claiming strongly that there could not have been anything called the society in the stone age or the age where there was no social contract.

So it is right to say without mincing words, that the social contract is the bane of public morality in the society. Our moral obligations and also our political obligations to a very large extent depend upon a contract or an agreement between human beings to form a society.

Socrates in his time implied the social contract argument while he tried to explain to Crito why he must remain in prison and accept the death penalty on him. That is the acceptance of the poisonous material called the hemlock.

The social contract theory is rightly associated with modern moral and political theory, but is given its first full exposition and defence by Thomas Hobbes and after him followed John Locke and Jean-Jacques-Rousseau. These are the chiefs and the best proponents of the social contract theory, which is a very dominant theory in the fields of law, morality and politics. Though, there are some others like John Rawl's and Immanuel Kant who also made their own inputs and presented the world with their own types or versions of the social contract, theory.

They are also followed by many other contemporary philosophers of different inclinations, some writing for while the others criticized the social contract theory.

In this paper, however, it is not my intention to posit an exhaustive lecture on the social contract theory and its attendant problems and criticisms. Rather, I shall attempt to awaken our thought towards the

relationship between the social contract theory and the issue of law and morality; I shall also make a case for the social contract as the stalk or the substructure on which constitutionalism, public morality and the law stand.

But before then, it would be very important to trace the meaning of the concept, “social contract” and also raise some of the different arguments of the different scholars on the theory. From this, we shall establish our case that both public morality or general ethics and the law as we have them today are off shots of the social contract theory.

What is social contract?

Social contract is the agreement among a group of people to establish social organizations and regulations for the preservation of basic freedoms and rights. It is also defined as, “an agreement between members of a society according to which in order to preserve others”⁽¹⁾ “Some others define social contract as, “An agreement among individuals forming an organized society or between the community and the ruler that defines the rights and duties of each”².

The term social contract theory was first used by Plato, in his work titled the “Crito”, where Socrates the great was engaged in an argument with Crito that it would be wrong for him to break the law and escape from the prison custody. This is because by so doing, he would have broken the social contract, which is his contract with the Greek city state of Athens. That contract came to be in place by his choice to live and stay in Athens. Not only is it not a written contract, but is not even an explicit verbal agreement or promise to obey the law. His idea of a contractual agreement between the individual and the state is separate from his idea that the individual owes the state a debt of gratitude for all that the state has done for him or her.

Socrates personified the law of Athens, according to him, he was obliged to obey the law of the land because this law of Athens (the contract) made his way of life and existence what it was, the law also made it possible for his father and mother to get married, and have children which included him. The law of Athens also required that his father should train and care for him. The law of the land as obtained were free to leave the land with their properties, or stay, while staying meant to obey the law as it were, this is the contractual agreement that was binding on all.

The citizens in Athens including Socrates. Having made this agreement, Socrates chose to abide by the law, and accept the punishment.

That is why he refused all advances by Crito and friends to assist his escape from the prison and to elope to another city. On this he stayed back in Athens and received the death penalty, even when it was possible for him to escape.

He said to Crito,

As we have agreed so far, we must examine next whether it is right for me to try to get out of here when Athenians have not acquitted me. If it is seen to be right, we will try to do so; if it is not, we will abandon the idea. As for those questions you raise about money, reputation, the upbringing of children, Crito, those considerations in truth belong to those people who easily put to death and would bring them to life again if they could, without thinking, I mean the majority of men, for us, however, since our argument leads to this, the only valid consideration, as we were saying just now, is whether we should be acting rightly in giving money and gratitude to those who will lead me out of here, and ourselves helping with the escape or whether in truth we shall do wrong in doing all this. If it appears that we shall be acting unjustly, then account whether we shall have to die if we stay here and keep quiet, or suffer in another ways rather than do wrong⁽³⁾

In Plato's Republic Glaucon suggests that most people think of morality or ethics as a kind of social contract, for him, one might be free to steal, lie, rape etc but the other people do not like this kind of way of life, then they are repulsive of you and your actions, which they do not accept. They may punish you by fining you, relieving you of your job etc and because of these; every body now compromises his behaviour in order to be accepted. Every one gives up his freedom of behaving as he or she likes, and adopts a model of behaviour that will be accepted by, all, this is a social contract.

