

Social contract

In moral and political philosophy, the **social contract** is a theory or model that originated during the Age of Enlightenment and usually concerns the legitimacy of the authority of the state over the individual.^[1] Social contract arguments typically posit that individuals have consented, either explicitly or tacitly, to surrender some of their freedoms and submit to the authority (of the ruler, or to the decision of a majority) in exchange for protection of their remaining rights or maintenance of the social order.^{[2][3]} The relation between natural and legal rights is often a topic of social contract theory. The term takes its name from *The Social Contract* (French: *Du contrat social ou Principes du droit politique*), a 1762 book by Jean-Jacques Rousseau that discussed this concept. Although the antecedents of social contract theory are found in antiquity, in Greek and Stoic philosophy and Roman and Canon Law, the heyday of the social contract was the mid-17th to early 19th centuries, when it emerged as the leading doctrine of political legitimacy.

The starting point for most social contract theories is an examination of the human condition absent of any political order (termed the "state of nature" by Thomas Hobbes).^[4] In this condition, individuals' actions are bound only by their personal power and conscience. From this shared starting point, social contract theorists seek to demonstrate why a rational individual would voluntarily consent to give up their natural freedom to obtain the benefits of political order. Prominent of 17th- and 18th-century theorists of social contract and natural rights include Hugo Grotius (1625), Thomas Hobbes (1651), Samuel von Pufendorf (1673), John Locke (1689), Jean-Jacques Rousseau (1762) and Immanuel Kant (1797), each approaching the concept of political authority differently. Grotius posited that individual humans had natural rights. Thomas Hobbes famously said that in a "state of nature", human life would be "solitary, poor, nasty, brutish and short". In the absence of political order and law, everyone would have unlimited natural freedoms, including the "right to all things" and thus the freedom to plunder, rape and murder; there would be an endless "war of all against all" (*bellum omnium contra omnes*). To avoid this, free men contract with each other to establish political community (civil society) through a social contract in which they all gain security in return for subjecting themselves to an absolute sovereign, one man or an assembly of men. Though the sovereign's edicts may well be arbitrary and tyrannical, Hobbes saw absolute government as the only alternative to the terrifying anarchy of a state of nature. Hobbes asserted that humans consent to abdicate their rights in favor of the absolute authority of government (whether monarchical or parliamentary). Pufendorf disputed Hobbes's equation of a state of nature with war.^[5] Alternatively, Locke and Rousseau argued that we gain civil rights in return for accepting the obligation to respect and defend the rights of others, giving up some freedoms to do so.



The original cover of Thomas Hobbes's work *Leviathan* (1651), in which he discusses the concept of the social contract theory

The central assertion that social contract theory approaches is that law and political order are not natural, but human creations. The social contract and the political order it creates are simply the means towards an end—the benefit of the individuals involved—and legitimate only to the extent that they fulfill their part of the agreement. Hobbes argued that government is not a party to the original contract and citizens are not obligated to submit to the government when it is too weak to act effectively to suppress factionalism and civil unrest. According to other social contract theorists, when the government fails to secure their natural rights (Locke) or satisfy the best interests of society (called the "general will" by Rousseau), citizens can withdraw their obligation to obey, or change the leadership through elections or other means including, when necessary, violence. Locke believed that natural rights were inalienable, and therefore the rule of God superseded government authority, while Rousseau believed that democracy (self-rule) was the best way to ensure welfare while maintaining individual freedom

under the rule of law. The Lockean concept of the social contract was invoked in the United States Declaration of Independence. Social contract theories were eclipsed in the 19th century in favor of utilitarianism, Hegelianism and Marxism; they were revived in the 20th century, notably in the form of a thought experiment by John Rawls.^[5]

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History

The concept of the social contract was originally posed by Glaucon, as described by Plato in *The Republic*, Book II.

