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Morality as Contract: An Evaluation

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Abstract:

Various theories are found in the history of philosophy regarding the foundation of morality. This paper is an attempt to reveal Hobbesian ideas of social contract and a contemporary version of that by David Gauthier with an observation how the view of social contract is philosophically significant and how it promotes moral values in practical life as well. Hobbes believes that the revelation of law of nature depicts the essential character of moral virtues. He argues that virtues are essential laws of nature and therefore we have a predominant motive to observe them in practical life. The law of nature as Hobbes comprehends does not forcefully oblige any individual agent but by nature and from the motivation of self-preservation man agrees for social contract. From contract, man preserves his self-interest with cooperation with others promoting peace and other moral values in life. Gauthier emphasizes on rational choice of an individual cannot aim only self-interested ends, but mutual benefit from an impartial standpoint. It is the contribution of Gauthier over Hobbesian Contractarianism that he adds the rigor of rational choice. According to him the present scenario of societies may not reflect the most advantageous state for every member but it must be admitted that a social contract agreed out of rational choice on the principal of law of nature to promote maximum possible benefit for everyone vide minimax concession, opens the world of life that is worth living.

Keywords: Contractarianism, morality, self-interest, cooperation, law of nature, rational choice, mutual benefit, justice.

1. Section A

A.1.

Contractarianism names a moral theory about the origin of morality or of legitimate content of moral norms. This theory claims that moral norms derive their normative force from the contract or mutual agreement among people. Contractarians are sceptical of the possibility of grounding morality in either divine will or some perfectionist ideal of the nature of humanity. Social contract theorists from the history of political thought include Hobbes, Locke, Kant and Rousseau. In this paper the concept of Thomas Hobbes on social contract as a foundation of moral affairs will be discussed. In the era of contemporary thoughts, the most important name of Hobbesian contract theory is that of David Gauthier. The ideas and improvements made by Gauthier on Hobbesian doctrine is treasured with his original contribution.

Contractarianism which stems from the Hobbesian line of social contract thought holds that persons are primarily self-interested and that a rational assessment of the best strategy attaining the maximization of their self-interest will lead them to act morally (where moral norms are determined by the maximization of joint interest) and to consent to Government authority. Contractarianism argues that we each are motivated to accept morality, as Jan Naverson puts it, "first because we are vulnerable to the depredations of others, and second because we can all benefit from cooperation with others."¹

The social contract theory has two fundamental elements: a characterization of initial situation and a characterization of the parties to the contract. To be more specific, for Hobbes the initial position is "state of nature", for Gauthier it is "initial bargaining position", each of these is to describe the "no agreement position", to which the individuals return in case of failure to make an agreement or contract. This situation describes how the theorists characterise human life in the absence of morality. On the other hand, contractarianism describes the characterisation of parties to the contract on terms of their rationality and motivation to come to agreement. Contractarians hold that there is some scarcity of motivation for competition in the initial situation and there is some potential for gains from social interaction and cooperation. In other words, the initial stage represents the starting point for a fair impartial agreement. Contractarians justify the requirement of a fair impartial agreement by reasons external to contract. They also hold that the success of contract in securing cooperative interaction itself requires the starting point and procedures to be fair and impartial. Contractarians seek to show that without rules of justice for cooperation, persons are worse off by their own situations. Hence, it is rational to adopt same rules for morality and justice. These two aspects of the contract defines that individual are self –

¹Naverson Jan: (1998) *The Libertarian Idea* Philadelphia. Temple University Press p.148.

interested and they have ability to benefit themselves from interaction with others — along with conditions of moderate scarcity and conditions under which rules for justice could be both possible and necessary. Justice, in terms of a social contract is only possible, where there is some possibility of benefit to each individual from cooperation.

A.2.

According to Hobbes, the science of the laws of nature is science of good and evil. To discover the laws of nature, we begin with an aggregative conception of desires without a system. There is nothing in one desire that can make it inherently better or more reasonable than another one. Further, practical reason, for Hobbes, does not endorse any desire in its own right. Practical reason can only find the means to satisfy our predominant nature.

