

Can 'Social Contract Theory' provide a convincing justification
for the existence of the state?

When asking the question of whether the social contract theory can provide convincing justification for the existence of the state, we are to discern whether a *state* (a sovereign institution with the authority to deploy force) can be *justified* in the area of having the right to rule over citizens and enforce an obligation to obey. Broadly, the theory can be defined as: believing the state is defensible since rational individuals would agree to it in order to escape the 'state of nature'. Most notably, Hobbes, Locke and Rousseau concurred on the necessity of a social pact but took different outlooks on what its purpose should be – security, preservation of rights and embodiment of the general will. However, this essay will explore more closely the basic arguments favouring this theory and simply whether they succeed or fail in justifying the existence of the state.

Hobbes identified reasons for attack amongst humans that made the state of nature a 'battlefield', as put by Jonathan Wolff. These were, to gain, to maintain safety and to achieve glory.¹ He described it as a "warre of every man against every man" whereby "nothing can be unjust."² This implies that morality has no binding force without the existence of the state, hence why he justifies their existence in that they can give laws and hold people to them. Positing that we are equal in vulnerability and capacity to inflict harm, makes animosity and cynicism rational, suggesting that human beings live in a condition of insecurity.

However, there is sufficient evidence to disprove that morality requires coercive enforcement and is instead rooted in some part of human nature. Hobbes' position for justifying the state, rests on an assumption that we are constantly fearful, egocentric and solitary creatures, yet it is observed that humans act with sympathy and trust that function without authority. Sociology reveals instances of spontaneous cooperation during major disasters during which the state is collapsed. In her work, activist Solnit explored the events of earthquakes and hurricanes across the entire world, describing the impetuous organisation of rescue and mutual aid long before institution

¹ Wolff, J. (1996). 'An Introduction to Political Philosophy'. Page 11. Internet Archive. (2022). Available at:

https://archive.org/details/introductiontopo0000wolf_l2w3/page/12/mode/2up?ref=ol&q=Justifying+the+State. (Accessed 19/02/26).

² Hobbes, T. (1651). 'Leviathan, Chapter XIII'. Wordsworth Editions. (2015). Available at:

<https://www.vlebooks-com.uwtsd.idm.oclc.org/Product/Index/823939?page=0&startBookmarkId=-1>. (Accessed 19/02/26).

intervention.³ She wrote that the “prevalent human nature in disaster is [...] resourceful, generous [and] empathetic” appearing to demonstrate the ‘triumph of civil society and the failure of institutional authority’.⁴ These real-life examples prove that humans recurringly cooperate under severe insecurity, where Hobbes contrarily stated the most conflict would occur, which undermines a weighty premise in his social contract theory and thus the justification of an existing state.

Therefore, Locke and Rawls appear to present a more agreeable justification. This is because Locke accepts that in the ‘state of nature’, morality exists. Prior to the government, we possess natural rights of life, liberty and property, and so the state is only justified because it supposedly protects these pre-existing moral rights.⁵ Similarly, Rawls accepts morality as an existing concept without binding authority, as his concept of the ‘veil of ignorance’ demonstrates that if people could not know their role in society, they would choose moral principles, such as justice.⁶

However, in both views, there are negative implications. By justifying the state as a neutral arbiter and successful when protective of our rights, they neglect the concept of giving consent. A contract is definable as a written or spoken agreement,⁷ yet these justifications rest on hypothetical consent, arguing that rational individuals *would* consent to a particular set of rules without actual say, if it fulfils a protective function.⁸ This enters a territory of a ‘common good’ or ‘higher life’ which compromises freedom and personal autonomy. Here, legitimacy of the state is grounded in fairness, but this is a paradoxical justification when the consent that is meant to establish this legitimacy is not actual, personal or freely given. It is not only questionable whether hypothetical consent is *fair*, but if the social *contract* theory justifies a state at all. To justify authority in terms of fair benefits, you must convey that people are aware and accepting of being bound by them, yet in reality, this does not appear to be the case. This claim of irony is

³ Solnit, R. (2009). *A Paradise Built in Hell*. Penguin Books Edition. Available at: https://books.google.co.uk/books?hl=en&lr=&id=Ikky4CKuS_oC&oi=fnd&pg=PR9&dq=A+Paradise+Built+In+Hell&ots=WLa7V8rksH&sig=_k2_S32xV10WkLnmbIpN2l-rd1o&redir_esc=y#v=onepage&q&f=false. (Accessed 19/02/26).

⁴ Taylor, A. (2009). *Rebecca Solnit by Astra Taylor*. Interview with BOMB Magazine. Available at: <https://bombmagazine.org/articles/2009/10/01/rebecca-solnit>. (Accessed 19/02/26).

⁵ Locke, J. (1690). *Second Treatise of Civil Government, Chapter II: Of The State Of Nature, Section 6*. Project Gutenberg. (2021). Available at: <https://www.gutenberg.org/cache/epub/7370/pg7370-images.html>. (Accessed 21/02/26).

⁶ Freeman, S. (2019). *Original Position, Section 3: The Veil of Ignorance*. Stanford Encyclopedia of Philosophy. Available at: <https://plato.stanford.edu/entries/original-position>. (Accessed 21/02/26).

⁷ Cornell Law School. (2022). *Contract*. Legal Information Institute. Available at: <https://www.law.cornell.edu/wex/contract>. (Accessed 21/02/26).

