

THE BROKEN COVENANT: Social Contract Theory, State Neutrality, and Communal Conflict in Contemporary India

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Abstract—This paper attempts to explore and examine the applicability and limitations of classical social contract theory as propounded by social contract theorists like Hobbes, Locke, and Rousseau in the context of contemporary India, particularly in reference to communal violence. The paper attempts to establish that the underlying assumption of social contract theory that human beings sacrifice a certain 3 degree of freedom in order to enjoy security, rights-protection, and impartial governance is yet to be fulfilled in contemporary India. The paper attempts to demonstrate that through an examination and critical appraisal of the underlying assumptions and applicability of social contract theory in contemporary India and through an examination and critical appraisal of the state's response to communal violence in contemporary India, that the state has failed in its contractual obligations towards citizens and that the prevalence of communal violence is not simply an aberration in terms of law and order, but is in fact reflective of a structural crisis in terms of political legitimacy that questions and challenges the very foundations and basis of contemporary democracy.

I. INTRODUCTION

The modern state is basically a tool that can force people to do things but it is also a group that has a moral responsibility to its people. The state gets its power from the people who live under it. They trust it to make good decisions. This is the idea of the social contract theory, which is a very important way of thinking about politics that has helped shape the government of many countries. In a country with different types of people like people from different religions, ethnic groups, castes and cultures the state has to work hard to keep its promises to its citizens and this can be very challenging. The state and its citizens have a kind of agreement. This agreement is constantly being tested to see if it is really working. The modern

state and its citizens have a relationship that is based on trust. This trust is what gives the state its power. The social contract theory says that the state gets its power from the people and that the people have the right to hold the state accountable for its actions. This is especially important in a country with different groups of people like a country, with many different religions, ethnic groups and cultures. The state has to balance the needs and interests of all these groups and this can be very difficult. The state has to make sure that it is treating all its citizens fairly and that it is listening to their concerns. This is the way that the state can keep the trust of its citizens and this is the only way that the state can really be effective.

This paper will follow a number of stages. First, it will provide an understanding of the meaning and nature of the state. Following this, it will explore the nature and origins of social contract theory, with special emphasis on the contributions of Hobbes, Locke, and Rousseau. On this foundation, it will explore the nature of the purposes of the state, as understood through social contract theory. Next, it will explore the nature of state neutrality. Following this, it will explore the nature of communal conflict in India, its roots, its structural nature, and its political implications. It will then explore what this means in terms of the failure of social contract theory and the implications for human rights.

II. THE CONCEPT OF THE STATE

The idea of the state is at the core of all political theories because it represents the authority that maintains law and order in society and protects the rights of citizens. In all the various theories that

attempt to define the state and its functions in society, it has been viewed as the political community that provides the context in which governance occurs. According to Harold Laski's definition of the state, it is the territorial society that is divided into the government and the subjects and whose primary goal is to minimize conflict and threats. The state is what Max Weber says it is. The one thing that can use force in a place and have people think it is okay. So, when Max Weber defines the state, he shows how the state is really connected to three things: being in charge using force and being legitimate. The state is, at its core, a thing that is based on rules and what people think is right. It represents promises that it makes to the citizens of the country. The promises that the state makes to the citizens range from safety and justice to equality and the right to participate in the governance of the country. The normative character of the state is most evident in the context of the pluralistic society. In such a society, the state is called upon to perform the role of the neutral arbiter in the context of the various communities and identities that exist in the country. The legitimacy of the state in the context of the various theories that attempt to define the role and functions of the state in the modern society lies in the ability of the state to meet the promises that it makes to the citizens. The state that does not protect the weak from the strong and that does not treat all the communities in the country equally is not the state in the philosophical and political sense. It is merely an instrument of domination. This authority of the state was no fluke. It did not derive from conquest, nor did it derive from divine right; but rather, it was the rational agreement between people that gave the state its moral grounding and against which its performance is judged.

III. SOCIAL CONTRACT THEORY: ORIGIN AND DEVELOPMENT

This is where the theory of social contract comes in, which states that "moral and political obligations derive from a mutual agreement among individuals to form a society, and thereafter, a government." This theory, therefore, makes a significant shift in the focus of political authority from divine or hereditary right to human consent or rational agreement. The genius of the theory of social contract is encapsulated in its rather simple assumption that government is held

accountable by the governed. Social contract theory holds that our moral and political duties are based on an agreement among people to establish society and, ultimately, government. As such, social contract theory marks an unmistakable shift in the locus of political authority from God or birthright to the consent and rational agreement of people. The brilliance of social contract theory is in its simplicity: government is of the people, and our duties are reciprocal in nature. The ideas that led to social contract theory started a time ago. In one of Plato's books called Crito Socrates explains that when people choose to live in a city like Athens and follow its laws, they are indirectly agreeing to obey those laws.

He thinks that by doing people are making a promise to follow the laws of the city.