Our predominant desire is to preserve ourselves and to secure the way of our future desires. Practical reason, therefore can find the means to self – preservation and the laws of nature are exactly these means. In *Leviathan*, Hobbes presents the definition of laws of nature as..... “A precept or general rule found out by reason, by which a man forbidden to do that, which is destructive of his life, or taketh away the means of preserving the same, and to omit that, by which he thinketh it may be best preserved.”² To bring out the formal aspects of this account, and to find out the connection with reason, another quote from Hobbes’s earlier writing: “But since all do grant, that is done by right, which is not done against reason, we ought to judge those actions only wrong, which are repugnant to right reason, that is, which contradict some certain truth collected by right reasoning from true principles. But that which is done wrong, we say it is done against some law. Therefore true reason is a certain law; which, since is no less a part of human nature, than any other faculty or affection of the mind, is also termed natural. Therefore the law of nature, that I may define it, is the dictate of right reason, conversant about those things which are either to be done or omitted for the constant preservation of life and numbers, as much as in us lies”.³

David Gauthier in his book *The Logic of Leviathan* expresses Hobbes’s definition of law of nature by means of two simple equations.

i) “‘X is contrary to the laws of nature’ = ‘Doing X is contrary to (right) reason’.”

ii) “‘Law of nature’ = ‘precept laying down the requirements of (right) reason’”.⁴

Hobbes tells that Human beings without morality are in the state of nature. In this circumstances reason does not prescribe the observance of moral rules because an individual can see that it is in his interest to follow them. To this extent, as Hobbes conceives, morality can not be justified by direct appeal to human nature. Nevertheless, an understanding of human nature helps to explain and to justify morality. In the state of nature, we compete for scarce resources, without any moral restraint, but we also recognize that we would all be better off if we could rely on the security that we would gain if could rely on each other to keep promises, tell the truth, guarantee security from assault, etc. The precept of reason is the empirical position that peace promotes the satisfaction of our predominant desires.

We might object that this empirical proposition is not a precept of reason because it is not a genuine precept at all; it does not arrest that we ought to seek peace. Hobbes answers that natural laws impose obligations, it consists in the removal of freedom. Physical obligations oblige us to stay where we are if we are bound hand and foot. In non – physical obligation, “liberty is taken away..... by hope or fear, rather than by physical restraint”⁵. If we believe that peace best promotes our self-preservation, we want peace above all, so that we are no longer free not to seek peace but bound to seek. This binding brings about obligations. In other words, to grant away one’s right to perform some action, or to possess some object, is to undertake obligation not to perform that action, or to possess that object. When and only when one has granted away one’s right in some matter one has an obligation in that matter. Therefore, all obligations are self-imposed. There are no natural obligations, coordinated with natural rights. It is human-creation. Gauthier represents Hobbes’s definition of obligation in term of the following equation:

“A has an obligation not to do X’ = ‘A has laid down the natural right to do X’.”⁶

When we see observance of law of nature promotes our interest, hope and anticipation of future good to ourselves dominates every other motive and so compels us to act. This compulsion is obligation which removes our freedom to violate law of nature. Ignorance of the content and implications of the law of nature explains why some people violate them. Acknowledgement of benefit of peace motivates us to make a social contract. Our obligation to abide by moral principles results from this motive attached to peace in our hand and from the motive that comes from fear of punishment for its violation, on the other. The law of nature, as Hobbes comprehends, does not forcefully oblige any individual agent who does not seek to preserve himself and to secure the safe guards towards his future desires.

A.3.

A basic feature of social life is mutual understanding among members with preservation of our wishes and desires. Why should we admit that counsels of self preservation give us content of morality? The answer from Hobbes contains two fundamental claims.

i) The principles of morality prescribe means to the preservation of peace.

ii) The supreme counsel of self-preservation of peace.

²Molesworth William (ed): 1845, *The English Works of Thomas Hobbes*. Vol.-III. London , pp. 116 – 17.

³Molesworth William (ed) : 1839, E.W. Vol. II. London, pp. 15 – 16.

⁴Gauthier David: 1969, *The Logic of Leviathan*. Oxford Clarendon Press p. 36.

