

# **Social Organisation and Modern Polity, The Social Contract and Legitimacy for Hobbes and Rousseau**

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The evolution from the Middle Ages to the modern era took place over a period of time by means of qualitative changes at different levels and sectors of society. These changes were not necessarily parallel nor did they occur at the same pace, nor was there a sudden and final rupture between the two systems of knowledge and thought. Rather the change was cumulative and experiential, arising from advances and retreats of varying importance and a gradual progression extending over two centuries. The Renaissance was only a part of this wider movement. In short, the modern era came into being as a result of multifarious developments occurring at differing places and

times. In this article I examine two aspects of this evolutionary change, namely social and political organisation.

It is apparent that society and the body politic suffered severe dislocation, which resulted in the establishment of new social and political frameworks. It is not overstating it to say that the period under discussion — the 17th and 18th centuries — witnessed nothing less than a social and political rebirth; on one hand, a social upheaval that ushered in a radically different society from the one that had preceded it, and on the other a new legal and political system that flew in the face of the conventions that had been in force for eight long centuries. The aim was nothing less than the installation of a new political edifice and a new concept of politics more in tune with the momentous changes that had occurred in society in the fields of economics, religion and knowledge. We are dealing with a twin social and political rebirth that shaped and created

the basis on which our contemporary notions of society and politics rest.

In this article I wish to examine the nature of this twin social and political rebirth in the light of current thinking with regard to the concepts of the social contract and legitimacy. In modern political thought it is customary to regard the philosopher Thomas Hobbes and the francophone Swiss Jean-Jacques Rousseau as most representative of Social Contract theory, although social historians tend to regard them as being at opposite ends of the spectrum in their application of the theory, considering their views are diametrically opposed on a number of points. I intend to focus on their differing positions in an effort to clarify the meaning of Social Contract and in particular the concept of legitimacy between two or more contracting parties. In so doing, I am considering two of the key philosophical and political concepts that underlie the changeover from medievalism to modernism.

## 1. Social Organisation and Modern Polity: a Twin Rebirth

It is self-evident that the concept of 'new' can only be understood in relation to its opposite — 'old' — a term redolent of rejection and revisionism, and indeed the French Revolution, which Hegel characterised as a 'new broom', did try to sweep away all that opposed it and considered the notion of old as antithetical to its aims. In writings on the French Revolution we find a clear opposition between the *ancien regime* (the political and social system in place on the evening of 14th July 1789) and the *nouveau regime*, which the revolutionaries were seeking to establish. Similarly it has become general practice to apply the epithet 'old' to all aspects of 17th-century thinking and knowledge. Hence, in order to elucidate modern notions of politics and society, it is

necessary to explicate their former conceptualizations.

The *ancien regime* was based on a hierarchical social system dominated by noble landowners (land being the primary economic commodity in the Middle Ages). This monarchical system was legitimized by an ideology that characterised the ruling authority as divine, and stipulated that the political power of the ruler was absolute. This ideology was underpinned and supported by the clergy of the church, which formulated the doctrine of the 'Divine Right of Kings'. In like manner, Pope Gregory VII enacted the 'Doctrines of Theocracy' specifying the areas of influence for the Pope and the church. We read in Chapter 9 of the 'Theocratic Doctrines' that 'the Pope is the only man whose feet princes may kiss' and in Chapter 12 that the Pope 'may remove patriarchs from their thrones.' We also read, in Chapter 18, that the word uttered by the Pope 'may not be uttered by another, while the Pope has the right to pronounce on

judgments made by other men' and in Chapter 19 that 'the Pope may not be held to account by anyone whomsoever.'<sup>1</sup> Complementing and supporting the Theocratic Doctrines was the theory of the Divine Right of Kings, described by the French historian Bossuet in his famous work *Politics Drawn from the Very Words of Holy Scripture* as being based on four pillars:

1. The monarch's power is 'a divine power, that kings are God's vicars on earth and through them the Lord rules his kingdom ... Therefore, the king's throne is not simply royal but it is the throne of God himself.'

