


RESEARCH ARTICLE

Contractarian ideology and the legitimacy of government

Randall G. Holcombe 

Department of Economics, Florida State University, Tallahassee, FL 32306, USA

Corresponding author. Email: holcombe@fsu.edu

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Abstract

Social contract theory depicts a constitutional contract as the result of a hypothetical agreement among society's members to escape a prisoners' dilemma situation. It depicts citizens as political equals agreeing to be forced into a cooperative strategy rather than a socially suboptimal strategy that gives them the highest personal payoff. Government is the organization that forces everyone to cooperate. However, citizens can never bargain as political equals. An elite few design the rules, and others are forced to comply with them. The contractarian ideology that depicts government as acting in the general public interest legitimizes the actions of government, giving those elite few who hold government power a greater ability to use it to further their own interests, often at the expense of the masses. Within the context of a prisoners' dilemma game, contractarian ideology leads to an outcome that is socially suboptimal, but beneficial for the political elite.

Key words: Social contract; prisoners' dilemma; legitimacy of government; Thomas Hobbes; John Locke, Jean Jacques Rousseau; John Rawls; James M. Buchanan

A social contract is an implied agreement among the members of a society to abide by certain rules of conduct – the terms of the contract – for the benefit of everyone. Although some of the terms of the contract might be norms that are enforced informally, by social disapproval, shunning, or ostracism, other terms are enforced formally through government institutions. Social contract theory from its beginning, from Hobbes (1651), through Locke (1690) and Rousseau (1762), and more recently through Rawls (1971) and Buchanan (1975) has been developed for the specific purpose of justifying government coercion for the benefit of those who are being coerced. If citizens believe that there is a social contract that they are obligated to follow for the good of everyone, the belief in the social contract legitimizes the actions of the government that enforces it.¹

Whether there actually is a social contract that members of a society are obligated to follow is a question for moral philosophy, irrelevant for the arguments that follow. The relevant issue for this paper is whether people believe there is a social contract, and most people do. Most people would agree, for example, that people should not assault each other, kill each other, or take what belongs to other people. That belief constitutes a social contract – rules of conduct that people believe they are obligated to abide by for the benefit of everyone.

¹There are many reasons people might believe that citizens have mutual obligations to follow state-mandated rules of social interaction. They may believe the state is divinely ordained, or that tradition demands such obedience. Factors such as these aid in legitimizing government action beyond Hobbes's argument that people are obligated to abide by the contract to escape a prisoners' dilemma situation. The essence of the social contract is that people are obligated to abide by it, independent of the reason they might have this obligation. If they choose to follow the rules for religious or other reasons, this would lessen the burden on the state to enforce the contract, but Hobbes (and others) thought that some would not live up to their contractual obligation without state enforcement.

One question is: what, exactly, are the terms of the contract? What are those rules that constitute the contract that everyone is obligated to follow? Different contractarians have offered different answers to that question. Modern contractarian theories such as those put forward by Rawls (1971) and Buchanan (1975) place heavy emphasis on hypothetical agreement.² The social contract is that set of rules that everyone would agree to under certain hypothetical circumstances. Despite the question of what rules constitute the social contract, the theory, as developed over centuries, points strongly toward legitimizing the actions of government by equating government action as implementing the social contract.

One consequence of this legitimizing effect of social contract theory is that it gives those who exercise the power of government the ability to design public policy for their own benefit, justifying their actions as having been agreed to by everybody as a part of the social contract. It depicts coercion as consent. As long as those who hold government power do not abuse it too obviously, people comply because they believe they should – because they believe they are bound by a social contract. This argument is an ideological one. Whether a social contract actually exists is irrelevant. If people believe there is a social contract, that belief conveys legitimacy and power to government, and that power can be used for the benefit of those who hold it, at the expense of those who do not.

1. The logic of social contract theory

Social contract theory depicts social interaction as a prisoners' dilemma game. The logic of the prisoners' dilemma is illustrated in Figure 1, where two players decide whether to cooperate with each other or defect. If they both cooperate, each gets a payoff of 5; if they both defect, each gets a payoff of 2. But the incentives are such that regardless of the strategy of the other player, each player gets a higher payoff by defecting. If the other player defects, a player gets a payoff of 2 for defecting but only 1 for cooperating. If the other player cooperates, a player gets a payoff of 5 for cooperating and 7 for defecting. Therefore, each player has an individual incentive to defect.

