

Postmodern Openings

ISSN: 2068 – 0236 (print), ISSN: 2069 – 9387 (electronic)

Coverd in: Index Copernicus, Ideas. RePeC, EconPapers, Socionet,
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Mathias ROYCE

Postmodern Openings, 2010, Year 1, Vol 4, December, pp: 45-62

The online version of this article can be found at:

<http://postmodernopenings.com>

Published by:

Lumen Publishing House

On behalf of:

Lumen Research Center in Social and Humanistic Sciences

Philosophical Perspectives on the Social Contract Theory: Hobbes, Kant and Buchanan Revisited

A Comparison of Historical thought Surrounding the Philosophical Consequences of the Social Contract and Modern Public Choice Theory.

Ph.D. Candidate Mathias ROYCE¹

Abstract

To what extent is a prevalent social order that is constructed upon the freedom of the individual impacted by decisions taken in the domain of positive economics? How does the Hobbesian reductionist view of the state of nature correlate to the Kantian view of selfruled individualism expressed through rationality and autonomy? Applying Hobbesian thought in a democratic-economic context explains established and customary behaviour patterns of political economy in a reduced environmental setting. In precisely such setting individuals remain individuals on the basis of their ability to freely enter into contracts and any political means are attached to these individuals governed through an artificially constructed social contract. In the value-based and moral understanding of the social contract in its Kantian interpretation, the individual demands dignity and respect. This consequently justifies the individual as an end, rather than only a mean. How does Hobbesian and Kantian philosophy measure-up to Buchanan's public choice theory and to what degree does the inclusion of morals in public choice lead to a normative diffusion of the social contract theory?

Keywords:

Social contract, philosophical consequences, modern public choice theory, Kant, Hobbes, Buchanan

¹ Mathias ROYCE - Dip. MktgComm (BAW), Dip. Mgt (Open), MBA (Open) is a current Doctoral Candidate in Political Economy [D. PolEc] at the SMC Swiss Management Center in Zurich/Switzerland. His research interests include contemporary European and pan-Asian/Pacific Comparative Politics, Austrian Economics and Libertarian Political Philosophy. SMC Swiss Management Center Balz Zimmermannstrasse 7, CH-8302 Zurich-Kloten, Switzerland, Email Address: mathias.royce@student.swissmc.ch.

On Human Nature: Philosophical Consequences

An assessment of human nature using Hobbesian methodology would most likely yield an understanding that all actions taken by humans are conducted on the basis of innate motivations. These motivations give rise to the following interpretation of Hobbesian thought which validates not only societal compartments from a legal-positivist perspective in particular where man-made rules stand separate from ethical norms and complex moral behaviour patterns, but these precise motivations also validate man's apparent and prevalent struggle against the human nature, which falsely dictates man to be a social animal. Under Hobbes, natural law – thought as the action of rational individuals in the quest of prosperity, endurance, survival and mankind's desire to (co-)exist, would only propagate and overcome its inherent Achilles' heel – the intrinsic fear of violence amongst men, when individuals endorse the rule of a sovereign in the commonwealth amongst themselves. Hence, the organisation of society and its main characteristics, i.e. the gradually-incrementing diffusion from a presocial stage of interaction to a highly-advanced and modern eusocial method of interaction between men in the same commonwealth realms does depend on an instated ruler invested with sovereign powers. Hobbes argues that uncontrolled and unregulated human nature will destroy any civil society from deep within, since boundless human nature in society – due to its prevalent and never-ending source of factionalism, incongruity and discord will yield bipolar motions of endeavour: appetite and aversion. Both latter forms of motivation Hobbes deems voluntary and by doing so, clearly separates them from more animalistic and vital motivations which are perhaps primitive but as such rather inborn and instinctive. The manifestation of voluntary motivations into defined actions catalyses a state of endeavour or as Hobbes writes: “these small beginnings of motion, within the body of Man, before they appear in walking, speaking, striking, and other visible actions, are commonly called endeavour (Hobbes, 1651)“. Hobbesian methodology with regards to the human nature is in essence largely mechanistic, if not atomistic. He [*Hobbes*] uses modulation and inflection to obtain and develop his identified voluntary motivations from the basic correlation of mechanical physical processes on the human form. In this context, Hobbes links these voluntary motivations with the good and evil of an otherwise moral-free human nature where man is defined to live outside of law and society. Good thence is defined as anything that is desirably-attainable and evil is classified as anything desirably-avoidable and this understanding then corresponds respectively to the appetites and aversions of his voluntary motivations. In parallel this means that albeit certain notional motivations of good and evil may be present in societies, the understanding of such motivations is joined to the understanding of a corresponding moral pretext. A