2. Royal power is essentially patriarchal 'since kings represent God who is the real father of the human race ... The first notion of power possessed by man is

a paternal power and so it is that kings rule in the manner of fathers.'

3. The third pillar is the logical outcome of the previous two in that it specifies

the absolute nature of divine and paternal authority. A monarch's power is

unfettered and absolute and 'a king does not have to justify his commands ...

Without this absolute power a king would not be able to do good and punish

evil. A monarch's power must be such that none may escape from his grasp.'

4. The last pillar complements and completes the previous three pillars stating

that the divine, paternal and absolute power of the monarch cannot be objected

to by those under his rule. If his subjects are oppressed by the king and

consider that the burdens he lays upon them are unjust, then 'they may only

object to the harshness of princes if their complaints are made in a respectful

and peaceful manner, in well-mannered petitions.'<sup>2</sup>

The Theocratic Doctrines and the Divine Right of Kings agree in the matter of divinity and absoluteness of power. In fact it is possible to say that they are two sides of the same doctrine, in tune with the social and epistemological conditions prevailing in the West throughout the Middle Ages. The French writer Albert Seboul neatly characterises French society under the *ancien regime* as a tripartite structure comprising 'those who worship, those who fight and all those who labour to feed the former two categories.'<sup>3</sup> However, the old social and political systems were already under threat for a number of reasons.



Firstly, the aristocracy was no longer a strong and unified class able to protect and preserve the status quo. The institution of the monarchy was becoming enfeebled as a result of the growth of forces opposed to it, as well as the appearance of new means of production and exchange not dependent on traditional power and patronage.

Secondly, the Catholic clergy were unable to maintain unanimity in the face of the rising tide of Protestantism and increasingly loud appeals for the freedom of religious belief and practice.

Thirdly, the power of the bourgeoisie had grown from small beginnings in Holland and England, and had crossed into France in the 18th century. Their wealth and prosperity made them financiers of economic activity

'effectively pushing the aristocracy into a marginal and parasitic role' (Albert Seboul).<sup>4</sup>

The fourth and final reason was the role of geographic exploration and scientific discoveries financed by the bourgeoisie and resulting in an explosion of new ideas and values.

All these factors were already undermining the *ancien regime* before the advent of the French Revolution, which administered the *coup de grace* and set about creating a new social and legislative system more in tune with its revolutionary ideals. In short, the political authority built on the absolute rule of kings became meaningless with the collapse of its power base and the ethical and religious theories that supported it. In addition, the patriarchal system, which was based on inheritance and the concept of society as an extended family bound together by coercion, fear and divine authority, began to be replaced

by a new social paradigm based on citizenship, the public interest and the common good.

The *ancien regime* was superseded in a multi-faceted process at political, economic, epistemological and social levels and replaced by an opposing antithetical system. Social organisation and political lawmaking were henceforth to be based on agreement and contractibility rather than fear and coercion.

## **2. The Social Contract and Legitimacy: Components of the New System**

In general, it can be asserted that the 'new system' — as espoused by modern philosophical thought and, in particular, political thought, and of which the French Revolution was the practical expression — is based on four elements. None of these terms are new; their novelty lies in the meanings attributed to them by modern philosophers,

each from their own particular viewpoint or philosophical affiliation. These four components, which underpinned and explicated the 'new system' are reason, liberty, citizenship and man.

a. Reason

In modern philosophical thinking reason represents a way to the truth, an epistemological procedure and an ideal to be followed and emulated. This was so not only for rationalist and idealist philosophers but also for those who adopted an empirical approach in the pursuit of knowledge. Reason was not easily acquired and the exercise of reason was an arduous task not immune from difficulties and setbacks. However, the clearest exponent of reason (according to the above definition) was the French philosopher Descartes (1596-1650) who viewed it from three aspects. Firstly, he adopted doubt as a method for attaining certainty ie. by supposing

all things as doubtful until they could empirically be raised to the status of self-evident and demonstrably true. Secondly, he adopted the method of mathematical proof as a criterion in his search for the truth. There is nothing more demonstrative of the existence of reason than mathematical proof and the hypothetical deductive method. Thirdly he sought knowledge in what he called '*le grand livre du monde*' (the book of the world). In other words, knowledge is not to be found only in books and in the sayings of interpreters and commentators (as was the case in the Middle Ages when the words of the clergy acquired a semblance of infallibility) but depends rather on observation and experiment. Consequently, Descartes viewed reason as a criterion and a guide in his outlook on the world. His threefold method represented a clear break with accepted epistemological conventions and constituted a direct challenge to the foundations of orthodox learning.