⁵Hobbes Thomas: 1651, *Leviathan*, 15.36 and [Stanford Encyclopaedia] [eds. A. P. Martinich & B. Batliste.

⁵Gauthier David: 1969, *The Logic of Leviathan*, Oxford Clarendon Press p. 36.

⁶Gauthier David: 1969, *The Logic of Leviathan* Oxford Clarendon Press 1969). p 41.

To support his first claim Hobbes offers a consequentialist account of basic principles of morality to show that they are rules and practicing that preserve stability, security and mutual trust among members of a society. David Gauthier comments “a man who seeks to preserve himself, and who agrees that the laws of nature are necessary to preservation, needs no such appeal to convince him. And in Hobbes’s view every same man seeks to preserve himself, and every rational man will agree that the laws of nature are necessary to his preservation.”⁷

To support his second claim, he argues that self-preservation requires the presentation of a stable society that averts the dangers of a war all against all. The fundamental law of nature is ‘that everyman, ought to endeavour peace, as far as he has hope of obtaining it.’⁸ No doubt this law is the most general conclusion man desires from his experience of the war of all against all. This precept tells us what to do, to better our chances of survival. It does not limit our right of nature, but rather prescribes how to employ that right. Undoubtedly action against this precept would be wrong. But such action can consist only in seeking war, rather than peace, and Hobbes insists that no one “esteems a war of all against all to be good for him” in one hand and that “every man by natural necessity desires what is good for him.”⁹ Therefore no one normally violates this precept is so far as he understands it.

Hobbes describes the law of nature as different ways of treating other people with due respect fairly. For this they prescribe good practices, such as, telling truths, keeping promises, keeping harmony with others etc. Some times it may happen that law of nature requires acting against our advantage. But “since that preserves peace, reason instructs us to observe them in our own interest”.¹⁰

For Hobbes moral virtues are the means of peaceable, sociable and comfortable living. He tries to explain why be moral and he argues that the virtues are nothing but laws of nature and that we have predominant motive to live a peaceful life including self-preservation. Hence, we are obliged to be moral by observing oral principles in appropriate circumstances. In this way Hobbes shows that an appeal of human nature can do answer why be moral, for he argues that we can both explain and justify morality by reference to the dominant motives in human nature.

T.H.Irwin raises some vital questions regarding Hobbes’s account of contractarianism in different aspects.¹¹

Firstly, it can be doubted whether morality and moral principles that preserve the peace of society mean the same thing. If a given society be preserved by wrong doing, morality and peace of society may contradict each other. To answer this from the standpoint of Hobbes it can be said that the life expectancy of the individual in a totally non-moral world is very short. At that level, in the complete absence of any socially imposed controls on violence, it’s a plausible surmise. Morality is proposed as a set of social rules, rules to be applied and reinforced in the context of general interaction among people. Philosophical morality considers the question of what makes such social rules sensible, rational and in the process may offer suggestion for improvement. But the idea that the rules, once formulated, should have no force, no role in guiding and assessing behaviour is equivalent to the idea that we should not bother with this subject in the first place rather than being as some seem to think, some kind of new insight into the subject.

Secondly, we many doubt Irwin says, whether self-preservation always requires us to do what promotes the preservation of a society. He supposes that Hobbes exaggerates the coincidence between them.

To meet this criticism and to explore Hobbes’s view in the regard the second law of nature can be stated, “that a man be willing when other 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 contended with so much liberty against other men, as he would allow, other men against himself”.¹²

This second law of nature provides the rationale for laying down some part of the initially unlimited right of nature, for taking on some obligations. It is also a rational precept, like the first law that tells us how best to secure our preservation. In itself it does not limit the exercise on the right of nature, but it tells us to impose a limit. In this way acting on it we exercise our previously unlimited right of nature, to perform an action which has the effect of limiting our right of nature.

What is clear from this analysis is that if we are to achieve the better lives that social living affords, we must be able to trust each other, and that to do that requires morality — an inner resolution to cease acting on simple self-interest and instead to conform to rules for the common benefit, so long as there are reasonable prospect of others doing likewise. This is moral obligation, the inner rational propensity to follow the right rule because it is right rather than because, on a particular situation it pays. As on some other particular occasion it would not pay. What pays, rather is being in a social milieu in which we can trust each other and thus reap the advantage of things like promises, contracts and simple understandings and reliance on fruitful interactions with others. But that really does pay and is the morality itself as we must admit an objective ground for it.