moral free society consequently cannot interpret such moral circumstances, which explains the Hobbesian theory of having a sovereign, universal legislator above the law to interpret morals and ethnic codes associated with aforementioned voluntary motivations. Any society or commonwealth will require a sovereign ruler to enact binding laws upon interpreted civil morals as the human nature by itself is driven by its voluntary and vital motives, and hence is unable to come to an agreement on moral issues, when individuals are confined within the boundaries of society. Hobbes' view of the individual differs from the view of the individual defined by Kant in as much as under Kantian philosophy individuals should be understood to be independent autonomies which express their rational freedom through self rule and through the systematic use of reason to establish individual goals [*ends*] and ways of obtaining these goals [*means*]. Kant himself expressed this in his second categorical imperative as "so act as to treat humanity, whether in thine own person or in that of any other, in every case an end in itself, never as means only (Kant, 1785)". This form of independent sovereignty – an autonomous will, Kant describes as "the property that the will has of being a law unto itself (Kant, 1785)", with legislative qualities. For individuals to act in an autonomous capacity, Kant establishes that the individual sovereignty inherently is built upon human dignity and absolute respect for the human self. Originating from the initial ethical uncertainty derived by Aristotle who questioned what it would take for an individual human being to be a good person, Kant views morals in the perspective of derivatives of motives of controlled reason. This deontological perception of aforesaid motives puts the intrinsic characteristics of the good will as the only thing good in itself by defining the characteristics of human nature and by delineating the differences between human nature and the nature of other species as well as the limitations of such human nature. Consequently, acting morally right is fundamental to the human nature if such actions were derived from duty and its motives were of controlled reason. This deduction is emblematic and Kant highlighted its significance in the third thesis: "Nature has willed that man should, by himself, produce everything that goes beyond the mechanical ordering of his animal existence, and that he should partake of no other happiness or perfection than that which he himself, independently of instinct, has created by his own reason (Kant, 1784)". Moral duty is then naturally the requirement to act in a manner which always treats others as ends also, and not only as mere means. This is key in Kant's reasoning, since treating someone as a mean only relates to using someone to better and increase one's own self-interest, whereas treating someone as an end prevents the action behind one's will from propagation to some other or increased good. The good thence concludes in the end and habitually one employs these ends to achieve or accomplish ulterior ends through functionally reconciling means and ends of

others. This leads to a deduction that would consequently require individuals to show reverence and esteem for the dignity and autonomy of others in their free choice to assist us in obtaining aforementioned ulterior ends. Under precisely this moral preamble, another end is free to pursue its own self-interest but cannot be coerced into pursuing another one's end - either as a mean or as an end itself. The manifestation of moral respect thence does not stop at the respect for the will of other persons, but it must encompass the moral respect for the human nature which one finds not only in other persons but so much so in oneself. Hobbes, on the contrary, believed that the human nature is driven by a form of psychological egoism that manifests in people always and invariably acting expressively on selfish grounds to further and promote their own personal interests, to such an extent where: "individuals are primarily concerned with their own well-being, and act accordingly (Kavka, 1986)". Hobbes even goes as far as stating that all humans have a general inclination towards: "a perpetual and restless desire of power after power that ceaseth [*sic.*] only in death (Hobbes, 1651)". This is the foundation for the Hobbesian thought on egoism in which he unfolds his claims that in essence all men are egoists with regards to the fulfillment of their self-interests. Consequently, such behaviour of the human mind will lead to fear of loss of life and property, since the self-interests of conflicting egoists prevail in the attainment of one egoist's ulterior goals over another egoist's goals and neither property nor life could be regarded as secure, unless an established common authority keeps the egoist interest of individuals at bay and prevents these individuals from reneging their prior agreements. For this common authority to do any '*good*', e.g. to defend individual personal interests and property form the personal interests of another being, Hobbes calls for renunciation of one's individual right of self-governance and sovereignty in favour of effectively being governed through a common legislator – whether this would be "one man, or an assembly of men (Hobbes, 1651)". Under Hobbes, the human nature is characteristically reduced to emphasize the two main tenets, which represent fundamental Hobbesian ideology. First and foremost, the human nature is established on egalitarian principles – both, in the physical as well as in the mental realms. Individualism known to mankind is expressed through elements and characteristics which make up for such individualistic differences and which can always be compensated for naturally. Secondly, aforementioned egoism is intrinsic to human nature and hence represents symbolically that "of the voluntary acts of every man, the object is some good to himself (Hobbes, 1651)".