In this connection, we should not omit to mention the Dutch philosopher Spinoza (1632-1677) and his efforts to distinguish between belief and religion on one hand and reason and philosophy on the other, as clearly stated in Chapter 14 of his *Treatise on Politics and Theology*. Spinoza argues for the primacy of human reason as a means of ridding mankind from the yoke of theology and the church fathers, guardians of the 'old' system of thought.

In short we can say that reason was a major component of new philosophical thinking and a potent weapon in the battle against an outworn ideology.

## b. Liberty

It is small wonder that reason and liberty are in a symbiotic relationship, jointly underpinning the edifice of the new social

system that philosophers and political leaders sought to build and consolidate. In what follows, I will restrict myself to three interrelated aspects of the concept of liberty.

In the first place liberty is to be seen as the sought-after goal of freedom of religious belief in the wars between Protestants and Catholics, culminating in a significant historical gain for the right to choose one's form of worship. It should be noted that at that time the only place where religious freedom was a reality was the Low Countries. For this reason the English philosopher John Locke was able to flee there from the Civil War in his country, finding a refuge where he could write and publish his two volumes on *Tolerance*. Similarly Descartes, escaping from the clutches of the Catholic Inquisition, settled in Holland where he wrote his *Meditations*, exchanged correspondence with his friend Mersin and composed his *Laws of Reason*.

Secondly, liberty is seen as a building block of the new system of thought and the adoption of reason as a means of achieving it. For if freedom necessitated that free individuals voluntarily associate — in such a way that exercise of that freedom did not conflict with the aims of others — then its only sure guarantee was the appeal to reason as a higher authority. Consequently reason figures prominently in the writings of John Locke, Baruch Spinoza, Jean-Jacques Rousseau and Thomas Hobbes, and hence in the exponents of the Social Contract theory. Just as there is no true contract without freedom, equally there is no true contract except between rational beings.

The third guarantee of liberty, in the absence of which a new epistemological system cannot be created, is the insistence on the human aspect of political power. It is a *sine qua non* of a social contract that it be made between rational free beings who take reason as their criterion and reference.



### c. Citizenship

The rational free being (believing in reason as the ultimate arbiter of thought and existence) has the right to enter into a social contract as a means of establishing a new social system and setting up a free state. In the writings of philosophers of Social Contract of the 17th and 18th centuries, this being is referred to as a 'citizen'. In a well-known discussion on the obligation to obey enacted laws, Spinoza distinguishes between a son, a slave and a citizen.

*The clear difference between the slave, the son and the citizen can be formulated as follows: the slave is compelled to submit to orders which serve the interests of his master, while the son must act according to the interests of his father. However, the citizen carries out the orders of the ruler in the public*

*interest and hence in his own personal interest.*<sup>5</sup>

According to the above, citizenship entails submitting to laws enacted by the ruler, but it should be appreciated that this involves obedience to laws in the framing of which the citizen is a contracting party. Seen from this perspective the law, in the words of Rousseau, is 'a wonderful construct by means of submission to which men become free beings.'

Submission to the law is, at first sight, blind, slavish obedience but according to the 18th-century philosophers this is a superficial view. Rousseau writes, 'How can they, in the shadow of such "slavery", be more free since no individual loses his freedom except inasmuch as he loses the source of annoyance with regard to another?' Submission to the law appears to be slavery but in practice it is exercising freedom at the highest level. For Rousseau this is the nature of citizenship and

the significance of the free contract entered into by free citizens. On this essential point all philosophers of the Social Contract concur, although there are superficial differences between them.