The combined payoff of both players is 10 if they both cooperate, 8 if one cooperates while the other defects, and 4 if both defect, so the group's combined welfare is maximized if they both cooperate; yet they both have an individual incentive to defect. Both individuals would be better off if they were forced to cooperate, and the role of the social contract is to ensure that cooperation. If the two individuals agree to cooperate, what would stop one (or both) of them from renegeing on that agreement to get the higher payoff? The social contractarian answer is: government. Both agree to be coerced by an outside agent – government – to enforce the cooperative outcome. As Hochman and Rodgers (1969) argue, people can agree to be coerced, for the benefit of everyone.

This contractarian argument assumes that the government enforces the cooperative outcome – the outcome produces the highest combined payoff for the group. That is the contractarian ideology: the idea that forcing citizens to obey the government's rules makes everyone better off. That contractarian ideology legitimizes the actions of government by depicting them as in the public interest. This is the claim that is made by social contract theory.

2. Social contract theory

Social contract theory can be traced (at least) back to Hobbes (1651), who depicted government as a mechanism to create an orderly society and allow people to escape from anarchy, where life would be a war of all against all, and would be solitary, poor, nasty, brutish, and short. To escape from that dismal state of anarchy, Hobbes argues that people agree to a social contract in which they abide by the rules

²Note that in this context, agreement means consent. When people agree to the terms of a contract, they consent to those terms. People might also agree with factual statements to which they do not consent. For example, people could agree that the state collects taxes without consenting to those taxes, or agreeing that the state should collect them. Because the contractarian literature uses the word agreement to mean consent, this paper uses the word agreement in the same way.

		Player 1	
		Cooperate	Defect
Player 2	Cooperate	5 / 5	1 / 7
	Defect	7 / 1	2 / 2

Figure 1. Prisoners' dilemma game.

of their government. Hobbes (1651: ch. 26) says people must '...confer all their power and strength upon one man, or upon one assembly of men ... every man should say to every man: I authorise and give up my right of governing myself to this man, or to this assembly of men, on this condition; that thou give up, thy right to him, and authorise all his actions in like manner... to the end he may use the strength and means of them all as he shall think expedient for their peace and common defence'.

This Hobbesian social contract compels everyone to abide by the government's rules: all of them. People cannot pick and choose the rules they believe they should obey, or the society will devolve back to anarchy. What if some of the government's rules are counterproductive? People are still obligated to abide by those rules. The alternative is anarchy: a war of all against all. Hobbes says that people who do not abide by the government's rules can be killed. That is one mechanism to ensure unanimous agreement. Kill off those who do not agree! The question here is not whether Hobbes's argument is correct but whether it is persuasive. Do people believe the contractarian ideology that says they are obligated to abide by the government's rules for their own good, and for the good of everyone else?

Locke (1690) has a different vision of the social contract, based on the idea that people naturally have a right to themselves, which gives them a right to their labor, which gives them a right to what they produce with their labor. Locke's social contract creates an obligation among individuals not to violate each other's rights, but because some people may opportunistically violate the rights of others, the role of government is to protect individual rights. Locke departs from Hobbes, however, in making government a party to the social contract, and arguing that if government does not uphold its responsibilities, citizens have the right to replace it.³

Although Hobbes argues that people are unconditionally obligated to abide by the mandates of their government, Locke recognizes the possibility that those mandates may be illegitimate – a violation of the social contract. As long as this is not the case, however, Locke's social contract shares with

³Bailyn (1992) argues that Locke's ideas were influential in laying an intellectual foundation for the American Revolution. Although most Americans at the time would not have read Locke, Bailyn says that pamphleteers promoting independence from Britain often referred to Locke's ideas when presenting their case for independence.

Hobbes's the idea that government acts as an enforcer of the contract, designed to prevent people from moving away from the upper-left corner of the prisoners' dilemma matrix in [Figure 1](#).