Also in the Republic, Socrates portrayed the social contract in the mode of production called the division of labour, where one person has to face a particular thing at a time, just for the benefit of the larger community he asked,

... must each of them contribute his own work for the common use of all for example, will a farmer provide food for everyone, spending quadruple the time and labour to provide food to be shared by them all? Or will he not bother about that, producing one quarter the food one quarters, one is building a house, one in production of clothes, and one in making shoes, not troubling to associates with the others, but minding his own business on his own?⁽⁴⁾

Modern conception of the social contract - Thomas Hobbes

The first person we shall consider his stands here is Thomas Hobbes, (1588-1679) Thomas Hobbes revived social contract theory in his time, the English civil war between the king and his supporters, the monarchists, who wanted the monarchical authority to prevail, and the parliamentarians most notably led by Oliver Cromwell, who wanted more power for the near-democratic institution of parliament.

Hobbes, having lived during this period of civil war that waged from 1642-1648, believed that without a state and the law and order it provides, life would be “solitary poor, nasty, brutish and short” so people naturally and rightly come together and agree to live under the rule of a government that is strong enough to keep order. This government which he termed, Absolute Monarchy with Absolute authority is to be obeyed by all even if it is oppressive, because the alternative is even worse, for him, we must put up the right way of life’ (ethics), otherwise we will be worse off.

The Hobbesian social contract theory was founded on the hypothetical state of nature. In his *Leviathan*, published in 1651, he was poised to provide a theory of human nature that would be a parallel to the scientific discoveries that were being made of the inanimate universe. He was of the view that everything in the universe is produced by nothing other than matter in motion. According to him, we are essentially very complicated organic machines, responding to the stimuli of the world mechanically and in accordance with universal laws of human nature. He confined from this mechanistic theory of his, that human beings are by nature selfish and self interested. Every one pursues only what will benefit him individually, or what he consider to be in his best interest. He said that human beings respond mechanically by being drawn to that which he desire and repels that which does not interest him. This is exemplified in

every aspect of the human existence, both within and without the society. Men and women get inclined and attracted to their desires, such as the desire for political power and social status everything done by man according to Hobbes is motivated by the desire to better his own individually considered desires. But man is also a reasonable being. The human beings have the capacity of nurturing their desires as efficiently and as maximally as possible. Their reason does not, given the subjective nature of value, evaluate their given ends, rather it merely acts as “scouts, and spies, to range abroad, and find the way to the things desired”⁽⁵⁾.

Hobbes imputed that this situation is not a hopeless one, since they are reasonable, they could perceive their way out of this state of nature in which life is not assured and secured, they therefore created the civil society, via the social contract. Their terms in the social contract theory included first, that each man be willing to pursue peace when others are willing to do so. They agreed to establish society by collectively and reciprocally renouncing the rights they had against one another in the state of nature.

Secondly, they must imbue some one person or assembly of persons with the authority and power to enforce the initial contract. In other words, to ensure their escape from the state of nature, they must both agree to live together under common laws, and create an enforcement mechanism for the social contract and the laws that constitute it since the sovereign is invested with the authority and power to mete out punishments for breaches of the contract which are worse than not being able to act as one pleases.

Men have the capacity to adjust and make the society a possible one in the state of nature where there was no sovereignty, who is bequeathed with the legal authority of making everybody within the society to cooperate. There was no morality and no law, in the positive conception of it. According to this Hobbesian argument, morality, politics, society and everything that comes along with it, all of which Hobbes calls ‘commodious living’ are purely conventional before the emergence of the civil society, which came up as an offshoot of the social contract theory, that gave the sovereign the absolute authority.

There was nothing like immorality and unjust, anything goes. It is with the establishment of this social contract that the society then became possible, due to the presence of morality, and law in this society people are expected to keep their promises and therefore public morality also became possible.

One can say out rightly, that drawing inference from the Hobbesian model of the contract theory, that public morality is not possible without the social contract, which makes the society possible, for there can only be ethics or objective morality in the society of human beings, no social contract, no society and no civil society there is also no objective or public morality.

Morality refers to an actually existing code of conduct put forward by a society; it applies to all human beings and is ahead at preserving the society and making it habitable one.

John Locke

John Locke (1632-1704) is another major name in the social contract theory. Locke differed from Hobbes in the right of the citizens, where Hobbes gave the citizens no right to revolt even against an oppressive government, Locke was for civil disobedience, he advocated a revolt against the unjust government. He influenced the revolt against the king, especially on Thomas Jefferson and the founder of the United States.

Locke's most important and influential writings are contained in his two Treatises on government.

According to Locke, the state of nature, the natural condition of mankind, is a state of perfect and complete liberty to conduct one's life as one best sees it, free from the interference of others. He said that the state of nature was pre-political but not pre-moral, that is to say that it was not a state of war, as Hobbes has it, rather it was that of morality, which recognized the natural law, and people did not harm one another.

The state of nature in Locke was a peaceful one although there was no civil authority or government to punish people for their transgressions against the law. It is not a state without morality.