Now, it is not clear whether the agreement or contract is historical or actual. In other words, it can be asked, in what sense is the “social contract” a contract? The social contract is unwritten is true. Obviously there is not a representative there gets together on some particular occasion, draws up and signs are agreement, and is there after subject to its provisions. However, if it’s a hypothetical agreement — what persons would agree to be under some specified set of conditions? Such an objection is raised by Ronald Dworkin that a hypothetical contract is “not simply a pale form of an actual contract, it is no contract at all”.¹³ What ensures that an agreement

⁷Gauthier David: *ibid* p.68

⁸Molesworth William (ed): 1845, E. W. vol. III p. 117

⁹Molesworth William (ed): 1839, *ibid* vol. II p. 12

¹⁰Irwin T. H: 2013, *Nature, Law and Natural Law*. p. 212 [The Oxford Handbook of History of Ethics ed. Roger Crisp, oxford university Press]

¹¹Irwin T. H: 2013, *Nature, Law and Natural Law*. p. 212 [The Oxford Handbook of History of Ethics ed. Roger Crisp, oxford university Press] p.229

¹²Molesworth W, E.W. Vol. iii (1845) pp. 117 – 18.

¹³Dworkin, Ronald: 1977, *Taking Rights Seriously*. Cambridge Harvard University Press p.151.

on some rule under specified conditions is also binding under any other set of condition? Or how does a social contract comes to be a moral contract?

Actually on a social contract theory reference to a contract is perhaps best treated as really having only a metaphorical meaning. There is nothing in the theory, as Hobbes puts it that requires there to be either actual or hypothetical agreement. It simply views that it would be rational for persons to put into practice a particular kind of normative arrangement between persons — one that specifies some set of rights and duties for each of the agents. Moreover by put into practice one is to understand that each of the persons in question should be committed to act in accordance with its ethical dictates. Here lies “how contract model best promotes the objectives of agents who are instrumentally rational”.¹⁴

2. Section B

B.1.

David Gauthier develops a theory of morality in contractarian framework to provide a justificatory structure for moral principles and behaviours. He seeks to explore a link between the rationality of individual maximization and the morality of impartial constraint. Regarding objective foundation of morality Gauthier believes that humans can have no natural harmony of interest and that there is much for each individual to gain through cooperation. For Gauthier, moral constraint on the pursuit of individual self-interest is required because cooperative activities almost inevitably involve a situation in which the best individual out comes can be had by those who cheat on the agreement while the others keep their part of the bargain. This leads to the socially and individually sub-optimal outcome where in each can expect to be cheated by the other. But by disposing them to act according to the requirement of morality when ever others are also so disposed, they can gain each others trust and cooperate successfully. Gauthier develops a theory of morals as part of the theory of rational principles for making choice. He argues that the rational principles for making choices, or decisions among possible actions, include some that constrain the actor pursuing his own interest in an impartial way.

B.2.

Gauthier’s claim is that in certain situations involving interaction with others, an individual chosen rationally only in so far as he limits his pursuit of his own interest or advantage to conform to principles with the feature of impartiality. Gauthier says, “To choose rationally, one must choose morally.”¹⁵ He stress that a person acts rationally if and only if he finds his greatest interest or benefit out of that. Gauthier distinguishes two conceptions of rationality relating to morality — maximizing conception of rationality and universalistic conception of rationality. The first one insists that remains every other things unchanged a rational person seeks the greatest satisfaction of his own interest. On the contrary the latter insists that what makes it rational to satisfy an interest does not depend on whose interest it is. The rational person seeks to satisfy all interests. Gauthier defends the maximizing conception of rationality as accepted and employed in the social sciences. In the Hobbesian framework he likes to add the rigor of rational choice. He hopes that an appeal to rational choice would enable us to state why rational persons would agree to constrain principles, what general characteristic these principles must have in order to be a rational agreement and why rational persons would comply with the agreed constraints. It is not the interest in the self, that take one as object, but interests of the self held by one as subject that provide the basis for rational choice and action.