We now turn to the fourth basic building block of the new system and the one which confers its legitimacy: man

#### d. Man

Discussion of citizenship, liberty and reason inevitably leads us to the subject of man, the highest authority and the first and last resort of appeal. In political terms this justifies man's rising up against theocracy and overturning any power that he regards as a manifestation of divine rule, an embodiment of patriarchy or an absolute authority. In practice rebellion against these outmoded systems of government is an expression of the rule of the people with no

room for divinity, except insofar as the social contract into which citizens have entered into can be regarded as divine. Similarly, there is no scope for discussion of absolutism lest the social contract be transformed into slavery and submission. The citizen only derives his citizenship from the exercise of liberty and all his deeds and obligations are attributable to reason.

### **3. Two Conceptualisations of the Social Contract and Legitimacy**

It is customary in modern political thought to locate Thomas Hobbes and Jean-Jacques Rousseau at opposite poles of Social Contract theory. Hobbes is seen as a proponent of absolute rule and an apologist for political despotism in the name of Social Contract, whereas Rousseau is generally regarded as the revolutionary philosopher. A cursory glance at Hobbes' *Léviathan* and Rousseau's *Social Contract* appears to confirm this judgment but

a more careful reading of the two texts and the fundamental aims of the two writers casts doubt on this generalisation and leads us to the conclusion that their two theories are only superficially in conflict and that, in fact, they have a common purpose.

In all Social Contract theories, it is possible to identify three components: the contrast between the State of Nature and Civil Society, the nature of the Social Contract itself, and the principle of sovereignty.

In the following section of the paper, I propose to elucidate Hobbes' and Rousseau's conceptualisations of Social Contract according to their views regarding each of these three components.

a. State of Nature / Civil Society

The State of Nature is an imaginary hypothetical construct, utilised by both writers, in which man lived before the emergence of civil society. According to this theory men originally existed in a former natural state before subsequently coming to live together in a society. The move from nature into civil society is not simply a progression from a lower to a higher state but a qualitative and irrevocable change since it is not possible to return to the former state. Thus the philosophical question posed is how much man has lost or gained by leaving the state of nature and entering into civil society, or in other words is the state of nature a curse or a blessing as far as man is concerned.

For Thomas Hobbes the state of nature is the worst possible situation in which men can find themselves since it is unbearably brutal and a state of perpetual war. In this state men live according to the law of Natural Right, which confers on each person full power to pursue his own individually considered best interests

in order to preserve his own life.<sup>6</sup> There are no limits or checks on this right, except insofar as individuals differ in terms of power. This inequality in power causes misery and distress, and the competition for resources inevitably leads to enmity. Consequently, Hobbes does not find it surprising that in this state 'if a man plants or sows or establishes a settlement, then others of his tribe will unite to attack him and deprive him of his property.'<sup>7</sup>

Hobbes asks whether there are laws in nature that protect men from falling prey to the domination and oppression of others, and identifies a law of nature by which reasonable men can see their way out of such an intolerable situation. This law forbids men from acting to destroy the lives of others or depriving them of the means to avoid their own deaths.<sup>8</sup> The law of nature is based on a simple principle that states people should treat each other as they wish to be treated themselves. The concepts subsumed under this law include 'justice', 'equality', 'moderation'

and 'compassion', and proscribed ideas would be 'partiality', 'revenge', 'arrogance' and so on. Why then would men abide by the former concepts but still aim to commit acts motivated by the latter? According to Hobbes the answer to this conundrum lies in the nature of man himself. Man is a weak creature with a tendency to commit evil. Therefore, the only means of limiting men's capacity for wreaking evil on each other is an appeal to the authority of a sovereign. 'As long as men live without a shared sovereign who enjoins mutual respect upon them, then they live in a state of war in which each man is pitted against his brother.' 9

In short, for Thomas Hobbes, the state of nature is an irrational and unacceptable evil from which men must free themselves in order to progress.