Rousseau (1762: Book IV, Ch. 1, no. 2) puts forward a more extreme theory of agreement with the social contract, saying 'The citizen gives his consent to all the laws, including those which are passed in spite of his opposition, and even those which punish him when he dares break any of them. ... When in the popular assembly a law is proposed, what the people is asked is not exactly whether it approves or rejects the proposal, but whether it is in conformity with the general will, which is their will. When therefore the opinion that is contrary to my own prevails, this proves neither more nor less than that I was mistaken, and that what I thought to be the general will was not so'.⁴ Rousseau's vision of the social contract legitimizes any actions of a democratic government, Holcombe (2020) notes, by saying that government acts to implement the general will, and anyone who disagrees is incorrect. Rousseau could not be more clear in saying that the contractarian ideology legitimizes any action taken by a democratic government.

This idea that government overcomes problems faced by individuals by acting in the interest of all remains in more recent social contractarian theory. Buchanan and Tullock (1962: 19) say 'Men co-operate through exchange of goods and services in organized markets, and such co-operation implies mutual gain. ... At base, political or collective action under the individualistic view of the State is much the same. Two or more individuals find it mutually advantageous to join forces to accomplish certain common purposes'. Consistent with Buchanan's (1965) theory of clubs, government is a cooperative organization that works in the public interest.⁵

Buchanan (1975: 6) takes a Hobbesian view on the necessity of government. Referring to individuals who want to escape from a Hobbesian anarchy, he says, 'When he recognizes that there are limits to the other-regardingness of men, and that personal conflict would be ubiquitous in anarchy, the extreme individualist is forced to acknowledge the necessity of some enforcing agent, some institutionalized means of resolving interpersonal disputes'. Again, as depicted in [Figure 1](#), government is the enforcing agent that keeps people in the cooperative upper-left quadrant. Brennan and Buchanan (1985: 5), looking for an escape from Hobbesian anarchy, say that we benefit from a set of rules that govern people's interactions with each other because '...without them we would surely fight. We would fight because the object of desire for one individual would be claimed by another. Rules define the private spaces within which each of us can carry out our own activities'.

Buchanan and Congleton (1998) optimistically envision a set of constitutional rules that are in everyone's interest, if they are sufficiently general (apply to everyone) and sufficiently durable. The 20th century contractarian benchmark for determining whether government mandates are a part of the social contract is whether, under certain hypothetical circumstances, people would agree to them. The essential idea is that they are to be judged by an impartial spectator, in the spirit of Smith (1759), who evaluates them without taking his (or her) own interests into account.

Rawls (1971) imagines a veil of ignorance behind which people know nothing about their individual characteristics – they could be anyone when the veil is lifted – and draw up the terms of the social contract behind that veil. The terms of the social contract are those with which individuals would agree under that hypothetical condition.

Buchanan (1975) places people in a hypothetical Hobbesian anarchy, where life is a war of all against all, and has them renegotiate a social contract from that point. The social contract consists of the provisions people would hypothetically agree to in a renegotiation from anarchy. Buchanan (1975: 75) says, 'Individuals must ask themselves how their own positions compare with those that they might have expected to secure in a renegotiated contractual settlement'. Agreement is implied

⁴Although this is a translation, it is interesting to note that Rousseau twice refers to people as a singular term ('the people is asked' and a few words later referring to the people as 'it' rather than 'they'). This flies in the face of an individualistic notion of a society as a group of people, but is quite consistent with Rousseau's notion of a singular general will.

⁵However, Joseph Schumpeter (1950: 198) observed, 'The theory which construes taxes on the analogy of club dues or of the purchase of the services of, say, a doctor only proves how far removed this part of the social sciences is from scientific habits of mind'.

if their current positions are within the bounds they might have anticipated if the rules were renegotiated.

Buchanan (1975: 38–39) asks, ‘Does a ‘social contract’ in which all members of the community agree to make all collective choices relating to the provision and cost-sharing of a purely public good embody coercion as meaningfully defined? Ex ante, each participant knows that he will secure gains under such a contract, gains over and beyond those secured when none of the pure public good is provided. ... Hence, it would seem that an agreement to join a collectivity that would make its decisions only under a rule of unanimity could be reached noncoercively’. Yes, everyone could agree to join a group that made its decisions by unanimity rule, but the unanimity in Buchanan’s framework is hypothetical.⁶ The terms of the contract will be enforced by government, in which some people design policies that are enforced on others, so Buchanan is putting forth the idea that people could agree to be coerced. He depicts coercion as consent.