On Evolution: The State of Nature towards Civil Societies

The state of nature, according to Hobbes, is synonym for the state of pure anarchy and hence a state of absolute liberty without enforced authoritarian governmental structures. Albeit the state of nature offering unequivocally the greatest degree of individual freedom to anyone, Hobbes outlines that the characteristics of the state of nature nevertheless are "solitary, poor, nasty, brutish and short (Hobbes, 1651)". Further characteristics of such a state of nature are – apart from the absenteeism of an institutionalised legislature, the inability to enforce any moral behaviour. Subsequently, the state is not a desired alternative to the anarchic state of nature in the sense of individuals' preferential choice for governance, but merely a necessary condition to avoid *brutishness* amongst individuals living in a state of nature. This necessary condition sets the precept for the attainment of a functioning civil society. Authority is seen as the only alternative to a life in an anarchic state of nature which is affected by precarious and tenuous living conditions for the individual. Arguments that uphold the Hobbesian theory of the necessity of a state are to be found in the rational behaviour patterns of human beings. Rationalism is seen as a mean to achieve sustained self-preservation. The attainment of sustained self-preservation is consequently represented as a motivational factor of the human mind. The latter argument correlates with the acceptance of conditions in which a peaceful co-existence and rational behaviour amongst egoists can only be attained through the enforcement of universal social rules. The aforementioned necessity of a state as a governing authority becomes a self-explaining feature of co-existence amongst individuals [egoists], since it is only the sovereign ruler who is able to instil a sense of security through investiture of absolute power. Under the materialist view of Hobbes, the state is an artificial life-form which imitates the organic features of the natural man with reproduced and man-made characteristics. The artificial life that is created by man and which embodies the state resembles in all attributes the natural man, and it is difficult if not impossible to determine a distinction between the Hobbesian '*automaton*' and man in its natural life form, since common denominators of its traits, like its soul, health, reason, nerves or death are unanimously applicable to either the natural or the artificial life form. The methodological understanding of Hobbes' system of interaction between the state and individuals as well as the conceptual framework of interaction between individuals amongst themselves establishes the precursor for conjectural and abstract social contract theory. Man, the natural being is according to the first Hobbesian argument subordinated to the artificial, man-made structure of the state. The submission of man under the power of the state is hence automatic, systematic and unequivocal. The second contention of the Hobbesian social contract theory is

the inception and evolution of a civil society, which broadly encompasses a system whereby the state is putting its citizens under surveillance to enforce a narrower adherence to morals – or adherence to law and legislation in the broader definition. By limiting the natural rights of its citizens – e.g. unjustified enrichment or murder, the state instils civic virtue and conformity to socially acceptable norms. According to Hobbes, it was the nomination and obedience to social norms that formed the first civilities and the latter needed to be governed through a state with combined legislative, executive and jurisprudential capabilities. The state therefore is essential for the propagation and sustenance of civility, and the relationship between the sovereign and the civil society is reflected through the demise of its civic virtues back to its anarchic roots caused by the death of the state.

Kant's political theory stems from his philosophy and belief in perpetual peace. The accomplishment of perpetual peace is reached in a condition where peace is triumphant over war and the latter as such is inexistent. Hobbes, in *Leviathan*, defined the state of nature as being similar to the state of war (Hobbes, 1651) and Kant largely endorses and agrees with this supposition. Even more so, Kant concurs in Hobbesian thought and outlines that the formation of communities amongst men to serve a political purpose should be understood as the moral duty of each individual, and such political communities would be the sole and unquestionable attainments required to evolve from the state of nature into a state, respectful of civic virtues. Kant calls upon *enlightened people* to form a republic to end war. His argument is that such a lawful state “by its nature must be inclined to perpetual peace (Kant, 1795)” and from this conjecture he delineates his political theory of a federation of states. This federation would come into existence through other communities adhering to this principle and likewise forming lawful states “and thus secure freedom under the idea of the law of nations. By more and more such associations, the federation may be gradually extended (Kant, 1795).” The inspiration behind a federation of peaceful states as promulgated by Kant may find its deeper origins although in Hobbes, who himself wrote that “the natural condition of nations is a state of perpetual war of all against all, where no morality exists, and everyone lives in constant fear (Hobbes, 1651)”. Hobbes, albeit not expressively mentioning a ‘federated world-government’ serving perpetual peace, entertains the idea of perpetual war that lingers amongst men due to the conditions of the natural state of war, and as discussed earlier, sees the only way out of it through his *Leviathan* – the state. What good though, is a domestic *Leviathan* in the context of the international sphere? Wouldn't the extension of the domestic *Leviathan* into an international *Leviathan*, also known as a world-government address perpetual peace amongst men? With respect to a methodological analysis of the state of nature in the context of political philosophy it is