They say that to do injustice is, by nature, good; to suffer injustice, evil; but that the evil is greater than the good. And so when men have both done and suffered injustice and have had experience of both, not being able to avoid the one and obtain the other, they think that they had better agree among themselves to have neither; hence there arise laws and mutual covenants; and that which is ordained by law is termed by them lawful and just. This they affirm to be the origin and nature of justice;—it is a mean or compromise, between the best of all, which is to do injustice and not be punished, and the worst of all, which is to suffer injustice without the power of retaliation; and justice, being at a middle point between the two, is tolerated not as a good, but as the lesser evil, and honoured by reason of the inability of men to do injustice. For no man who is worthy to be called a man would ever submit to such an agreement if he were able to resist; he would be mad if he did. Such is the received account, Socrates, of the nature and origin of justice.^[6]

The social contract theory also appears in *Crito*, another dialogue from Plato. Over time, the social contract theory became more widespread after Epicurus (341-270 BC), the first philosopher who saw justice as a social contract, and not as existing in Nature due to divine intervention (see below and also Epicurean ethics), decided to bring the theory to the forefront of his society. As time went on, philosophers of traditional political and social thought, such as Locke, Hobbes, and Rousseau put forward their opinions on social contract, which then caused the topic to become much more mainstream.

Classical thought

Social contract formulations are preserved in many of the world's oldest records.^[7] The Buddhist text of the second century BCE, Mahāvastu, recounts the legend of Mahasammata. The story goes as follows:

In the early days of the cosmic cycle mankind lived on an immaterial plane, dancing on air in a sort of fairyland, where there was no need of food or clothing, and no private property, family, government or laws. Then gradually the process of cosmic decay began its work, and mankind became earthbound, and felt the need of food and shelter. As men lost their primeval glory, distinctions of class arose, and they entered into agreements with one another, accepting the institution of private property and the family. With this theft, murder, adultery, and other crime began, and so the people met together and decided to appoint one man from among them to maintain order in return for a share of the produce of their fields and herds. He was called "the Great Chosen One" (Mahasammata), and he received the title of raja because he pleased the people.^[8]

In his rock edicts, the Buddhist king Asoka was said to have argued for a broad and far-reaching social contract. The Buddhist *vinaya* also reflects social contracts expected of the monks; one such instance is when the people of a certain town complained about monks felling saka trees, the Buddha tells his monks that they must stop and give way to social norms.

Epicurus in the fourth century BCE seemed to have had a strong sense of social contract, with justice and law being rooted in mutual agreement and advantage, as evidenced by these lines, among others, from his *Principal Doctrines* (see also Epicurean ethics):

31. Natural justice is a pledge of reciprocal benefit, to prevent one man from harming or being harmed by another.
32. Those animals which are incapable of making binding agreements with one another not to inflict nor suffer harm are without either justice or injustice; and likewise for those peoples who either could not or would not form binding agreements not to inflict nor suffer harm.
33. There never was such a thing as absolute justice, but only agreements made in mutual dealings among men in whatever places at various times providing against the infliction or suffering of harm.^[9]

Renaissance developments

Quentin Skinner has argued that several critical modern innovations in contract theory are found in the writings from French Calvinists and Huguenots, whose work in turn was invoked by writers in the Low Countries who objected to their subjection to Spain and, later still, by Catholics in England.^[10] Francisco Suárez (1548–1617), from the School of Salamanca, might be considered an early theorist of the social contract, theorizing natural law

in an attempt to limit the divine right of absolute monarchy. All of these groups were led to articulate notions of popular sovereignty by means of a social covenant or contract, and all of these arguments began with proto-"state of nature" arguments, to the effect that the basis of politics is that everyone is by nature free of subjection to any government.

These arguments, however, relied on a corporatist theory found in Roman law, according to which "a populus" can exist as a distinct legal entity. Thus, these arguments held that a group of people can join a government because it has the capacity to exercise a single will and make decisions with a single voice in the absence of sovereign authority—a notion rejected by Hobbes and later contract theorists.

Philosophers

Hugo Grotius (1625)

In the early 17th century, Grotius (1583–1645) introduced the modern idea that individuals had *natural rights* that enabled self-preservation, employing this idea as a basis for moral consensus in the face of religious diversity and the rise of natural science. He seeks to find a parsimonious basis for a moral beginning for society, a kind of natural law that everyone could accept. He goes so far as to say in his On the Law of War and Peace that even if we were to concede what we cannot concede without the utmost wickedness, namely that there is no God, these laws would still hold.