The contractarian does not claim that all real societies are cooperative enterprise fulfilling all expectations regarding mutual advantage. But contractarian may claim that society as a set of institutions, practices and relationships is a possibility where one can expect a greater benefit, what he can not expect in ‘state of nature’. Rather, contractarian like Gauthier supposes that some degree of social – being is characteristic of man. He sees this sociability as enrichment of human life but for him, it may seem to be a source of exploitation if man accepts the institutions and relations without any question. Thus the contractarian insists that a society could not command the willing allegiance of a rational person if, it does not fulfil any expectation of net benefit. One may certainly reject some proposed agreement as insufficiently advantageous to him when he compares the benefits that it affords and availability of alternatives. This is how Gauthier describes the link between rationality and choice. A rational agreement is beneficially coordinative. Gauthier puts Hume’s example, of two persons rowing a boat that neither can row alone,¹⁶ as a very simple example of a beneficially coordinative practice. Apparently a coordinative practice may not seem beneficial. Such as, persons who regard weapons only as instruments of defence each may prefer to be armed if others are and not armed if others are not.

But according to Gauthier coordinative advantages of ‘social contract’ is not to be ‘underestimated’. A practice is beneficial if each persons prefers that everyone conform to it rather than that persons conform to no practice, and does not prefer that everyone conform to some alternative practice. Still, it may be the case that each person prefers not to conform to the practice if others do.

B.3.

Gauthier distinguishes between parametric and strategic choice. One chooses parametrically when all of the circumstances that bear on his choice are fixed and nothing is unsettled expect his choice and what follows from the choice. On the other hand, a person chooses strategically when he is interacting what other persons are choosing has a bearing on what it is rational for others to choose. As Gauthier sees it, moral constraints have a role to play in context of strategic choice, when there are mutual gains to be achieved from

¹⁴Deigh, J.: Reason and Ethics in Hobbes’s Leviathan — Journal of the History of Philosophy 34th issue. p.33.

¹⁵Gauthier D.: 1986, *Morals by Agreement*. Oxford University p.4.

¹⁶Gauthier D.: *ibid.* p. 12

cooperation. When you choose parametrically, if it is known with certainty what outcome will ensue, given any choice of action for untaking, rationally dictates picking the action that yields the outcome that is most advantageous. If it is not known for certain what will happen following my choice, but can associate with every action I might now choose each of the possible outcomes that might ensue given that choice, then rationality dictates that I ought to choose the action with the “highest expected utility”.¹⁷

When people are acting in a perfectly competitive market, there are many buyers and sellers. Prices are fixed by the demand and supply conditions and no individual can affect the prices of goods. Each person, then, chooses to maximize own utility by producing goods or purchasing goods or both. Choices here are parametric. Hence, according to Gauthier, there is no room for moral constraints. Each person acts as an unconstrained maximizer in this setting. So the outcome is that no one can be made better off unless someone else is made worse off. So moral constraints imposed on the perfect competition setting will not make some better off except by making another worse off. Again, according to Gauthier there is no sensible role for moral constraints here. The market exemplifies an ideal of interaction among persons who, taking no interest in each other’s interests need only follow the dictates of their own individual interests to participate effectively in an enterprise for mutual advantage in terms of natural harmony. If the world be such a market, there will be no need for morality as such. Gauthier declares, “were mutual benefit requires individual constraint, this reconciliation is achieved through rational agreement.”¹⁸

B.4.

When people can interact in ways that produce gain rational agreement requires rational resolution of the problem of how to divide gains from cooperation. This is called rational bargaining. It is not the case that there is no general rational principle that stipulates what should occur when people bargaining in such settings. The results of bargaining will differ from case to case depending on particular features of the bargaining parties and there is no unique rational solution other than principle on *minimax* relative concession. Gauthier thinks that rational persons will hold out for *minimax* relative concession (when they can get it) and will not insist on more. They will not cooperate with others except on terms that are close to *minimax* relative concession. Gauthier argues that “the equal rationality of the bargainers leads to the requirement that the greatest concession, measured as a proportion of the conceder’s stake, be as small as possible.”¹⁹ This principle of *minimax* relative concession is “equivalent to the requirement that the least relative benefit, measured again as a proportion of one’s stake, be as great as possible”.²⁰ So he formulates an equivalent principle of *maximin* relative benefit, which can be claimed to capture the idea of fair and impartial bargaining or justice.