Again, justifying the public interest nature of the social contract, Buchanan (1975: 32) says, ‘The final or ultimate constitutional contract will define the rights assigned to each person in the inclusive community. And each person will find his own position improved over that which he might have enjoyed in any one of the natural distributions noted above, because he will not have to exert or contribute effort to defense and predation, either as an individual on his own account or as a contributing member of a subset of the total community’. The ideology of the social contract legitimizes the actions of government.

How are the legitimate bounds of government action determined? Buchanan (1975: 75) says, ‘That set of rights which might be widely accepted as being within the limits of what we may call here the ‘renegotiation expectations’ of individuals will not be uniform over communities and over time. ... This suggests that there can be no resort to idealized general standards through which a legal or constitutional structure in a particular community at a particular stage of historical development might be judged’. Government actions are legitimate if people might hypothetically agree to them, and they are in hypothetical agreement if the current state of affairs falls within the bounds of what they might expect if a social contract were negotiated from anarchy.

The issue here is not whether there actually is a social contract, but rather whether the idea that there is a social contract that legitimizes government actions to enforce its rules is plausible to citizens. Reference to Buchanan’s attempts to persuade readers that there is a social contract that legitimizes the coercive actions of government is particularly relevant because Buchanan has openly stated his classical liberal political leanings (Buchanan, 2000, 2005). If someone who openly champions freedom from coercion and limited government also argues the legitimacy of government coercion as a component of a social contract, that idea is likely to be plausible to a broad segment of the population.

People do not have to be familiar with social contract theory to believe the ideology it implies. Many people believe that obeying government mandates is the right thing to do. They buy into the contractarian ideology that legitimizes government action. From an ideological standpoint, the issue is not whether there is a social contract, but whether people believe that they have an obligation to others to abide by government mandates.

This review of major contributors to social contract theory shows that the contractarian ideology legitimizes the actions of government by depicting them as taking place within a set of institutions that have been agreed to by the government’s subjects. Individuals following their own narrow interests will be led to undertake activities that make life worse for everyone. To escape this prisoners’ dilemma situation, they (hypothetically) agree to a set of rules that allows them to cooperate for everyone’s benefit. They agree to be coerced. They agree to abide by the rules of their government, as Hobbes says, and if they, individually, do not agree, all this shows is that they are mistaken about the public interest, according to Rousseau. What are those actual rules that lead them to the

⁶Also, following Buchanan and Tullock (1962), unanimity rule imposes high decision-making costs on members of the group, so people might not join such a group if the decision-making costs outweighed the value of the collective benefits the group provided.

cooperative outcome in [Figure 1](#)? Buchanan says that they can vary over time, and from place to place. The contractarian ideology legitimizes the actions of government.

3. The social contract theory and legitimacy

Even though most citizens will be unfamiliar with social contract theory as such, they will still be subject to its conclusions, which are reinforced through propaganda and patriotism. The names of government officials are often preceded by ‘the honorable’ as a title, and government employees are referred to as civil servants, even as they act like masters. Edelman (1964) notes that democratic institutions have symbolic value: they are designed to give the appearance that citizens control their governments. Even for citizens unfamiliar with social contract theory as such, the contractarian ideology remains an influence over their perception of government. Government will punish people who violate its rules, but citizens commonly view obeying the laws as the right thing to do.⁷

Social contract theory has been criticized on many grounds. Hume (1979: 258) observes that governments are not formed based on the consent of their subjects, but on force. He says ‘we find, every where, princes who claim their subjects as their property, and assert their independent right of sovereignty, from conquest or succession’. Hume says that any obligation of citizens to comply with the mandates of their governments comes from the utility of doing so, not from any agreement. He continues, ‘Obedience or subjection becomes so familiar, that most men make no enquiry about its origin or cause’, they obey because they think they should. Hume (1979: 259) says, ‘Almost all governments, which exist at present, or of which there remains any record in story [sic], have been founded originally, either on usurpation, or conquest, or both, without any pretense of a fair consent, or voluntary subjection of the people’.

de Jasay (1989, 1998) takes a different approach to social contract theory, directly confronting the idea that the coercion of the state is necessary to overcome prisoners’ dilemma situations. He notes that people have an incentive to cooperate with each other to reach mutually advantageous agreements, and that they often do, in the absence of state coercion. de Jasay (1998: 11) says ‘the dominant ideology is one that, broadly speaking, tells the state what it wants to hear, but more importantly, what wants its subjects to overhear’. The idea that we hypothetically agree to a social contract to overcome prisoners’ dilemma problems corresponds with this idea. Echoing Hume, de Jasay (1998: 17) says ‘most states trace their pedigree to the defeat of one people by another; more rarely to the ascendancy of a victorious chief and his war gang over his own people; and nearly always to migration’.