Lockean Social contract theory more or less is a defence of the property owners; it is a contract with which the human beings settle disputes over property possession. Political society for Locke comes into being which individual men representing their families, come together in the state of nature to agree to each give up the executive power to punish those who transgress the law of nature, and hand over that power to the public power of a government. Having done this, they then become subject to the will of the majority which in turn will protect their lives and property. When these men create a political society by their consent, then they will have the following to gain which lacked in the state of nature,

they are laws, judges who adjudicated the laws, and the executive power which is necessary for enforcing the laws, so adjudicated.

Jean-Jacques Rousseau (1712-1778) a French philosopher who saw the French enlightenment, he wrote his own brand of the social contract theory in his essay *Discourse on the origin and foundation of inequality among men*,

This is commonly called the second discourse. It accounts for the moral and political evolution of human being over time from a state of nature to a modern society.

According to Rousseau, the state of nature was a peaceful period, where people lived solitary, uncomplicated lives. Their few needs were easily met and satisfied by nature, because of the abundance of nature and the small size of the population, competition was non-existence, and persons rarely even saw one another much less had reason for conflict or fear. These simple, morality pure persons were naturally endowed with the capacity for pity and therefore were not inclined to bring harm to one another.

As time passed, according to Rousseau, humanity faced certain changes. As the population of the people increased, the limited means through which the people satisfied themselves also had to change, people slowly began to live together in small communities, divisions of labour were introduced, both within and between families, people began to make comparisons between themselves and others, these gave rise to public values, leading to shame and envy, pride and contempt. Most importantly, according to Rousseau was the invention of private property, which constituted the pivotal moment in humanity's evolution out of a simple, pure state into one characterized by greed, competition, vanity, inequality and vice. As everybody is forced to work for his or her own private property, the development of social classes began those who owned private properties noticed that they needed to create a government that would protect their private property from those who do not have it, but may have the tendency of acquiring it by force. So by this, government got established and hence the working of the social contract.

For Rousseau, the government which came into being as a result of the social contract; is an agent of peaceful coexistence and morality. He said that the social contract which is normative here is meant to respond to the sorry state of affairs and to remedy the social and moral ills that have been produced by the development of the society.

In Rouseau's social contract, he begins with the most often quoted, statement, "man was born free, and he is everywhere in chains"⁽⁶⁾, this claim is saying that human beings are essentially free, and were free in the state of nature but the 'process' of civilization has substituted subservience to others for that freedom, though dependence, economic and social inequalities, and the extent to which we judge ourselves through comparisons with others, since a return to the state of nature is neither feasible, so this is the fundamental philosophical problem that the social contract is set to address, how we can be free to live together without succumbing to the force and coercion of other people.

Rouseau's solution is that the individuals should submit their individual wills to the collective or general will, created through a general agreement or contact with other free and equal persons. Through the collective renunciation of the individual rights and freedom that one has in the state of nature, and the transfer of these rights to the collective body, a new 'person', as it were is formed. The sovereign is thus formed when free and equal persons come together and agree to create themselves a new as a simple body, directed towards the common good, the sovereign is committed to the good of the individuals who constituted it, and each individual is also committed to the good of the whole.

Rouseau's social contract theories together form a single, consistent view of our moral and political situation. We are endowed with freedom and equally by nature, but our nature has been corrupted by our contingent social history. We can overcome this corruption by involving our free will to reconstitute ourselves politically, along strongly democratic principles.

The Social Contract as the Basis of Public Morality

From the above positions so enunciated by Socrates through Plato, Thomas Hobbes, John Locke and Jean- Jacques Rouseau, it is evident, that every brand of the social contract theory is aimed at the betterment of the society, geared toward the preservation of its basic norms and values, when we talk about the preservation of norms and values, we cannot do without morality, especially in the public objective sense. This will then lead us into a brief definition of the term morality.

For Fagothey, morality is the quality in human acts by which we call them right or wrong, good or bad. (Fagothey, 1959). For some moral philosophers, morality has to do with certain qualities in human act that lead man towards his end, happiness. This end towards which man's

actions drive to is regarded as an absolute value. Higgins regarded this absolute value as supreme enduring value whose presence spells total success and happiness and whose absence spells total failure (Higgins, 1956). According to E. Gilson, morality is the goodness and badness of an action is morally good if it brings pleasure to the individual agent, bad, if it brings pain to the agent⁽⁷⁾

The relationship between the term social contract theory, which we have tried to define and trace, and the term we call public morality, is that, for there to be public or general morality/Ethics which is more or less an objective kind of morality, there must be an assemblage of people whether remote or immediate, who will agree on what should constitute their public morality. Just as we have them in the different Ethical codes and constitutions.