On the other hand, Rousseau's view of the state of nature leads to very different conclusions, even if he and Hobbes share a



common starting point. Rousseau agrees with Hobbes that concepts such as justice, oppression, equality, good and evil remain simply empty terms in a state of nature, but he disagrees with Hobbes in describing man as a naturally evil being for the simple reason that natural man does not distinguish between good and evil. Rousseau considers that Hobbes would find fault with all modern definitions of 'natural right' but the consequences that he infers from his own definition demonstrate its fallibility. The author of *Léviathan* should rather acknowledge that the state of nature is one in which man is less likely to harm his fellow beings since his primary concern is to preserve his own existence. Consequently this state is the most conducive to peace for the human race. Hobbes asserts the contrary but he errs in confusing man's desire to create a civil society with his efforts to preserve his own life.<sup>10</sup>

In Rousseau's opinion, Hobbes' mistake is his predisposition to view man in a state of

nature from the perspective of man in contemporary society. This prevents him from noticing, for example, that noble emotion found in the humblest of creatures viz. compassion. Compassion tempers an excess of self-love and is present in the greatest degree among the lower classes who are closer to nature. It becomes less widespread or even disappears altogether higher up the social scale. 'In times of sedition and social unrest when the prudent withdraw, it is the lowly people, the female workers, who intercede to break up disputes and counsel the nobility to keep away.'<sup>11</sup>

For Rousseau man is the more morally pure the closer he gets to a state of nature and conversely the more predisposed to evil the more he is influenced by the desires and dictates of society. It is the desire for private property that weans man away from a simple natural state into one characterised by greed and vice. One day it happens that man puts walls around a piece of land and says, 'This is mine.' Other simple and plain people believe

him and in this way civil society is established with its attendant crimes, murders, scandals and vice. But there is another kind of man who rushes to pull out the pegs, fill in the ditches and shouts to the people, 'Don't listen to this swindler. You know you are all proprietors. Have you forgotten that the fruits of the land are for all and not for a single individual among you?'<sup>12</sup>

Thus for Rousseau, the state of nature was originally essentially a state of goodness although it later developed into an unacceptable evil, which must be avoided and abandoned.

Hobbes and Rousseau have differing views on the state of nature but they concur on the overall goal of establishing a new form of human society based upon agreement and conciliation, and founded on a social contract.

## b. The Social Contract

A contract is an agreement between two parties, an agreement to respect a body of recorded and promulgated principles. Like any other agreement a social contract entails obtaining something in exchange for relinquishing something else in a voluntary manner. Political philosophers have differed in their perspectives on three aspects of social contracts, namely, the nature of this relinquishment, the manner of the relinquishment and the rights and obligations of the two contractual parties. On this point it appears that Hobbes and Rousseau share similar if not unanimous views.

Hobbes distinguishes between a 'covenant' and a 'conformity', while the latter is natural and spontaneous the former is intentional and artificial. A conformity dictates that animals live in a group with the species to which they belong and do not fight or kill one another. On

the other hand a covenant is artificial and not spontaneous among men because it is not natural that men come together without fighting or seeking to bring harm to one another.

The covenant is only agreed by a collective will and decision confirmed by people meeting together and, therefore, it cannot be ratified unless there is mutual agreement between the parties to abide by a body of laws and ordinances formulated in terms of clear and explicit clauses in a binding and public charter. The social contract is simply a body of these clauses and agreements and a charter that binds the individuals who comprise the two contractual parties. In other words, what applies to a social contract is no more or less than that which applies in all types of known contracts. There are conditions, by acceptance of which the contract becomes valid and by infringement of which the contract becomes null and void. An example of the latter would be the undertaking of agreements between

humans and animals, or between humans and God, except that it be between 'those who have been entrusted by God through supernatural power or those who govern in His name or come under His command.'<sup>13</sup> Similarly, null and void would be a contract known in advance to be impossible of fulfilment, as for example a contract which stipulated that tyranny or violence could not be opposed by one of the parties even in self-defence.