The idea was considered incendiary since it suggested that power can ultimately go back to the individuals if the political society that they have set up forfeits the purpose for which it was originally established, which is to preserve themselves. In other words, individual persons are sovereign. Grotius says that the people are sui juris (under their own jurisdiction). People have rights as human beings, but there is a delineation of those rights because of what is possible for everyone to accept morally; everyone has to accept that each person as an individual is entitled to try to preserve himself. Each person should, therefore, avoid doing harm to, or interfering with, another, and any breach of these rights should be punished.

Thomas Hobbes' *Leviathan* (1651)

The first modern philosopher to articulate a detailed contract theory was Thomas Hobbes (1588–1679). According to Hobbes, the lives of individuals in the state of nature were "solitary, poor, nasty, brutish and short", a state in which self-interest and the absence of rights and contracts prevented the "social", or society. Life was "anarchic" (without leadership or the concept of sovereignty). Individuals in the state of nature were apolitical and asocial. This state of nature is followed by the social contract.

The social contract was seen as an "occurrence" during which individuals came together and ceded some of their individual rights so that others would cede theirs.^[11] This resulted in the establishment of the state, a sovereign entity like the individuals now under its rule used to be, which would create laws to regulate social interactions. Human life was thus no longer "a war of all against all".

The state system, which grew out of the social contract, was, however, also anarchic (without leadership). Just as the individuals in the state of nature had been sovereigns and thus guided by self-interest and the absence of rights, so states now acted in their self-interest in competition with each other. Just like the state of nature, states were thus bound to be in conflict because there was no sovereign over and above the state (more powerful) capable of imposing some system such as social-contract laws on everyone by force. Indeed, Hobbes' work helped to serve as a basis for the realism theories of international relations, advanced by E. H. Carr and Hans Morgenthau. Hobbes wrote in Leviathan that humans ("we") need the "terroir of some Power" otherwise humans will not heed the law of reciprocity, "(in summe) doing to others, as wee would be done to".^[12]

John Locke's *Second Treatise of Government* (1689)

John Locke's conception of the social contract differed from Hobbes' in several fundamental ways, retaining only the central notion that persons in a state of nature would willingly come together to form a state. Locke believed that individuals in a state of nature would be bound morally, by the Law of Nature, not to harm each other in their lives or possessions. Without government to defend them against those seeking to injure or enslave them, Locke further believed people would have no security in their rights and would live in fear. Individuals, to Locke, would only agree to form a state that would provide, in part, a "neutral judge", acting to protect the lives, liberty, and property of those who lived within it.^[13]

While Hobbes argued for near-absolute authority, Locke argued for inviolate freedom under law in his *Second Treatise of Government*. Locke argued that a government's legitimacy comes from the citizens' delegation to the government of their absolute right of violence (reserving the inalienable right of self-defense or "self-preservation"), along with elements of other rights (e.g. property will be liable to taxation) as necessary to achieve the goal of security through granting the state a monopoly of violence, whereby the government, as an impartial judge, may use the collective force of the populace to administer and enforce the law, rather than each man acting as his own judge, jury, and executioner—the condition in the state of nature.

Jean-Jacques Rousseau's *Du Contrat social* (1762)

Jean-Jacques Rousseau (1712–1778), in his influential 1762 treatise *The Social Contract*, outlined a different version of social-contract theory, as the foundations of political rights based on unlimited popular sovereignty. Although Rousseau wrote that the British were perhaps at the time the freest people on earth, he did not approve of their representative government. Rousseau believed that liberty was possible only where the people as a whole ruled directly through lawmaking, where popular sovereignty was indivisible and inalienable. However, he also maintained that the people often did not know their "real will", and that a proper society would not occur until a great leader ("the Legislator") arose to change the values and customs of the people, likely through the strategic use of religion.

Rousseau's political theory differs in important ways from that of Locke and Hobbes. Rousseau's collectivism is most evident in his development of the "luminous conception" (which he credited to Denis Diderot) of the general will. Rousseau argues that a citizen cannot pursue his true interest by being an egoist but must instead subordinate himself to the law created by the citizenry acting as a collective.