When we talk of public objective morality, we not ignorant of the fact that morality by nature is very private and primitive. Private in the sense that it is a mental construct of an individual, the consciousness of what is good and what is bad. Every human being has the sense of morality inmate in him or her. His dos and don'ts, which are more or less the same thing from every subjective sense of morality.

The fact is that for there to be public morality or general ethics, there must be an agreement as to what constitute this body of law. This agreement is what we mean by the term social contract theory. Public morality is that which the society or the public in general accepts as their moral codes. It is an objective morality while private morality is that which is within the mind of an individual, this is very subjective in nature as it differs from person to person. When we all as citizens or different inhabitants or occupants of a particular geographical entity agree to volunteer or give up our individual will to a particular sovereign who is in turn obliged to protect our interests, we are therefore making an agreement which having weighed its pros and cons we would have realized that it is not going to be a harmful law on us. This public nature of the contract to preserve morality cannot by any means be concerned with individual private morality in its egoistic and subjective nature. Any agreement to preserve the society by the citizens is an agreement to guard public morality protecting it from any form of *game theory*. This could be itemized in the code of conduct or constitution or law as the case may be, and we know that there cannot be this kind of morality without first of all an agreement or a contract presiding it which, more often than not culminate into what is called legislation. It could be argued profusely as to

which comes first, the society or the social contract. This is a kind of egg and hen argument that has remained perennial, one is free to tackle this argument from his own point of view, but for the purpose of this paper we are not dealing with morality per se but we are treating it in an altruistic and public conception. For morality to what it should be, it must be viewed from an individualistic perspective that is why we are considering the public morality here.

Immanuel Kant was an advocate of this morality that is why he said that for an action to be morally justified, it must be based on a maxim. He said that we must act with the maxim that wills our action to be a universal one. That which every reasonable person in our shoes will not hesitate to accept. I am not saying that there are no criticisms to this his stand in ethics, but just that he is an apostle of public morality.

John Rawls also advocated justice as fairness, fairness to the masses and not to a particular individual.

The social contract is for the public, the society is existing because there is a body of norms and values as accepted by the people, the public decide on what is right and wrong to them. This cannot be unless there is a social contract, one cannot even interact freely with other human beings, let alone know what is that which entire human beings within the society would want or repel. We therefore have made a case for the assertion that social contract is the basis for public morality in any given society.

Aristotle was right in saying that, any human person who does not live in a society, is either a god or a beast. That is to say that the person is a super human or a sub human person. Every normal person is expected to live in the society of human beings where he will interact with other human beings and also be used by others, no one person is an island we must need the others and so there must be a society, which must be sustained by ethics and morality. This social ethics come into being when the society is formed. In a typical Igbo society, there are customs which are man made, issues like “you shall not kill any member of the kindred”, “you shall not steal from our kinsmen”. But whenever you steal from outside and return home safely you are healed. “A married woman is not allowed to have any sexual affair with another person outside her husband”, etc. All these laws are man made laws which guides our societies in Igbo land. But in some other tribes, a man is free to offer his wife for sexual activities to another man who is his friend. This is their custom and it works for them. Every family as a smallest institution has its own codes of conduct. The making of these institutions and societies is the

making of these ethical laws; therefore I infer that the social contract is the basis of public morality.

Conclusion

A violation of the social contract theory is a violation of ethics and law. Needless to mention how bad the “state” or society will be without any form of government, the basic idea here remains, that we must live and act rightly (morally and legally) for by so doing, we will be cooperating with the social contract theory. Social contract is both a political and moral statement, depending on how one understands it, it could be thought of as a kind of rule utilitarianism. We should do whatever is (or would be) commanded by the set of rules that make us all better off. Alternatively, social contract theory might be thought of as a kind of justification of obeying the rules.

Morality has the characteristics of lessening evil or harm as its goal, morality also involves the rules that prohibit harm directly or indirectly, such as the rules prohibiting killing, causing of pain, deceiving and breaking promises, the paradigm aim or rule of morality is the same with that of the social contract, which largely to make us feel better off. There cannot be any morality or the society cannot know morality or ethics.

If there is no social contract, the society of human beings agree on what should constitute their ethics, norm, and what they allow to obtain within their society, but the society itself to an extent is what it is today because of the social contract theory.

Thomas Hobbes’s brand of the social contract theory brings out the dependence of ethics and law upon the social contract, which alone makes life in the society possible, in the state of nature as he has it, it was practically impossible to have a body of law and norms and ethics, since life was poor, brutish and short.

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