In a social contract the first party, representing the group of contractees, renounces their natural rights voluntarily, collectively and completely, the multiple wills become a single will and the multiple voices a single voice. The second party is represented by the person or the group to whom the group have renounced their rights. He is thus the high representative of the voices that have pledged allegiance to him and the sole expression of them such that 'he represents unity in diversity in a unique and original way.'<sup>14</sup> Thus the power that is embodied in

that person, according to the terms of the contract, is complete and absolute and cannot be opposed, and indeed against whom the notion of opposition is meaningless.

This view of a social contract, and in particular the resultant consideration of the party that renounces all its natural powers and rights and becomes the legal embodiment of the group he represents, is essentially Hobbes' conceptualisation of the absolute authority of the sovereign and the people's renunciation of their individual rights, and was criticised by Rousseau in his *Du Contrat Social*.

Rousseau considered that Hobbes' view was not essentially different from that of the proponents of the Law of Natural Right, represented by Grotius and Pufendorf, who hold that since mankind is desirous of quitting the misery of the state of nature, man should enter into a social contract, specifically he should abide by the terms of two contracts

which complement each other perfectly, namely a covenant on cooperation and unity on one hand and a covenant of submission on the other.

The first covenant signifies the voluntary decision of people to achieve their aim of a peaceful society and social harmony. The second covenant confirms the first and is the means whereby man, of his own free will, will spontaneously and joyfully renounce his rights in favour of a sovereign authority to which he pledges fealty. Many have asked, 'Is this not simply slavery by another name?' Proponents of the Law of Natural Right do not disagree; rather they claim that acceptance of this slavery is a privilege, which they explain as follows. In the past a warrior had full right to kill his opponent whenever he could but the defeated warrior had the right to demand the right to be kept alive in exchange for renouncing his freedom. What applied to the individual thus applies to a group of people collectively, as long as there is a convention



signed by both sides. Rousseau objected to this situation, which he considered the point of view adopted by Hobbes, saying that

*The people remain the people before they offer themselves up freely. This bestowal is in essence a civil act which necessitates a popular consultation. Before determining the way in which a people elect their sovereign we should examine the act itself which makes a people sovereign since this act is the basis of a civil society.*<sup>15</sup>

The basic principle espoused by Rousseau in the creation of a social contract is free will. The family is the basis of society but if the children remain in the family in their childhood years involuntarily, they remain part of the family on a voluntary basis when they are old enough to become independent. This is the first idea in Rousseau's *Du Contrat Social*. The reader of the book will find the concept of General Will recurring throughout its four

chapters — General Will is the product (and not simply the addition) of all the contracting individuals' wills, which rises above the group and surpasses it, and which is, in fact, the motivating force of Social Contract.

### c. Sovereignty

In discussions of sovereignty in classical political philosophy, three aspects are usually considered, the answers to which bring out the varying points of view of different philosophers on this topic. What is the source of sovereignty? What is the nature of sovereignty? What are the limits of sovereignty? Following the method adopted in our earlier discussion of social contract, we will consider the theories of the Natural Right philosophers as a necessary preliminary to understanding Hobbes' and Rousseau's viewpoints on this matter.

Natural Right philosophers consider sovereignty is present in every individual in the State of Nature (as is the case with natural rights). However, since the State of Nature cannot endure (for reasons alluded to earlier), the sovereignty that each individual bears personally has to be renounced in favour of the person with whom the social contract is made. Thus Grotius asserts that sovereignty '... can be transferred, just like other things, to the person to whom it belongs in reality.' And this person is the co-signatory of the covenant of cooperation and the covenant of submission, as mentioned earlier. Pufendorf considers that

*When the king is crowned sovereign power no longer rests with the group consisting of the entire populace but this does not imply that the people are simply an aggregate of unconnected individuals, rather that the people will always be a single and united body.*

If we strip away the veil of respectability which disguises the harsh reality of submissiveness, as well as the illusion of choice, we are left with a theory that deprives the people of all power and justifies the legitimacy of absolute rule, which is an embodiment of the social contract in the matter of reason, freedom and citizenship insofar as man is considered as having a supreme value. What then is Hobbes' view on sovereignty? Here is an extract from his *Léviathan*:

*... the multitude so united in one person is called a Commonwealth; in Latin civitas. This is the generation of the great Leviathan, or rather, to speak more reverently, of that mortal god to which we owe, under the immortal God, our peace and defence ... a single authority and in him consisteth the essence of the Commonwealth, which to define it is one person, of whose acts a great*

*multitude, by mutual covenants one with another, have made themselves every one, the author, to the end he may use the strength and means of them all as he shall think expedient for their peace and common defence ... And he that carryeth this person is called sovereign and said to have sovereign power; and everyone besides, his subject.*<sup>16</sup>

In overall intention, Hobbes' standpoint on sovereignty — if we allow for some differences in formulation — is not very different from the views of the Natural Right philosophers Grotius and Pufendorf, insofar as there is one absolute authority to whom the natural rights of all the contracting individuals is transferred. Whether the term used is 'Leviathan' or 'the mortal god' or the 'possessor of sovereign power', they all point towards the same conclusion viz. sovereignty is transferred from all contractual individuals considered as the first party to the second party, who is the sole and absolute higher authority.

For Rousseau the matter is quite otherwise. As noted earlier, he sees General Will as the motivating force of Social Contract and the people as its basis insofar as they are the manifestation of General Will. Further, he regards the popular assembly as a sign of liberty and citizenship and as a sacred bond that binds individual members of society together. From this perspective, sovereignty represents the bedrock that imbues Social Contract theory with meaning. It is thus not surprising that sovereignty is a recurring theme in Rousseau's second book. Due to reasons of shortage of space, I will confine myself to two aspects of Rousseau's theory of sovereignty:

1. Sovereignty can never be transferred. As Rousseau says in this regard, 'Government can be transferred from one body to another but General Will is inalienable.' General Will is inseparable from sovereignty and both are two sides of the same coin.

2. Sovereignty is indivisible and cannot be partially renounced. Will can either be general or not. It is either the will of the people in their entirety or it is the will of a part of the people. In the first case, it is an exponent of sovereignty and has the effect of law. In the second case, it is only the expression of a particular will and thus does not have legislative power.<sup>17</sup>

That the gulf between Rousseau and Hobbes appears wide must be readily apparent to the reader and, as has been noted, it is customary in political philosophy to locate the two writers on Social Contract theory at opposite poles of the spectrum. However, it is our contention that the reality is somewhat different and that they are, in fact, both swimming on the same tide towards the same distant goal. One point of similarity lies in the concept of 'artificial'; we remember that Hobbes distinguished between conformity (ie. spontaneous such as can be found among animals but not among humans) and a

covenant (artificial and synthetic, not natural or spontaneous). The reader will have noticed that Hobbes is very precise in reference to legal terminology, carefully distinguishing between pacts and agreements, laws and conditions. Rousseau is equally consistent in differentiating between the mechanics of Social Contract — government and its organisation, laws and promulgated decrees — and General Will from which the contract derives its significance. However the common position of the two writers, in spite of their manifest apparent differences, can clearly be seen in regard to two major issues on which they set great store. The first of these is the necessity for legislation in order for men to escape from a state of nature and live together in a civil society. It is evident that for both writers the State of Nature was not simply a hypothetical construct when viewed against the background of civil war in England in the 17th century and the religious wars that plagued France in the 18th century. The second point is the need for the people to meet together and legislate for a political authority,



other than a divine or ecclesiastical authority, whose power derives from 'citizens' and not simply 'subjects' in a process that would lead to a new social and political order.

From this perspective, Hobbes and Rousseau seem to be on common ground, in spite of the apparent contradictions between them and the violence of Rousseau's critique of Hobbes' theory. It has been customary to characterise the author of *Léviathan* as a proponent of absolute power and the Swiss philosopher as the precursor of the French Revolution, but the arguments deployed in this paper suggest that they were both working towards the same goal.

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