The idea of *minimax* relative concession is that each bargaining will be most concerned with the concessions that he makes from his ideal outcome relative to the concessions as reasonable relative to the others, considering that he wants to ensure as much for himself as the can while securing agreement and subsequent compliance from the others, then he will agree to it. Gauthier argues that it is the outcome that minimizes the maximum relative concessions of each party to bargain.

In Short, moral norms that rational contractors will adopt, according to Gauthier, are those norms that would be reached by the contractors beginning from a position each has attained through hid own actions which have not worsened anyone else, and adopting as their principle for agreement the principle of *minimax* relative concession. To show the weakness of Hobbesian contractarianism, Gauthier focuses on this principle of bargaining to show the rationality of compliance of the society is a place for mutual advantage then its institutions and practices must satisfy this principle of rational bargaining.

B.5.

Gauthier thinks that the rational individual will dispose himself to be a constrained maximizer — he cooperates with those who cooperate with him. To understand a constrained maximizer a difference can be made with a straight forward maximizer. A straight for word maximizer is one who acts to further his own interest on each occasion of choice. Such a person is not made for mutual benefit. Only a constrained maximizer follows the principle of rational bargaining while interacting with cooperative as well as non-cooperative people in the course of life. He admits that a constrained maximizer may sometimes lies by being disposed to compliance, for they may act cooperatively in the mistaken expectation of reciprocity from others. Still it is rational to be disposed to constrain maximizing behaviour by internalizing moral principles to opt choice. Moreover, it is irrational to act ignoring mutual advantage. Gauthier’s account of contractarianism is a theory of morals including that of rational choice that enables us to demonstrate how to ground morality on the practical rationality. It also enables us to demonstrate the rationality of impartial constraints on the pursuit of individual interest to persons who may take no interest in others interests.

3. Section C

What is important in Hobbesian thought of contractarianism as developed by Gauthier is that it bases morality on the platform of society. Hence it is possible to explain relative and variable character of morality in the realm of contract theory. Variations of moral opinions and moral beliefs regarding values and principles can be explained as output of social contract, as described by Gauthier. Though there are moral dilemmas, still we can’t deny a basic and fundamental ground for initiating moral actions by an individual. In that case Dilemmas donot remain dilemma in the true sense of the term. If one of the horns is taken to be right option which conforms to duty, the other horn must be taken as wrong and contrasting to duty or conforming to something which is not duty.

¹⁷Gauthier D.: *ibid* p. 44.

¹⁸Gauthier D.: *ibid* p. 14.

¹⁹Gauthier D.: *ibid* p. 14.

²⁰Gauthier D.: *ibid* p.14

The ground which compels us to go beyond mere self-interest is our societal life and existence of man where he is not alone, where he is bonded in the web of social relationships. Life is undefined if it is not a social life. Morality becomes meaningless if it is not interpreted in the discourse of social life. A moral person is a social person committed to a contract. Apart from such a contract a person loses his identity. Morality gets its significance when we act and get criticized by others and we try to justify our act indicating either more specific or more general principles that mostly accords with the contract done. Here we find a consistent relationship between one's reason and his self-interest.

One can avoid moral principles and can act according to some principle which is contrasted to moral one. Such a person is called immoral. A group of immoral persons may live together happily and peacefully to some extent. They are also bonded by means of contract among themselves. But that contract cannot be a social contract. Such a group cannot be stable and happy forever. The members of such a group must have an interest in other people being moral, since others immoral actions may harm them and others too, whom they care. Such an individual can see Hobbesian state of nature if he allows others to be immoral. Hence he will also have the same interest in enforcement of moral values. In other words one cannot rationally opt for not being a part of moral contract in social life.

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