

11

SOCIAL CONTRACT I

The Hobbesian version

THOMAS HOBBES

Hobbes was born prematurely in 1588, his mother's labour, it is said, being brought on by news of the Armada ('Hobbes and Fear were born twins'), but he survived all the vicissitudes of seventeenth-century English politics to die in his bed at the age of ninety-one in 1679. Hobbes was an Oxford man (Magdalen Hall) who found the prevailing Aristotelian-Scholastic philosophy little to his taste. He was recommended as tutor to the Cavendish who became the second Duke of Devonshire. He spent most of his life in the houses of noblemen. He discovered the new science on the Grand Tour in 1610, and in the early 1620s he became the friend and amanuensis of Francis Bacon. Hobbes was a staunch Royalist. By 1641, when he fled to France to escape the coming Civil War, he had met Galileo and many of the most noted scientists and men of letters of his day.

Hobbes spent some of his time in exile in France (1641–51) as mathematics tutor to the future Charles II. He also worked on *Leviathan*, which was published in London on Hobbes's return to England to make his peace with the Commonwealth. There is some mystery about why he actually came back when he did, though the probability is a combination of homesickness and his growing reputation in émigré circles for religious unorthodoxy, if not downright atheism. Charles II, in his good-natured way, always retained a soft spot for Hobbes. He was invited back to Court after the Restoration and given a royal pension of £100 a year.

It is in a way unfortunate for the history of political thought that the first masterpiece of social contract theory, Thomas Hobbes's *Leviathan*, should be so untypical of social contract theorising. Social contract was invented to support the case for disobedience to authority. In *Leviathan* Hobbes makes out a social contract case for the absolute government which social contract had been invented to undermine. Hobbes is a masterly political arguer because he meets and beats his opponents on their own ground. He uses social contract's own language to drive a coach and four through all the libertarian conclusions which previous social contract thinkers had come to. Hobbes is also subtle. He wrote at the time of the English Civil War (*Leviathan* was published in 1651), and his

more acute readers soon realised that his arguments are double-edged. What would have been an argument for the absolutist pretensions of Charles I before 1642 could just as easily be an argument for Cromwell's power in 1651, and again for Charles II in 1660. Hobbes pleased neither the Royalists nor the Parliamentarians, though Cromwell left him alone, and Charles II received him at court where he delighted in watching 'the Bear' being baited by the court wits and giving as good as he got.

The basis of Hobbes's argument can be stated simply, though the implications of that argument are far-reaching. Social contract almost always imagined what things must have been like at the beginning before Civil Society, that is society and the state, existed. Hobbes takes that imagined beginning seriously by trying to think away from human life all that it owes to the existence of government conceived of as a regular system of law-making and law-enforcement. The condition of men living without government Hobbes calls the State of Nature, and he paints a memorably bleak picture of it. Men without government, and without the settled social living which Hobbes thinks only the existence of government makes possible, would all be roughly and naturally equal. No man is so much stronger than another by nature that he could not be killed by him by stealth. This natural equality of human capacities leads men to be suspicious of one another. This wariness makes men very reluctant to take risks in their dealings with other men. Every other man would effectively be a stranger from whom one would not know what to expect. Much better, then, to avoid human contact as far as possible. Life in the Hobbesian State of Nature no doubt provided a good deal of time for solitary reflection, and it is easy to imagine what each man must have been thinking about. Security for his life would be the prime consideration, and each man would begin to ask himself what the conditions would be in which he would not be in constant fear for his life, and it would soon occur to him that the only way he could feel safe would be if he could dominate all other men and make them fear him more than they feared each other. Dominion over others would be the ambition of all men in the State of Nature, but of course that is a programme which, in the State of Nature, it would be impossible to fulfil. Granted the roughly equal natural capacity of men, everybody in the State of Nature would be capable of working out the programme of dominion for himself, and while every man dreamt of dominion over others, no man could ever achieve it because every man was roughly equal in physical strength and cunning. The plan of dominion which would provide for security of the person in the State of Nature would in fact give men an additional reason to fear each other, because each man would now have good reason for suspecting other men of having aggressive intentions towards him. This would lead to a stalemate, a position without a future because the future would be a dreary re-run of the past.