important to recall that the state of nature in more generalist terms is merely a mental construct – like a vacant, hypothetical template detailing the entities involved in the formation of political communities. Both, the Kantian as well as the Hobbesian theories on the state of nature require metaphysical thought processes that feature abstractionism - the thought of '*being*' in its purest sense. A convincing philosophy of political theory presupposes grounded abstractionism. Abstractionism is performed on the analysis of the '*being*', its attributes and the relationships between man and nature or man and his fellow man/men. Kant accepts that the state of nature entails an ungoverned society. Simply put, it is a society minus the state. For this particular line of reasoning, Kant omits a discourse about morals or compassion in society, to the point where an empathic thought process becomes extraneous. Whilst making this point, Kant digresses on oppression - whether this oppression indeed is of domestic or international nature again seems irrelevant, and advocates that freedom and liberation from oppression could only be achieved through means of dominion, where the dominant party is bestowed with coercive force and invested with the endorsed legality to use it. The moral duty of the state as the dominant party is to protect freedom through the creation of laws which protect this freedom and through the surveillance of citizens in their efforts to abide such laws. The state finds in this sphere of activity its right and its necessity of existence. For Kant - as for Hobbes, the state of nature resembles anarchy. Kant therefore knows no moral standards that would apply to the individual in the state of nature, since he negates any claims of property therein. For him, property rights simply do not exist in the state of nature but only come into existence with the formation of the state. Once the state is established, Kantian theory identifies property as being protected through rights and the state is nominated to ascertain the defence of individual property through these rights. This is an interesting standpoint in Kant's argumentation when compared to Locke's position, since Locke postulates that precisely such aforementioned property rights do already exist in the state of nature. Locke refines his theory through the use of reason, where he outlines that "the state of nature has a law of nature to govern it (Locke, 1689)" and "no one ought to harm another in his life, health, liberty or possessions (Locke, 1689)". This comparison yields perhaps the most striking of all differences between both theories of the state of nature: Locke, whose beliefs encompass the possibility to live freely and successfully in the state of nature on the condition that one does obey reason and his conclusion that it is purely upon choice that political communities have formed, compared to Kant, who denies such possibility on the grounds that individuals can neither freely nor peacefully co-exist in the state of nature. For Kant, the state protects and preserves the freedom of the individual. This is contrary to Locke, who sees freedom being revoked from free citizens through

the formation and entering into a state. The investiture of the state is further justified in Kantian theory through the dissection of property rights in the perspective of the presence of an all-encompassing will which exemplifies “that private acquisition is only rightful against the background of [...] a public law conferring upon everyone the entitlement to acquire. Thus the requirements of property cannot be met except through public legislation authorized to make laws for everyone on behalf of everyone (Ripstein, 2009)”. The highest maxim in Kantian thought of civil societies foresees therefore that the freedom of the individual as a human being is recognised. Under this preamble, Kant stresses the importance of equality of such individuals amongst each other and the independence as citizen in a civil society in which political methods are adaptable and instrumental exploits of a government that is understood to be a tolerant and responsive legislator and enforcer. And with regards to its political methods, Kant deems the state as absolute: “The state, not the people, is the judge of when a law is rational. People who argue for a right to revolution, Kant claims, misunderstand the nature of a social contract (Rauscher, 2007).”

On the Social Contract: Kantian and Hobbesian Perspectives

Kant positions his dedication to reason at the heart of his moral philosophy and illustrates this through an emphasis on individual reason through which any person may actively endorse a form of authority, like a government for instance. Such reason is hence classified as universal, since it applies to any and all individuals. Individual reason requires consent prior to following and obeying peripheral law. Precisely such consent, Kant believes, would be achieved freely and openly and it would lead to men tolerating distinct and definite universal laws because "universal law could be the content of a requirement that has the reason-giving force of morality (Johnson, 2008)", and hence expresses characteristics of being not only just but also entirely warranted. This premise of his philosophy he defends by disclosing that even in the absence of specific laws which are man-made, the characteristics of a social contract would be represented in these universal laws, since reason would be the compelling argument to abide by these laws. The social contract's very own justification is, so to speak, based on the foundations of this universal law. In taking the moral debate around the social contract further, Kant leans on Rousseau in borrowing and describing Rousseau's theory of moral obligations that are bound constitutionally by self-imposed laws in the quest of morally realising self-determination. Rousseau defines the end-state of such moral self-determination as liberty, which "alone make man truly the master of himself. For to be driven by appetite alone is slavery, and obedience to the law one has prescribed to oneself is liberty (Rousseau, 1762)". Albeit there being an

undeniable similarity between Rousseau and Kant with regards to their views on moral liberty, both explain their reasoning in fundamentally separate ways. Whereas such liberty under Rousseau manifests as being dependant on the “obedience to the law (Rousseau, 1762)”, Kantian moral liberty is discernible through autonomy, as he affirms consequently: "What else, then, can freedom of the will be but autonomy, i.e., the property that the will has of being a law to itself? (Kant, 1785)". Rousseau constructs his theory of the social contract through this fundamental understanding of freedom – a freedom that is characterised through the presence of legitimate and coercive laws. Essentially, Rousseau’s political philosophy invokes a community of men all of which are protected by the same legitimate and coercive laws, yet bestowed with the same liberties as prior to the formation of such community. The will of the community is hence the general will and the latter, gives rise to civil liberties as natural liberties are relinquished. Such common interest as manifested through the general will is considered an aggregated proliferation of the self-interested private reason. In a more precise definition: “there is often a great deal of difference between the will of all and the general will. The latter considers only the general interest, whereas the former considers private interest and is merely the sum of private wills. (Rousseau, 1987)” Rousseau’s notion of freedom is embodied through the self-interest which is contained within rules the individual deems appropriate and which is propagated through the general will. Kant's perspective on communities extended to encompass popularly elected assemblies, reasoning that "if people are to be bound by civil law and yet willing to retain their autonomy, they can be subject only to laws of their own willing (Sullivan, 1989)". This general legislative will needs to be understood as the collective will of the people, which in terms of morals and justice is considered of norm-giving characteristics and hence cannot do injustice to anyone. To enforce these aforementioned norms, desire will need to be taken out of any legislative context to arrive at reason as the single source of legitimacy for the general will. Kant elaborates further on Rousseau's theory of the general will in pointing out that under prevailing popular sovereignty, unanimity of the entire people for complex legislation would sometimes be impossible to obtain and hence, the general will factually is reduced to the will of a delegated majority which is appointed to determine what is right. This delegated determination specifically invites further reasoning and in the Kantian system, the problem of determination of right through reason alone (a priori) vs. the determination of right through experience (a posteriori) is positioned. Amongst other similarities between Kantian and Hobbesian social contract theory is the joint fundamental perception, that "the social contract is a rational justification for state power, not a result of actual deal-making among individuals or between them and a government (Rauscher, 2007)". Additionally, Hobbes and Kant both agree that