In another book, called The Republic Socrates has a more complicated idea. He does not think that being fair is about people agreeing to do things that help themselves. Instead, he believes that being fair is connected to what's right and wrong and that it comes from inside a person.

When we look at these two ideas together, we can see that while people might agree to follow rules being fair is not about following rules. It is about doing what is right. This is a thing to think about when we look at how the Indian state responds to violence between different communities.

The idea of social contract theory was really developed in Europe in the 18th centuries. This is when people, like Thomas Hobbes, John Locke and Jean-Jacques Rousseau wrote about it and made it a big part of how we think about politics and society.

IV. THOMAS HOBBS: FEAR, ORDER, AND THE SOVEREIGN

Thomas Hobbes wrote about the contract after the English Civil War. He said that life is very unsafe when people do not have a government to protect them. In his book Leviathan published in 1651 Thomas Hobbes said that people are always fighting when there is no one to enforce laws. Thomas Hobbes described this situation as the "state of nature," where people are constantly in danger. According to him, life in such a condition is lonely, poor, harsh, violent, and short. For Thomas Hobbes, the state of nature is not something that really existed in the past, but more of

an idea used to explain how society and government came into being. Rather an idea of what life would be like without a government. People want safety, so they agree to follow a leader, which Thomas Hobbes called the Leviathan. This leader is given a lot of power to maintain peace and order. Keeps people safe. The idea of Thomas Hobbes is that people give up some of their freedom so that they can have safety and security. The ideas of Thomas Hobbes are still important and relevant even today. If the main job of a government is to keep people safe and prevent violence then a government that allows violence to happen is not doing its job. When the government in India does not stop riots or lets people incite hatred it is not doing what it is supposed to do. In the words of Thomas Hobbes, a government, like this is not working the way it should. The social contract is broken when the government fails to protect its people. According to Thomas Hobbes, if a government cannot keep its people safe, it cannot really be called a proper government.

V. JOHN LOCKE: RIGHTS, CONSENT, AND LIMITED GOVERNMENT

John Locke had a different idea about the social contract compared to Thomas Hobbes. He thought that people are born with some rights. These rights include the right to life, liberty and property. John Lockes idea of the contract was not like Thomas Hobbes. John Locke believed that people have rights from birth. These are the right to life, liberty and property. John Locke saw the contract in a different way than Thomas Hobbes did. The thing that John Locke believed in was that people have rights. John Locke thought that these natural rights are the right to life, liberty and property. John Locke had a view of the social contract than Thomas Hobbes. He believed that people are born with rights like the right, to life, liberty and property. John Locke had a different view of the social contract than Thomas Hobbes. Locke believed that people are born with natural rights like the right to life, liberty, and property. He believed that these rights are protected by law. In his book the Second Treatise of Government Locke said that people are not always fighting with each other even when there is no government. According to John Locke, people can live together in a condition of equality and freedom. The problem with this state of nature is that there is no authority to settle

disputes and ensure that everyone follows the rules. That is why people agree to form a government. Locke said that when people do this, they are not giving the government complete control over their lives. The government is like a friend, who is supposed to protect people's natural rights. If the government does not do this or if it treats people unfairly then the people have the right to get rid of it. Start a new one.

John Locke had a different idea of government compared to Thomas Hobbes. He believed that the main role of government is to protect people's rights not to stop them from fighting with each other. This is a difference between the views of John Locke and Thomas Hobbes. If a government does not protect the rights of John Lockes idea of people, then it is not doing its job because the main role of government is to protect the rights of people and John Lockes idea of government is, about protecting people's rights If it only helps some people then it is not doing its job. It has broken the promise it made to the people. The Indian government for example is supposed to protect everyone's rights, no what their community is. If it does not do this then it is not a government. John Locke's ideas give us a way to judge how well a government is doing its job. We can use his thinking to see whether a government is actually protecting people's rights or just pretending to do so. This becomes even more important during conflicts between communities. The government is supposed to maintain peace and ensure everyone's safety, and if it fails to do this, then it has failed in its duty. The Lockean framework helps us understand what a government should be doing and how it can do better.

VI. JEAN-JACQUES ROUSSEAU: THE GENERAL WILL AND THE COMMON GOOD

Jean-Jacques Rousseau provided social contract theory with a third and unique dimension. In his book 'The Social Contract' (1762), Rousseau described the central task of political philosophy as that of discovering "a form of association in which each member, while uniting with all others, remains as free as before. This is the fundamental problem to be solved." His answer was provided in terms of the notion of the general will – that is, the collective will that is both rational and in the interests of the community as a whole, rather than in the interests of

specific groups or individuals within it. For Rousseau, legitimate governments are those that reflect the general will and not that of specific groups or individuals. A state that is in the hands of faction – that is, in the hands of religious majorities, caste majorities, or political parties is, in Rousseau's terms, not really a state at all. True political freedom for Rousseau is not freedom to do as one wish, but rather freedom to participate in the determination of the laws to which all are subject equally. This is probably the most diagnostic model in terms of the Indian context. When religion is exploited for electoral purposes, and the state is used for the promotion of the interests of politically dominant groups rather than for the common good, and the interests of minorities are systematically excluded from consideration in the political process, then it is clear that the general will is being hijacked. What is left is something that would be recognized by Rousseau as the tyranny of faction – that is, as something directly opposed to freedom and legitimate governance.