Human aggressiveness would be compounded by the fact that nobody in the State of Nature could predict what he would have to do to preserve his own life. Hobbes calls the preservation of life the Right of Nature. Unlike the situation in an ordinary society where human behaviour is reasonably predictable, nobody in the State of Nature would ever know what to expect of other men, so the Right of Nature must be unlimited by definition. It would only be possible to break the Right of Nature down into specific rights of nature if it was in fact predictable what a man would have to do to protect himself. In Civil Society this right of self-defence is defined by law, but in the lawless

State of Nature there can be no possible definition. Each man is free to do what he pleases to preserve himself, but of course this unlimited Right of Nature does not really help him because everybody else has it too. The natural fear that men feel for one another in the State of Nature would therefore be increased by the fact that each man would know not only that common sense dictates that other men are likely to be aggressive, but also that they have a right to do anything to others if they feel that their lives are in danger. In a situation like this the only sensible way of living would be to run away as quickly as possible from other men because the outcome of any contest with another would be uncertain. A rational egotist would always hedge his bets, though occasional clashes would be inevitable. Hobbes calls the State of Nature a state of war, because it is in the nature of war that there will be intervals between the fighting. As Hobbes himself puts it (*Leviathan*, Part 1, Chapter 13):

For WARRE, consisteth not in Battell only, or the act of fighting; but in a tract of time, wherein the Will to contend by Battel is sufficiently known: and therefore the notion of *Time* is to be considered in the nature of War; as it is in the nature of Weather. For as the nature of Foule weather, lyeth not in a showre or two of rain, but in an inclination thereto of many dayes together; So the nature of War, consisteth not in actual fighting; but in the known disposition thereto, during all the time there is no assurance to the contrary.

It is not difficult to guess what life must have been like in the State of Nature, and Hobbes tells us in the most famous passage in *Leviathan* (Part 1, Chapter 13):

In such condition, there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth, no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of time; no Arts; no Letters; no Society; and which is worst of all, continual feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish and short.

The question then arises as to how men managed to get themselves out of the awfulness of the State of Nature into Civil Society with its law and its reasonable degree of social stability. To understand that we have to go back to Hobbes's rational egotists contemplating the miseries of the State of Nature. Each man wished that he could dominate other men to the extent that other men would be too frightened to touch him, but each man also knew that one man could never achieve that by himself. Something else was needed if men were ever to live in subjection, and that something else was law. If only a way could be found to subject men to laws, the fear of punishment for breaking which would be strong enough to secure obedience, then all might yet be well. But how would a rational egotist in fact be likely to think about law and the process of law-making? Undoubtedly he would think that the ideal position for a rational egotist to be in would be a situation in which everybody else except him would be bound by law, and that he himself would make and enforce that law. Of course, a rational egotist would also

know that every other rational egotist in the State of Nature would be thinking exactly the same thing. The State of Nature would not just be miserable; it would be anguished as well, because everybody would know that if he, or anybody else, were to be invested with the kind of power which would enable him, or anybody else, to make law and enforce it, then the State of Nature would be brought to an end and the blessings of social peace might reasonably be expected to follow; certainly, nothing could be worse than the State of Nature.

Hobbesian men are odd creatures because the two sides of their nature seem to conflict with each other. Their competitiveness leads to what Hobbes calls ‘diffidence’, that apprehensiveness about each other’s intentions and fear of losing out which is at its most acute form in the State of Nature. On the other hand, men want what Hobbes calls ‘glory’, the wealth, deference and high position which only living in a stable society with an effective state can provide. Part of man’s nature is therefore anti-social, while the other part can only be satisfied through social living. The desire for glory and the desire to minimise the effects of diffidence provide the crucial additional motives for getting out of the State of Nature. The solution to the State of Nature problem is in fact very simple. Men need law and law enforcement to live the kinds of lives they want to lead. Men’s natural diffidence in the State of Nature makes it impossible that they could ever come together to make law. Even if they could agree to make law, which is highly dubious, there would still be two insurmountable difficulties. First, who would be the first to obey? The man who first put himself under law would be at an immediate disadvantage in his relations with his fellow men because he would be in the position of refusing to do to them what they might possibly do to him. Second, who would enforce the law? Everybody can’t do it, so who would protect the first man to obey law? He could try to enforce the law himself, but that would be the same as saying that everybody else was still in the State of Nature except him. That is obviously the worst position for anybody ever to be in; being the only person to obey the law when everybody else is ignoring it or breaking it is straightforwardly absurd. The way out of the difficulty is not to try to make law by agreement, but to choose a law-giver and law-enforcer by agreement. Choose one man (or a body of men), make him or them the Sovereign, and authorise all he or they do. This in effect means that every man, or a majority, must give up his right of protecting himself, in so far as he can, to another. The choice of a law-giver and law-enforcer is the moment of contract. It is nothing less than the creation of political power; as Hobbes puts it, the sword is placed in the Sovereign’s hands.

