

the strong. That is a dynamic that can be observed in the present, in both private and public realms, so only a very gentle extrapolation is needed to make it the founding motif of states. Thomas Hobbes acknowledges that force majeure is often the means by which individuals are made subjects. In his account, however, forceful subjugation is not an alternative to contract but a version of it. Contract so understood includes offers one cannot (reasonably) refuse. Not many will want to follow Hobbes down this particular road. It is questionable whether genuine consent can be elicited at the point of a sword, and it is more questionable still whether, once the imminent peril has passed, individuals should consider themselves constrained by terms thereby extracted. Liberals, as opposed to Hobbesian absolutists, will be disinclined to establish political legitimacy on foundations of acquiescence born of intimidation.

B. Terms of consent Set aside the problem of whether any credence can be given to the story of a founding contract. There remains the question of what it is to which the contractors agreed. The story told by theorists is that the state of nature is intolerable. Because insecurities are everywhere, exit is much to be desired. But exit to what? The indicated answer is: to whatever alternative is achievable. Leaping out of the frying pan is a remarkably attractive idea if there is so much as a lively possibility that one isn't thereby leaping into the fire. To put it another way, even morally mediocre states are preferable to unpredictable anarchy. That is not to maintain that all states offer better prospects to the representative citizen than statelessness. Cambodia under the Khmer Rouge did not. Arguably, neither do contemporary North Korea or Zimbabwe. (I say "arguably" because whether life prospects there are inferior to those, say, in anarchic Somalia is hard to determine.) The point is that a vast range of political forms can reasonably be judged superior to a state of nature and, therefore, contractors would rationally choose any one of these if it was the indicated alternative to anarchy. Even granted the premise that some social contract obtains, that tells us almost nothing about what the terms of the contract are.

Hobbes aside, however, the classical theorists contend that a useful degree of specificity can be attributed to the articles of agreement. In return for citizens' pledges of loyalty and obedience, government is obliged to protect the preexisting natural rights of the ruled. Minimally, government will not itself be a violator of those rights. States that are either ineffectual or predatory lack legitimacy. Additionally, some sort of attentiveness to the will of the governed may be said to be part of the package, including representative institutions and occasions for voting. Hobbes would object that this is wishful thinking, and he would have a strong case. A compromise position is that contract strips justification from especially unresponsive and horrific regime forms but is otherwise open-ended. Because anarchy is almost always more threatening to the well-being of individuals than civil society, contractors will accept whatever state is on offer.

Contract might instead be understood in an idealized form as choice under epistemically favorable conditions of the best regime type. I call this "idealized" because the suggestion that any such construction would be feasible with the ravaging predators of the state of nature licking at one's heels is far-fetched. Construed as the outcome of an idealized process of deliberative choice, the bargain is far removed from any realizable grounding political scenario. It will instead be posed in the form of a hypothetical choice scenario, so as to do service as a heuristic for eliciting principles of justice that meet demands of impartiality and mutual benefit. This is, of course, the strategy of John Rawls in *A Theory of Justice*. Because the return to fashion of social contract theory is almost entirely due to Rawls's efforts, it would, perhaps, be presumptuous to dismiss the Rawlsian strategy as not