⁸ Cudd, A. Eftekhari, S. (2021). *Contractarianism, Section 1: Fundamental Elements*. Stanford Encyclopedia of Philosophy. Available at: <https://plato.stanford.edu/entries/contractarianism>. (Accessed 21/02/26).

supported by philosopher A. John Simmons, who pointed out that “even in democratic political communities, these benefits are commonly regarded as purchased (with taxes) from a central authority, rather than as accepted from the cooperative efforts of our fellow citizens.”⁹ This aligns exactly with the thought that, citizens benefitting from anything provided by the state, does not by itself establish obligation, as they have not been voluntarily accepted as a genuine formed mutually agreed scheme of cooperation. Imagined consent is not the same as expressed consent, and so the irony of the justification being from a ‘contract’ or based on fairness, lies in the fact that there is nothing contractual or fair in the basis for authority from hypothetical consent.

Those in favour of the social contract theory, all make some sort of justification for the existence of the state, in that it ensures protection, security and/or best interest of the people. Rawls for example, in his justification for the existence of the state, includes the concept of the ‘veil of ignorance’ in which he claims with the removal of personal differences (i.e. race, gender, wealth) rational agents *would* choose authority prescribed rules that ensure protection. These claims that the state’s existence can practically improve the livelihoods of the people, raises a few more questions and doubts. Does the contractarian model actually dissolve systematic exclusions or domination?

When considering the origination of the theory, it is arguably built upon an unacknowledged hierarchy. This is in the sense that, in its classical form, the theory justifies political authority by saying equal individuals consent to form a civil society. However, at the same time Locke was arguing property as a pre-existing right, and that those who possess this give consent to be protected by a state, coverture was an English common law. This gave women no separate legal identity, no right to possess their own property and an inability to enter into contracts.¹⁰ The idea of the state existing because contracting individuals were in support, whilst half of the population were restricted from being so, undermines this line of justification for the state entirely. To justify the state by saying it protects rights or creates fairness, does not take off when it was in part, the subjugation of women that seemed to make male involvement possible. Even more ironically, everything of the woman’s became the property of her husband, and he could *lawfully* dispose of it all, *without her consent*. This view on the failure of the social contract theory to remain true to its concepts of ‘fairness’,

⁹ Simmons, A.J. (1979). ‘*The Principle of Fair Play*’. Philosophy & Public Affairs Journal, Volume 8, No.4, Page 335. Available at: https://www.jstor.org/stable/2265067?searchText=The+Principle+of+Fair+Play&searchUri=%2Faction%2FdoBasicSearch%3FQuery%3DThe%2BPrinciple%2Bof%2BFair%2BPlay%26so%3Drel&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&refreqid=fastly-default%3Afe84e9962e0e8a8358c10ca0ae02752a&seq=29. (Accessed 22/02/26).

¹⁰ Wilson, N. (2012). ‘*Out of his shadow: The long struggle of wives under English Law*’. Page 4. High Sheriff of Oxfordshire’s Annual Law Lecture. Judicial Committee of the Privy Council. Available at: https://jcpc.uk/uploads/speech_121009_51cb0b8258.pdf. (Accessed 22/02/26).

‘consent’ and ‘protection’ is supported in a similar way by political theorist, Pateman. She stated that “The original pact is a sexual as well as a social contract: it is sexual in the sense of patriarchal”.¹¹ In this, she expresses that the social contract is not inclusive in the way it claims to be, or a legitimate justification for the existence of the state, as it presupposes a domination of one gender over the other from its starting point, which is difficult to eradicate now that it is structurally embedded. In summary, she argues that when the theory defined a ‘free individual’ that this was implicit to men, happily accepting subordination of women and excluding them from the definition.¹²

In conclusion, it appears clear that the overarching justifications for the existence of the state within the social contract theory, contain intrinsic contradictions or are grounded in contestable premises. The embedded feature of morality in human nature and altruism during insecure times undermines the premise Hobbes starts with when arguing for why the state is justified. The clear contradiction of non-expressed consent whilst claiming to be a contract, fails to justify the existence of the state on the grounds that it compels no obligation from us. And finally, the justifications stemming from the idea that the state could improve livelihoods through protection and achieve fairness, fails when we examine the exclusions and dominations it was built upon, directly contrasting what it is supposed to achieve and therefore diminishing justifications of this tone for the state.

¹¹ Pateman, C. (1988). ‘*The Sexual Contract*’. Available at: <https://www.goodreads.com/work/quotes/898092-the-sexual-contract>. (Accessed 22/02/26).

¹² Philopedia. (2025). ‘*Carole Pateman*’. Available at: <https://philopedia.org/thinkers/carole-pateman>. (Accessed 22/02/26).

Wolff, J. (1996). *'An Introduction to Political Philosophy'*. Page 11. Internet Archive. (2022). Available at: https://archive.org/details/introductiontopo0000wolf_l2w3/page/12/mode/2up?ref=ol&q=Justifying+the+State. (Accessed 19/02/26).

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Solnit, R. (2009). *'A Paradise Built in Hell'*. Penguin Books Edition. Available at: https://books.google.co.uk/books?hl=en&lr=&id=lkky4CKuS_oC&oi=fnd&pg=PR9&dq=A+Paradise+Built+In+Hell&ots=WLa7V8rksH&sig=_k2_S32xV10WkLnmbIpN2I-rd1o&redir_esc=y#v=onepage&q&f=false. (Accessed 19/02/26).

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