[The social contract] can be reduced to the following terms: *Each of us puts his person and all his power in common under the supreme direction of the general will; and in a body, we receive each member as an indivisible part of the whole.*^[14]

Rousseau's striking phrase that man must "be forced to be free"^[15] should be understood this way: since the indivisible and inalienable popular sovereignty decides what is good for the whole, then if an individual lapses back into his ordinary egoism and disobeys the law, he will be forced to listen to what was decided when the people acted as a collectivity (as citizens). Thus the law, inasmuch as it is created by the people acting as a body, is not a limitation of individual freedom, but rather its expression.

Thus enforcement of laws, including criminal law, is not a restriction on individual liberty: the individual, as a citizen, explicitly agreed to be constrained if, as a private individual, he did not respect his own will as formulated in the general will. Because laws represent the restraints of civil freedom, they represent the leap made from humans in the state of nature into civil society. In this sense, the law is a civilizing force, and therefore Rousseau believed that the laws that govern a people help to mold their character.

Rousseau also analyses the social contract in terms of risk management,^[16] thus suggesting the origins of the state as a form of mutual insurance.

Pierre-Joseph Proudhon's individualist social contract (1851)

While Rousseau's social contract is based on popular sovereignty and not on individual sovereignty, there are other theories espoused by individualists, libertarians, and anarchists that do not involve agreeing to anything more than negative rights and creates only a limited state, if any.

Pierre-Joseph Proudhon (1809–1865) advocated a conception of social contract that did not involve an individual surrendering sovereignty to others. According to him, the social contract was not between individuals and the state, but rather among individuals who refrain from coercing or governing each other, each one maintaining complete sovereignty upon him- or herself:

What really is the Social Contract? An agreement of the citizen with the government? No, that would mean but the continuation of [Rousseau's] idea. The social contract is an agreement of man with man; an agreement from which must result what we call society. In this, the notion of commutative justice, first brought forward by the primitive fact of exchange, ... is substituted for that of distributive justice ... Translating these words, contract, commutative justice, which are the language of the law, into the language of business, and you have commerce, that is to say, in its highest significance, the act by which man and man declare themselves essentially producers, and abdicate all pretension to govern each other.

— Pierre-Joseph Proudhon, General Idea of the Revolution in the Nineteenth Century (1851)

John Rawls' *Theory of Justice* (1971)

Building on the work of Immanuel Kant with its presumption of limits on the state,^[17] John Rawls (1921–2002), in A Theory of Justice (1971), proposed a contractarian approach whereby rational people in a hypothetical "original position" would set aside their individual preferences and capacities under a "veil of ignorance" and agree to certain general principles of justice and legal organization. This idea is also used as a game-theoretical formalization of the notion of fairness.

David Gauthier's *Morals By Agreement* (1986)

David Gauthier "neo-Hobbesian" theory argues that cooperation between two independent and self-interested parties is indeed possible, especially when it comes to understanding morality and politics.^[18] Gauthier notably points out the advantages of cooperation between two parties when it comes to the challenge of the prisoner's dilemma. He proposes that, if two parties were to stick to the original agreed-upon arrangement and morals outlined by the contract, they would both experience an optimal result.^{[18][19]} In his model for the social contract, factors including trust, rationality, and self-interest keep each party honest and dissuade them from breaking the rules.^{[18][19]}

Philip Pettit's *Republicanism* (1997)

Philip Pettit (b. 1945) has argued, in Republicanism: A Theory of Freedom and Government (1997), that the theory of social contract, classically based on the consent of the governed, should be modified. Instead of arguing for explicit consent, which can always be manufactured, Pettit argues that the absence of an effective rebellion against it is a contract's only legitimacy.