So far there is nothing very remarkable about Hobbes’s argument. It sounds like any run-of-the-mill social contract argument, but there is one crucial difference: Hobbes argues that the social contract cannot put any limitation on sovereignty. The Sovereign is entirely unbound. In fact, the Sovereign is not a party to the social contract at all. Sovereignty is not created on terms; it must be absolute and undivided. The Sovereign is absolutely unaccountable to his subjects; his law is their command. It hardly needs to be stressed that this is a very remarkable conclusion for a social contract thinker to come to. Before Hobbes, the whole point about social contract theory was to argue that there was some kind of bargain between rulers and ruled which rulers could sometimes break and thus absolve their subjects from their obligation to obey. Hobbes argues the opposite:

even if men could go back to the beginning and re-create the state, they would voluntarily do so in such a way that they would set up a Sovereign more absolutist than any contemporary king dared to be. A large part of the argument in *Leviathan* is designed to show why this must be so. The argument is fairly technical, because Hobbes is a meticulous thinker. The argument is carried on at a high level of abstraction, but it is marvellously clear. Later in this chapter we will have to stand back from Hobbes's argument and try to give it a historical context, because none of Hobbes's readers at the time could have doubted that a very thorough commentary on English political history lay not very far below the surface. First we must see what the argument for unlimited sovereignty is, and then try to make it historically specific.

SOVEREIGNTY NOT LIMITABLE BY CONTRACT

Hobbes's argument that sovereignty is not limited by contract rests on the sheer impossibility of a Sovereign making a contract with his future subjects in the State of Nature, and on the sheer unlikelihood that he would make a contract with them in Civil Society. There are only two possible conditions of life for Hobbes, life in the State of Nature, which is a state of war of everyman against everyman, and Civil Society, which is a state of peace. The question then arises as to which of these conditions offers the opportunity and possibility for a Sovereign to make a contract with his subjects. Take the State of Nature first. Its chief feature is a kind of atomistic chaos. Men being solitary in the State of Nature, the only way a would-be Sovereign could make a contract with his future subjects would be to chase around making an agreement with each man individually. Not only would this task be next to impossible (why should they trust him rather than trust anyone else?), but it would also be pointless, because contracts in the State of Nature are unlikely to be binding any way. Nobody in the State of Nature would be foolish enough to abide by the terms of any agreement made with anyone else about anything, because of the fear of non-performance of the terms of the contract in the absence of a system of law-enforcement. A contract to limit sovereignty in the State of Nature would not be a valid contract at all, so that only leaves Civil Society in which the Sovereign could make a contract with his subjects to limit his sovereignty. Hobbes thinks that a Sovereign who would make such a contract would have to misunderstand his own nature and to misunderstand the nature of sovereignty itself.

To understand why a Hobbesian Sovereign would have no motive for making a contract with his subjects to limit sovereignty in Civil Society we have to go back to the position a rational egotist would find himself in in the State of Nature. There, thinking the matter out, a rational egotist would come to the conclusion that the best possible situation for him to be in would be where everyone else would be obliged to obey laws made and enforced by himself, while he was not obliged to obey. We saw that one of the things which makes the State of Nature so unbearable would be the realisation that everyone would be thinking the same way, and this would lead to the conclusion that, if only someone were in that enviable position, then the end of the State of Nature would be in sight. In its Hobbesian version, the social contract effectively puts one man in the