Yeager (1985, 2001) points out a serious downside to this contractarian ideology that legitimizes government action. All government action is based on coercion, and the social contract theory depicts that coercion as based on agreement. No matter how much people approve of the actions of their government, those actions are still based on coercion. Even if people approve of a tax system to finance public spending, government still forces people to pay their taxes. If people would voluntarily contribute, there would be no need to force them. Even if people approve of government regulations, government still forces compliance. If people would voluntarily do what the government wants, it would not have to coerce them into compliance.

Social contract theory tries to represent the product of coercion as the result of agreement, when in fact, Yeager points out, nobody actually agreed. The hypothetical agreements conjectured by Rawls (1971) and Buchanan (1975) legitimize government coercion by arguing that people have (hypothetically) agreed to it. In fact, social contract theory serves no purpose other than to legitimize government coercion by depicting it as the product of agreement. To say that people have hypothetically agreed is to say that they did not actually agree.

⁷Galbraith (1983, ch. 3) refers to this as conditioned power. People can get others to do as they want through force, or through exchange, but if they have conditioned power over others, they can get others to do as they want because those others think it is the right or proper thing to do. Many people view laws this way: they should obey them.

Pinker (2018) argues that strong governments that have emerged since the Enlightenment have created orderly societies that have resulted in unprecedented peace and prosperity. Without questioning the benefits that have come with strong governments, this does not imply that government action is based on some hypothetical agreement. The social contract is a fiction that serves the purpose of legitimizing government activity, making it easier for those with political power to get those subject to that power to comply.

Downs (1957) observes that voters are rationally ignorant because their individual votes do not count, and this observation extends beyond voting to all interactions the masses have with government. Rational ignorance makes sense for individuals who know they have no political influence. Rational ignorance reinforces the contractarian ideology because as Benson (2020) notes, for individuals who have no political influence and will be sanctioned for disobeying, their least-cost option is to comply. The contractarian ideology rationalizes their compliance.

Beyond a doubt, social contractarians realize that not every government meets their criteria for being an institution within the social contract, but just as certainly, they must be presenting a theory that they perceive as approximately descriptive of reality in many cases. It is implausible to think that they would be writing about a state of affairs that would be ideal under certain hypothetical circumstances but inapplicable to reality.

4. The politics of power

Although the social contract is depicted as an agreement in which everyone is given equal standing in negotiating its provisions, a substantial body of academic literature concludes that an elite few have much greater bargaining power than the masses. As a result, the design of governmental institutions and the public policies produced by those institutions tend to favor an elite few, rather than the general public. This literature is more consistent with Hobbes's social contract, in which citizens agree to abide by the government's rules than it is with Rousseau's, who envisions the policies produced by a democratic government to be an expression of the general will. Public policy is produced by an elite few and imposed on the masses, rather than as the result of an agreement among all citizens.

This is expressed well by Mills (1956: 3), who says 'The powers of ordinary men are circumscribed by the everyday world in which they live... But not all men are in this sense ordinary. As the means of information and power are centralized, some men come to occupy positions in American society from which they can look down upon, so to speak, and by their decisions mightily affect, the everyday world of ordinary men and women'. Stiglitz (2012: 59) echoes Mills' sentiments, saying 'It's one thing to win a "fair" game. It's quite another to be able to write the rules of the game – and to write them in ways that enhance one's prospects of winning. And it's even worse if you can choose your own referees'. In the design of public policy, some people have substantially more power than others, and according to Mills and Stiglitz, they tend to use that power to their own advantage. Some people write the rules, and others are forced to obey them.