the social contract is not a voluntary framework open to consented subscription, but rather an obligated civil condition into which individuals may be forced into. The Hobbesian idea of a social contract entails a much higher degree of subservience, compared to Kant or Rousseau which Hobbes gives explanation about in his second law of nature. "From this fundamental law of nature, by which men are commanded to endeavour peace, is derived this second law: that a man be willing, when others are so too, as far forth as for peace and defence of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men as he would allow other men against himself (Hobbes, 1651)." The philosophy of the Hobbesian social contract theory demands the fulfilment of two conditions prior to its enactment. The first of these two prerequisites as outlined by Hobbes defines the reciprocal nature of limitation: it is the agreement to surrender man's liberty to a sovereign on the provision that others follow suit. Succeeding this precondition follows the degree of concession. Hobbes demands that not only a few and selected rights which concern matters deemed desirable by the community in the sense of establishing an effective limitation of man's liberty are ceded, but rather that all of man's rights are being relinquished, so that government may be the master over man. The abandonment of man's rights is thence a qualifying necessity for man to enter the commonwealth that forms a civil society, yet, Hobbes explains that the right of man to defend his life in situations of immediate threat is exempt from this abandonment. Hobbes claimed that irrelevant of existing legislature or government such right would be of indefeasible character and exempt from transfer like other rights. Hobbes expresses this as follows: "The right of nature, which writers commonly call jus naturale, is the liberty each man hath to use his own power as he will himself for the preservation of his own nature; that is to say, of his own life; and consequently, of doing anything which, in his own judgement and reason, he shall conceive to be the aptest means thereunto (Hobbes, 1651)." The framework of social contract theory demands as proprietary attribute that rights are exchanged and under Hobbesian thought, all rights inherent to man are being transferred to the sovereign who rules absolutely and who is bestowed with unconditional power to furnish government. The basis of social order, collective organisation as well as communal moral instruction and belief is hence found in the intrinsic character of mutuality which is exercised during the transfer of these aforementioned rights. The Hobbesian social contract though must be understood in a more general and holistic perspective. Hobbes defines a clear separation between the actions, wills and judgement in comparison to the actions, wills and judgements of the sovereign. He expands on this in chapter XVII of *Leviathan*, where he states "that so beareth their person shall act, or cause to be acted, in those things which concern the common peace and safety; and therein to submit their

wills, every one to his will, and their judgements to his judgement (Hobbes, 1651)." Consequentially this must impact the three-way relationship between religion as well as the individual living in the civil society and the sovereign. In interpreting Hobbes on this point, the deduction appealing to be the most profound in logic is to be cognisant of the fact that Hobbes esteems the sovereign to emanate supremacy over moral powers attributed to the church. The civil society that is formed through the social contract is an innate wish – sort of a natural desire of the people who form a commonwealth, since “men, as they become at last weary of irregular jostling and hewing one another, [and] desire with all their hearts to conform themselves into one firm and lasting edifice (Hobbes, 1651)". By attributing absolutism to the ruler, the government that rules over society will perform – in a definitional sense, only *‘just’* actions, thus the government that forms the state to rule over citizens is directly responsible for the creation of all societal characteristics pertaining to the civil state. It is therefore a clear-cut and exact mirror image of the will of the absolute sovereign. The last striking characteristic subject to examination in this assessment of the social contract under the Hobbesian system is the eternal character of the sovereign rule. Hobbes’ expresses this eternal character through the following focal point, where he states that “the right of bearing the person of them all is given to him they make sovereign, by covenant only of one to another, and not of him to any of them, there can happen no breach of covenant on the part of the sovereign; and consequently none of his subjects, by any pretence of forfeiture, can be freed from his subjection (Hobbes, 1651).” Without man being able to free himself from dominance of the authoritarian ruler, the government instated by the sovereign takes on a rather eternal character. In light of governmental change therefore, Hobbes’ view rules out the idea of either a peaceful or a violent revolution as a means to a desired end of replacing the sovereign and his administration. In aiming to conclude the assessment of the social contract in the Hobbesian system, the amalgamation of aforesaid eternal absolutism and infallibility of the sovereign with regards to his investiture of making social policy should be interpreted as giving effect to authoritarian axioms of fascism where the sovereign incorporates absolute rule and unquestionable supremacy over people.