VII. THE PURPOSE OF THE STATE: A COMBINED READING

A reading of Hobbes, Locke, and Rousseau collectively reveals that at the heart of it all, despite the differences in emphasis and approach that these three philosophers take, is that the *raison d'être* for the state is in three areas that are connected and integral to one another: security, rights, and social harmony in the service and for the common good. These are not simply aspirational goals; rather, these are the contractual obligations that create and validate the existence and authority of the state. Hobbes demonstrates that at the most basic and elemental level, the state's purpose is to prevent violence and ensure physical security.

Without this, nothing else is possible. Locke adds to this that security is not simply enough; rather, it is also incumbent on the state to protect and ensure that the rights of citizens are upheld and that all citizens are recognized as having equal dignity and rights as citizens. Rousseau adds to this that it is also incumbent on the state to serve and for the common good and that it is not simply for the powerful few. These three elements security, rights, and common good constitute the social contract. These are the gauges by which the

state's actions and behavior may be judged. And it is in these areas that the behavior and actions of the Indian state in communal conflict need to be judged and evaluated as wanting.

VIII. STATE NEUTRALITY AND DEMOCRATIC LEGITIMACY

At the heart of the contractarian view of the state is the principle of neutrality. This is the principle whereby the state, being the common authority of all citizens, must not favor any community, religion, or interest group over another. This is not an optional feature of democratic governance. It is an inalienable aspect of political legitimacy. A state which favors some communities over others through its policies is undermining the very foundation of its social contract. This is because it is in violation of its duty of protection and equal treatment of all citizens. In the context of the Indian Constitution, this principle of neutrality is instantiated in its commitment to equality before law, freedom of religion, and protection of minorities.

Indeed, in its Preamble, the Indian Constitution commits itself to the cause of “justice, liberty, equality, and fraternity” principles which are only possible in a state which is neutral in its treatment of its citizens. A state which discriminates among its citizens on the basis of religion, caste, or community is in violation of its own Constitution. Indeed, its secular nature, which is enshrined in its Constitution, is simply an expression of its contractual neutrality. Any violation of this principle of neutrality in its enforcement of law, in its complicity in communal violence, in its electoral mobilization of religious majorities through its machinery is therefore a fundamental violation of its social contract. Indeed, in works such as “Communal Violence in India”, “The Routledge Encyclopedia of Linguistics”, and “The Village in India’s Ghetto”, Asghar Ali Engineer, Paul Brass, and Omar Khalidi, among other social scientists, have documented how such violations are systemic in nature systemic in the sense of being an expression of its institutional bias. These biases are evident across regimes and across decades. And it is precisely this institutional partiality which undermines public trust in its governance and with it, its political legitimacy.

IX. COMMUNAL CONFLICT IN INDIA: STRUCTURE, PATTERNS, AND CAUSES

two parties involved. This is clearly seen in the Delhi riots of 2020, where the speeches of t

The communal conflict in India is far from being a novel occurrence or an unpremeditated expression of primordial hatred. Its roots go back to times and specifically to the British policy of dividing people. This policy made religious identities very important in India for politics, social identity and governance. The British made Hindus and Muslims seem like groups. This made communal identity stronger. Set the stage for communal conflicts. Communal violence in India is not new. For example there were the Bombay Riots in 1893. In the years before India was divided communal violence got worse.

The division of India, in 1947 was a shock. It caused a lot of people to be displaced and there was a lot of violence and loss. This event still affects people today. People remember what happened during this time. These memories are passed down. They shape how people think about their identity and can lead to suspicion and political action. Contrary to the belief that memories of such catastrophic events fade with time, memories of Partition in India have continued to be invoked, reinterpreted, and exploited for political purposes.

9.1 Structural Patterns of Violence

Communal violence in India is not simply repetitive but also adaptive, where each incident is unique in its patterns but retains the essential features of the structure. Studies done by scholars in the field of riot sociology show that most communal violence in India follows a set pattern, which includes the mobilization of mobs through rallies and speeches, the occurrence of the triggering event, which is usually minor or false, the escalation of the event into communal violence, and the blaming of the victim community. This shows that the violence is clearly not random but is the result of planning and politics.

What is most relevant is the challenge to the conventional understanding of communal riots as two-sided conflicts between equal communities. Most communal riots are one-sided, organized attacks against minorities, which is not captured well by the term riot, which implies equality of blame between the