Mills and Stiglitz are not alone in their view that public policy is designed by an elite few, and for their benefit. Bartels (2008), Hacker and Pierson (2010), Gilens (2012), and Holcombe (2018a) also describe a political system in which the economic and political elite work together for their mutual benefit. Beard (1913) argued more than a century ago that the Constitution of the United States was designed by its authors to protect their own interests. The elite are not trying to impose costs on the masses, but that sometimes is the result of policies they favor. As Buchanan (1962) explains, there is a built-in externality in majority rule politics in that the majority can impose costs on the minority. Just as with externalities in markets, those imposing costs on others do not act with the intention of doing so; the external costs are a by-product of their actions. In the same way, the elite make public policy, and the result sometimes creates a political externality by imposing costs on others. In this case, a minority is imposing costs on a majority.

The literature in public choice has described how this occurs, with rent-seekers (Krueger, 1974; Tullock, 1967) gaining benefits for themselves by using government to impose costs on others, and

by regulatory capture (Stigler, 1971) in which regulated firms are able to manipulate the regulatory process for their benefit, often at the expense of the general public. Olson (1965) explains why it is that often it is not a majority imposing costs on a minority, but rather a minority – the well-connected elite – imposing costs on the majority.

One of the fictional aspects of social contract theory is that large numbers of people can bargain on equal terms to design institutions and policies. As Holcombe (2018b) explains, high transaction costs prevent a large group of people from equally participating in a bargain. Because of this, public policy is always designed by an elite small group who, because of the small size of their group, face low transaction costs and can negotiate with each other. As with externalities in markets, the result is often that costs are imposed on the larger group, who face high transaction costs and for that reason cannot enter into negotiations to design public policy.

The power elite, who have the force of government standing behind them, can coerce people into complying with their policies, but gaining compliance is less costly if the masses voluntarily agree to comply. Social contract theory facilitates compliance in this way. As Edelman (1964) notes, democratic institutions give the impression that the actions of government are an implementation of the will of the people. Those institutions have the further symbolic value that if people agree with the institutional structure, they will be more willing to accept the product of those institutions even when they disagree with them. Social contract theory promotes a procedural theory of justice so that if people agree with the process that produces public policies, they therefore accept those policies as legitimate outcomes of the legitimate process. They agree with democratic political institutions; therefore, they agree with the policies produced by those institutions.

5. The escape from anarchy

Social contract theory is designed to overcome the prisoners' dilemma situation in which individuals who follow their own narrow interests lead the group to a socially suboptimal outcome. People escape from the prisoners' dilemma by agreeing to a social contract – agreeing to be coerced – so that anyone who does not comply with the terms of the contract is punished through government institutions that are, hypothetically, agreed to by everyone in the society. This allows, explicitly in the social contract theories of Hobbes and Buchanan, an escape from anarchy, where life is a war of all against all, to an orderly and productive society.

The contractarian ideology legitimizes any government activity by arguing that individuals are obligated by the contract to abide by government's rules. Consider the arguments of three prominent contractarians in this regard – all different arguments, but all arguments that obligate individuals to abide by government's rules. Hobbes says explicitly that citizens have this obligation to prevent a society from devolving into anarchy. Rousseau says that the actions of a democratic government carry out the general will and that anyone who disagrees is mistaken. Buchanan uses as his benchmark whether individuals judge their current situations to be within the bounds of a hypothetical renegotiation from Hobbesian anarchy. Buchanan's criterion for hypothetical agreement is a very weak benchmark. Imagine being in a situation of Hobbesian anarchy where life is a war of all against all. In almost every nation in the world, citizens would gladly accept being subjects of their current governments to being thrust into Hobbesian anarchy. Almost all current governments meet Buchanan's test for hypothetical agreement, so citizens are obligated to abide by their government's rules.

When one takes into account the asymmetries in political power, with an elite few designing public policies that are imposed on everyone, the escape from anarchy is not as egalitarian as when everyone has equal power. To place this in the context of a prisoners' dilemma game, Figure 2 reproduces the matrix from Figure 1, the only difference being a relabeling of the strategies and the names of the participants in the game. A few people are in the elite who make public policy; most people are in the masses who are subject to public policy. The contractarian ideology chooses the strategy for the masses: they are obligated to follow the rules. Given that the masses follow the rules, the elite then choose either the upper-left cell, where their payoff is 5, or the upper right, where their payoff is 7.

		Elites	
		Follow Rules	Rules Don't Apply to Me
Masses	Follow Rules	5 / 5	1 / 7
	Rules Don't Apply to Me	7 / 1	2 / 2

Figure 2. Elites and masses.