On Political Philosophy: Anarchist vs. Public Choice Theory

An all-encompassing theory of the complex ways of how the general public and the state interface with each other on political, economical and legislative subject matters in democratic societies is detailed in the theory of public choice. Buchanan and Tullock delivered in 1962 a quite influentially shaped work, titled ‘The Calculus of Consent’ in which “the public choice

perspective is usually characterized as combining two distinct elements: the extension of the economist's model of utility maximising behaviour to political choice and the conceptualization of 'politics as exchange' (van den Hauwe, 1999)". With regards to the utility maximisation aspect, Buchanan upholds rationalisation as one pivotal factor. Rationalisation, so he explains, can be observed in ordinary men having a preference for – or rather relying on cooperative vs. non-cooperative behavioural interface processes between the government and its citizens to arrive at a level of socio-political order and tranquillity. In this assessment, Buchanan defends the contractarianist approach in giving emphasis to the rationalisation of concerns that are occupied with finding perhaps moral truth in favour of a pre-existing framework of exchange processes between the state and its citizens. He concludes in emphasising the possibility of defending any manifested expression of the social contract theory on the grounds of eliminating the question of morality through aforesaid rationalisation and through the possession of an 'explanatory framework'. The latter such would cater for systematic arrangement and taxonomy of incongruent sense perceptions. "Admittedly and unabashedly, the contract theory serves, in this sense, a purpose or objective of rationalization (Buchanan, 1972)". Buchanan inferences rationalisation in the context of utility maximisation compellingly through a Wicksellian argument, thereby deducing logically that: "if [the] utility is zero for each individual member of the community, the total utility for the community cannot be other than zero (Wicksell, 1987)", and in doing so assesses that the cost/utility relationship of an engagement is efficiently conducted only by the individual concerned about the engagement. Developing this knowledge about 'politics as exchange' further leads to the "basic individualistic postulate of market exchange: individuals, who both enjoy the benefits of state-financed services and pay the costs in sacrificed privately supplied goods, are the only legitimate judge of their own well-being (Buchanan, 1987)". Indeed, public choice theory bears a strong resemblance with the theory of markets, so Buchanan remarks – at least in as far as the rationalisation of particular results in a system of established regulation is concerned. To illustrate this, Buchanan assesses the social contract in light of unanimous efficiency criteria where he observes that the dependency between criteria to measure the efficiency of distribution of public goods and the social contract is inert – meaning that postconstitutionally "some 'social contract' among all persons must be made ...that requires all members of the community to participate in collective decisions which are, in turn, made under a unanimity rule (Buchanan, 1977)". Precisely such 'endorsement' of the social contract is fundamental to Buchanan's reasoning as it allows for bifurcation of his theory: is

it that indeed a non-constitutional or ‘unchecked’ social contract is unwanted due to the aforementioned underlying dynamics of public choice², which allows the state to take on an ever-expanding role beyond desired Pareto-efficiency – e.g. to a point where the state deliberately would make an individual or a group of individuals worse-off only to make another individual or group of individuals better-off? Or, quite on the contrary and stemming from the reasoning of Hume’s utilitarianism, is the anarchic ‘state of nature’ least desired because it brings upon people inefficiency in the distribution of public goods since incremental allocations of precisely such public goods are not controlled and neither is their allotment warranted or safeguarded? In very briefly summarising Buchanan’s view up to here, I conclude that Buchanan – similar to Hobbes, sees order instilled in society through the abolishment of anarchy through means of a government-enforced social contract in order to protect individual rights that have been agreed to and consequently arisen out of individual private contracts amongst men. Distinctive here, compared to Hobbes, is Buchanan’s contractarian view that perceives aforementioned individual rights as ends to private agreements between parties, rather than intrinsic natural, inalienable rights. As a reminder: for Hobbes, essentially the social contract was a necessary construct that limited personal freedom expressed through natural rights in favour of instilling a social order that promotes relative security whereas for Kant on the contrary, the social contract was just the archetypal device to preserve such personal freedom. The social construct, so Kant, is understood as a means to enable rationally-thinking men to realise freedom. As outlined before, Buchanan approaches the construct of the social contract from a contractarian perspective, where predominantly rationalism and utility – e.g. the aforementioned private agreements, are considered as crucial characteristics of such over-arching framework of state/citizen(s) arrangements. His point of view of the characteristics of the social contract and its structure *per se* should furthermore be understood in the sense of being hypothetical – or rather