Given the strategy of the masses, the elite prefer to locate in the upper-right cell. This is where the contractarian ideology leads the society.

The upper-right cell in the matrix corresponds to the choice of the power elite, as Mills (1956) describes them. The social contract compels ordinary people to follow the rules, but the power elite are not ordinary in this sense. They make the rules that ordinary people must follow. Although the force of government does stand behind those policies, most people choose to comply because they think they should. People believe they should obey the laws and that those who do not should be punished. The contractarian ideology reinforces this belief. Citizens have the right to vote, democratic governments ultimately are under the control of the people, and as Rousseau so eloquently stated, the actions of a democratic government are carrying out the general will.

The upper-right cell in the matrix is not the outcome that gives the highest total return to the players in the prisoners' dilemma game, but it is the cell that gives the highest return to those who make the rules. The masses agree to that outcome as long as they believe they are bound by a social contract to abide by the mandates of their government. As depicted in Figure 2, the masses end up worse off than if they refused to follow the rules. Is the ideology of the social contract powerful enough to make them accept such an outcome? Perhaps it is, because people experience their actual condition, but can only conjecture about alternative states of the world. They may be propagandized into believing that their payoff from not following the rules would be less than 1. Murtazashvili and Murtazashvili (2020) explain how this can happen, and how it did happen in Afghanistan.

6. The social contract game

Figures 1 and 2 show payoff matrices for the standard prisoners' dilemma game, but it is possible that actual payoffs are structured more like those in Figure 3, which could be called the social contract game. In Figure 3, where the elite make the rules but are not bound to follow them, the payoff to the masses is higher from following the rules than not. They receive a higher payoff in the upper-right cell to the lower right. The contractarian ideology requires that the masses follow the rules in any event, but as long as the elite can skirt the rules, the masses are better off in the upper-right quadrant than in the lower right.

		Elites	
		Follow Rules	Rules Don't Apply to Me
Masses	Follow Rules	6 / 6	3 / 7
	Rules Don't Apply to Me	7 / 3	2 / 2

Figure 3. Elites and masses.

The highest payoff for the masses is in the lower-left cell, but the masses are not in a position to force the elite to obey the rules while the masses violate them. With the lower-left cell out of the choice set of the masses, their best strategy is to follow the rules. The joint payoff is higher when everyone follows the rules, but if Stiglitz is correct in his statement quoted earlier, the elite make the rules but do not follow them. Similarly, Mills’ noted that ordinary people are constrained to follow the rules, but not everyone is ordinary in this sense. If Stiglitz and Mills are correct, the outcome is the upper-right cell in Figure 3, partly because of the contractarian ideology that demands that the masses follow the rules.

What if Figure 2 is more descriptive of the actual payoffs than Figure 3? Again, with reference to Stiglitz and Mills, and reinforced by the contractarian ideology, the upper-right cell will be the likely outcome. As Stiglitz said, the elite make the rules for their benefit, and they choose their own referees.

Buchanan (1975) says that people will agree to a social contract if it falls within the bounds that they would expect in a renegotiation from anarchy. Representing anarchy as the lower-right cell, can the masses expect to do better than moving to the upper-right? The ideology of the social contract suggests that they should agree to the upper-right cell in Figure 3, and even that the contractarian ideology could lead them to agree to the upper-right cell in Figure 2.

The possibility always exists to improve one’s welfare at the expense of others, and a move to the upper-left cell from the upper-right would improve the well-being of the masses at the expense of the elite. Should the masses expect this upper-left outcome in a renegotiation from anarchy? Given the way that public policy is designed, the upper-right cell is what they should expect, and the ideology of the social contract reinforces that expectation.

The people who developed social contract theory were not the political elite who are its beneficiaries, but its effect of legitimizing government was not an unintended consequence of the theory: it is the reason the theory was developed. Social contract theory was designed by members of the intellectual elite to legitimize the power of the political elite.

7. Conclusion

Economists often assume that people make utility-maximizing choices based on an unchanging utility functions and opportunity sets, and as Stigler and Becker (1977) explain, to assume that people make

different choices because of differences in preferences, or changes in their preferences, amounts to saying we cannot explain those different choices. But sometimes people alter their choices because they believe they should, as Galbraith (1983) observes. This is especially true for political choices in which one individual's choice has no effect on the outcome. A belief that people are obligated to abide by government mandates makes it more likely they will do so, and make it more likely that they will believe others should do so. Contractarian ideology, if it is convincing, can change political outcomes by changing people's behaviors.