² Public choice theory dictates that citizens will only invest effort to become informed if they believe they will receive a net personal gain (Gwartney, 1988). In democracies, this leads to rational ignorance amongst the ‘*demos*’ since the vote of an individual projected in relation to the vote of all people entitled to vote is largely deemed insignificant. Rationality then predicts that voters would use their time more efficiently for their own purpose, rather than physically going to vote – which overall leads to a low voter turn-out. The benefits and the outcome associated with voting are estimated by the individual not to supersede the opportunity costs of this ‘civic duty’ – neither in the short- nor long-term. Furthermore, under public choice theory, the state or government is not considered as an entity but as a collection of incentive-driven individuals and as such these individuals precisely follow the same inherent, rational self-interest. The state thence is innately driven by the quest of increasing its own power and radius of influence through continuous propagation more willingly than serving the desires of the public achieved through consensus.

mythical, with regards to its historical *'naissance'*. In not remaining alone in putting forward the conjecture that no society yet has created a government through an unanimous, consensual social agreement, Buchanan leans extensively on the work of Émile Durkheim who stated, that “the conception of a social contract . . . has no relation to the facts . . . Not only are there no societies which have such an origin, but there is none whose structure presents the least trace of contractual organization (Durkheim, 1933)³”. For Buchanan as a contractarian, such conjecture invites the use of the social contract as a mean to determine and assess the legitimacy of government, by not only questioning if government in terms of its essence is substantiated but even more so to determine if the social contract methodologically fulfils the purpose of a mechanism which in its own abstract sense assists the contemporary⁴ contractarian to fundamentally understand why government actually exists in the first place. It follows then, that Buchanan argues:

“We know, factually and historically, that the "social contract" is mythological, at least in many of its particulars. Individuals did not come together in some original position and mutually agree on the rules of social intercourse. And even if they had done so at some time in history, their decisions could hardly be considered to be contractually binding on all of us who have come behind. We cannot start anew. We can either accept the political universe or try to change it. The question reduces to one of determining the criteria for change. (Buchanan, 1972)”

Argumentatively, Buchanan herein emphasises at least two major positions. Firstly, the myth of the social contract – an allegory on the fabricated falsehood of a construct of binding agreements between the state and its citizens drawing attention to the legend that the social contract itself is a legitimised structure embodying social agreement on the basis of undisputed and undivided consensus and secondly, the logical deduction questioning the morality of such social contract: on which grounds and under which conditions is the inheritance of the social contract by a new generation and the allocated designation of the social contract from one generation to another morally justifiable? Shouldn't retention of the social contract rather than allocation be the norm for such cases where neutral subjects of the state are exposed to a social contract, which none of these individual subjects ever had had any

³ The general idea that no society ever actually created its government through social agreement is subject to refutation by various scholars. One interesting article, albeit this topic being not further discussed in the scope of this paper, is offered by Peter T. Leeson, who disproves of the theory of non-artificial social contract creation through a direct comparison of the characteristics of the social contract with artificially constructed 'pirateering' societies (Leeson, 2009).

⁴ Since “contemporary contractarians do not argue for the historical reality of a primordial social contract (Heckathorn & Maser, 1987)”

involvement neither in its scope nor in its conception? Buchanan indeed delivers an explanation which broadly addresses both aforementioned positions. The puzzling question of whether or not it is morally correct to expect the descendants to subscribe to a social contract that was entirely the conception and making of their forbearers, and if such expectation fails, to coerce them into obliging to the binding framework of such agreed social arrangements, as well as finding and providing a coherent answer to the question of the mythological characteristics of the social contract from a historical perspective are taken in hand by a simple, yet striking manifestation of utilitarian logic: rational choice. One must take into account the institutional structures of society that are present at any given stage of societal development to understand the idea of rationalising these structures through the use of the myth of the social contract. In my personal interpretation of Buchanan, the social institutions in place are being justified through a social contract in the positive, rather than the normative sense. In Buchanan's own words, the "the contract is a myth designed in part to rationalize existing institutional structures of society (Buchanan, 1972)."

Conclusion

The principal characteristic of the social contract is its underlying and intrinsic relationship with the establishment of a functioning and efficient social order. As such, the social contract is constrained to norms. In particular it must fulfil the following three conditions: a) ease the social co-operation through the establishment of a political authority by mutual agreement of citizens, b) the social co-operation enshrined by the social contract must lead to the emergence and instatement of order and impede further propagation of the 'state of nature' or a societal regression towards such a lawless and anarchic state and c) such social contract must be naturally of a binding nature and entered into voluntarily through explicit and unanimous consent by every citizen. These attributes of the social contract raise additional reservations, e.g. with regards to the logistical challenge to obtain unanimous and explicit⁵ consent from all individual members of the society. Furthermore, this comparison aimed to objectively review three philosophical theories on the construct of the social contract. Neither of which could provide a compelling argumentation pertaining to the actual degree of social order that should be understood as a prerequisite for an efficient social contract in relation to the historic and moral perspectives of Kant and Hobbes which are based on *ius naturale* and self-determination as well as the contractarian-rationalist view of Buchanan's public choice theory. The

⁵ Explicit in the sense of non-tacit

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latter leaves a broad scope of possibilities in terms of interpretation, e.g. how the efficiency of the state as an agent in the agent/client relationship of the social contract for instance, is impacted by inborn and undeniable characteristics of self-interest on behalf of the agent. These addressed topics do not fall within the scope of this comparative examination and hence have not been investigated in great detail. Yet, these topics should offer opportunities for further research.