People's preferences, and from that their behaviors, are influenced by ideas. The amount of power they willingly allow the political elite to exercise depends on the perception among the masses that the political elite have the legitimate right to use their discretion in the exercise of power. Social contract theory legitimizes the exercise of political power. The masses do not need a clear understanding of social contract theory to be influenced by it. Patriotism, bolstered by pro-government propaganda, reinforces the idea that government has the legitimate power to make rules that the masses have an obligation to obey. Social contract theory further reinforces that idea by providing scholarly support for the commonly-held belief that people have an obligation to obey their governments.

Social contract theory appears plausible to the masses, and is obviously beneficial to the political elite. In the context of Figure 1, a social contract enables a society to move from the lower-right cell of the matrix to the upper left. In that framework. Everybody in the society bargains as equals to agree on a social contract that enables that move. This equality in the process is very clear in the theories of Rawls (1971), who has people negotiating from behind a veil of ignorance, and Buchanan (1975), who has people negotiating from a situation of Hobbesian anarchy.⁸

In reality, members of a society can never negotiate a social contract as political equals, because, to use the terminology of Coase (1960), transaction costs are too high. Only a subset of the population will ever be in a position to negotiate the rules under which the whole population lives, and at best, the masses can either accept those rules or rebel. Downs (1957) observed that voters tend to be rationally ignorant because they know their one vote will not affect the outcome of an election. This idea of rational ignorance applies to government more generally than just to voting. Individuals do not have an incentive to be informed because they know that they, as individuals, will have no effect on public policy, either by voting or in any other way. They are in a high-transaction cost group, and public policy, including any social contract, is designed by the elite few who are in a low transaction cost group and can bargain with each other.

In the context of Figure 2, some people are among the elite few who make the rules, and most people are in the masses who are subject to those rules. The elite are not constrained by the same rules that apply to the masses. Directed by the contractarian ideology, the masses obey the rules, and the elite choose the cell they prefer, which is the upper-right cell. If all of the alternatives are given in Figures 1 and 2 (the numbers are the same in both figures), the ideology of the social contract says the society will end up in the upper-left cell, whereas the actual bargaining process that determines social rules places the society in the upper-right cell.

Would the masses really accept a lower payoff in the upper-right cell than they could get in the lower right? They may, if they are rationally ignorant.⁹ Readers of this paper can see all the numbers, but in the real world, people can only see what exists and must speculate on how things would be different under other circumstances.¹⁰ The ideology of the social contract tells them they are obligated to follow the rules, and they may believe they are better off doing so because the only payoffs they can actually see are the ones they agree to be coerced into accepting.

⁸People lose their socially ascribed characteristics but retain their personal characteristics in Buchanan's anarchy, to use the terminology of North *et al.*, (2009), which can give some (e.g. the more intelligent or the more physically powerful) a bargaining advantage over others.

⁹When they are rationally ignorant, they may vote on irrational beliefs, Caplan (2007) says. Acceptance of the contractarian ideology may fall into that category.

¹⁰Buchanan (1969) says that the cost of making any choice is the value of the most highly-valued foregone alternative, which must be speculative, because it was not taken.

Figure 3 may be a more realistic depiction of the payoffs, in that the masses actually are better off following the rules than not. Given that the elite are not bound by the rules governing the masses, the masses can only choose from the upper-right cell or the lower right. In the social contract game depicted in Figure 3, the masses are better off following the rules if they know that the rules do not apply to the elite. Both the elite and the masses are better off in the upper-right cell than in the lower right, and the ideology of the social contract justifies that outcome as legitimate.

Democratic institutions are designed to make government actions appear to be the result of a legitimate political process in which everybody participates, and in which policy outcomes are derived from the aggregated preferences of its citizens. Propaganda and patriotism reinforce that legitimacy. Widespread belief in the contractarian ideology can affect actual political outcomes by giving greater discretion to political elites. By legitimizing the actions of government, social contract theory facilitates government policies that further the interests of the elite who design public policy, often at the expense of the masses.

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