References:

- Buchanan, J. M. (1972) Before Public Choice, in G. Tullock, *Explorations In The Theory Of Anarchy* (pp. 27- 37). Blacksburg, VA: Center For Study Of Public Choice.
- Buchanan, J. M. (1987) Justification Of The Compound Republic: The Calculus In Retrospect, in *CatoJournal, Vol.7, No.2* , 305 - 312.
- Buchanan, J. M. (1977) *The Limits Of Liberty: Between Anarchy And Leviathan*. Chicago, IL: University of Chicago Press.
- Durkheim, D. É. (1933) *The Division Of Labour In Society*. New York, NY: MacMillan Publishing.
- Gwartney, J. D. (1988) *Public Choice and Constitutional Economics: Political Economy and Public Policy*, New York, NY: JAI Press.
- Heckathorn, D. D., Maser, S. M. (1987) Bargaining And Constitutional Contracts, in *American Journal of Political Science, 31(1)* , 142-168.
- Hobbes, T. (1651) *Leviathan* (edited by C. B. Macpherson, 1985), London: Penguin, Harmondsworth, Middlesex/UK.
- Johnson, R. (2008, April 6) *Kant's Moral Philosophy*. Retrieved October 14, 2010, from Stanford Encyclopedia of Philosophy: <http://plato.stanford.edu/entries/kant-moral/>
- Kant, I. (1785) *Grounding for the Metaphysics of Morals* (3rd Edition, translated by James W. Ellington 1993). Indianapolis, in Hackett.
- Kant, I. (1784) *Idea for a Universal History from a Cosmopolitan Point of View* (Translation by Lewis White Beck, 1963.), Indianapolis, in *The Bobbs-Merrill Co.*
- Kant, I. (1795) *Perpetual Peace: A Philosophical Essay*, translated with Introduction and Notes by M. Campbell Smith, with a Preface by L. Latta (London: George Allen and Unwin, 1917), London: George Allen & Unwin Ltd.
- Kant, I. (2003 (14th ed.)) *Theory & Practice II: On the Relationship of Theory to Practice in Political Right*, in H. S. Reis, *Kant: Political Writings* (pp. 73-86), Cambridge, UK: Cambridge University Press.
- Kavka, G. (1986) *Hobbesian Moral and Political Theory*, Princeton, Princeton University Press.
- Leeson, P. T. (2009) The Calculus Of Piratical Consent: The Myth Of The Myth Of Social Contract, in *Public Choice* (2009), 139 , 443 - 459.
- Locke, J. (1689) *Two Treatises of Civil Government* ed. Thomas Hollis, 1764), London: A. Millar.
- Rauscher, F. (2007, July 24) *Kant's Social and Political Philosophy*, Retrieved October 13, 2010, from Stanford Encyclopedia of Philosophy: <http://plato.stanford.edu/entries/kant-social-political/>

- Ripstein, A. (2009) *Force and Freedom: Kant's Legal and Political Philosophy*, Cambridge, MA: Harvard University Press.
- Rousseau, J. J. (1987) *Basic Political Writings (trans. Donald A. Cress)*, Indianapolis, IN: Hackett Publishing.
- Rousseau, J. J. (1762) *The Social Contract: Or Principles of Political Right, Book I (Gateway Editions, March 10, 2009)*, Washington, DC: Gateway Editions.
- Sullivan, R. J. (1989) *Immanuel Kant's Moral Theory*, Cambridge, UK: Cambridge University Press.
- van den Hauwe, L. (1999) *Public Choice, Constitutional Political Economy and Law and Economics*, Brussels, Belgium.
- Waldron, J. (2006) Kant's Theory of the State, in I. Kant, P. Kleingeld, D. L. Colclasure, *Toward Perpetual Peace and Other Writings on Politics, Peace, and History (Rethinking the Western Tradition)* (pp. 179 - 200), New Haven, CT: Yale University Press.
- Wicksell, K. (June, 1987) Finanztheoretische Untersuchungen, in J. M. Buchanan, *The Constitution Of Economic Policy, Nobel Prize Lecture James M. Buchanan (Stockholm, Sweden, December 8th 1986), published in: The American Economic Review, Volume 77, Issue 3, pages 243-250* (p. 77).
Washington, D.C.: American Economic Association.