Critical theories

Consent of the governed

An early critic of social contract theory was Rousseau's friend, the philosopher David Hume, who in 1742 published an essay "Of Civil Liberty". The second part of this essay, entitled "Of the Original Contract",^[20] stresses that the concept of a "social contract" is a convenient fiction:

As no party, in the present age can well support itself without a philosophical or speculative system of principles annexed to its political or practical one; we accordingly find that each of the factions into which this nation is divided has reared up a fabric of the former kind, in order to protect and cover that scheme of actions which it pursues. ... The one party [defenders of the absolute and divine right of kings, or Tories], by tracing up government to the DEITY, endeavor to render it so sacred and inviolate that it must be little less than sacrilege, however tyrannical it may become, to touch or invade it in the smallest article. The other party [the Whigs, or believers in constitutional monarchy], by founding government altogether on the consent of the PEOPLE suppose that there is a kind of original contract by which the subjects have tacitly reserved the power of resisting their sovereign, whenever they find themselves aggrieved by that authority with which they have for certain purposes voluntarily entrusted him.

— David Hume, "On Civil Liberty" [II.XII.1]^[20]

Hume argued that consent of the governed was the ideal foundation on which a government should rest, but that it had not actually occurred this way in general.

My intention here is not to exclude the consent of the people from being one just foundation of government where it has place. It is surely the best and most sacred of any. I only contend that it has very seldom had place in any degree and never almost in its full extent. And that therefore some other foundation of government must also be admitted.

— Ibid II.XII.20

Natural law and constitutionalism

Legal scholar Randy Barnett has argued^[21] that, while presence in the territory of a society may be necessary for consent, this does not constitute consent to *all* rules the society might make regardless of their content. A second condition of consent is that the rules be consistent with underlying principles of justice and the protection of natural and social rights, and have procedures for effective protection of those rights (or liberties). This has also been discussed by O. A. Brownson,^[22] who argued that, in a sense, three "constitutions" are involved: first, the *constitution of nature* that includes all of what the Founders called "natural law"; second, the *constitution of society*, an unwritten and commonly understood set of rules for the society formed by a social contract before it establishes a government, by which it does establish the third, a *constitution of government*. To consent, a necessary condition is that the rules be constitutional in that sense.

Tacit consent

The theory of an implicit social contract holds that by remaining in the territory controlled by some society, which usually has a government, people give consent to join that society and be governed by its government, if any. This consent is what gives legitimacy to such a government.

Other writers have argued that consent to join the society is not necessarily consent to its government. For that, the government must be set up according to a constitution of government that is consistent with the superior unwritten constitutions of nature and society.^[22]

Explicit consent

The theory of an implicit social contract also goes under the principles of explicit consent.^[23] The main difference between tacit consent and explicit consent is that explicit consent is meant to leave no room for misinterpretation. Moreover, you should directly state what it is that you want and the person has to respond in a concise manner that either confirms or denies the proposition.

Voluntarism

According to the will theory of contract, a contract is not presumed valid unless all parties voluntarily agree to it, either tacitly or explicitly, without coercion. Lysander Spooner, a 19th-century lawyer and staunch supporter of a right of contract between individuals, argued in his essay No Treason that a supposed social contract cannot be used to justify governmental actions such as taxation because government will initiate force against anyone who does not wish to enter into such a contract. As a result, he maintains that such an agreement is not voluntary and therefore cannot be considered a legitimate contract at all.

Modern Anglo-American law, like European civil law, is based on a will theory of contract, according to which all terms of a contract are binding on the parties because they chose those terms for themselves. This was less true when Hobbes wrote *Leviathan*; at that time more importance was attached to consideration, meaning a mutual exchange of benefits necessary to the formation of a valid contract, and most contracts had implicit terms that arose from the nature of the contractual relationship rather than from the choices made by the parties. Accordingly, it has been argued that social contract theory is more consistent with the contract law of the time of Hobbes and Locke than with the contract law of our time, and that certain features in the social contract which seem anomalous to us, such as the belief that we are bound by a contract formulated by our distant ancestors, would not have seemed as strange to Hobbes' contemporaries as they do to us.^[24]

See also

- [Mandate of Heaven](#)
- [Classical republicanism](#)
- [Consent](#)
- [Consent of the governed](#)
- [Constitution](#)
- [Self determination](#)
- [Contract](#)
- [Epicurean ethics](#)
- [Federalism](#)
- [Mandate \(politics\)](#)
- [Mayflower Compact](#)
- [Monarchomachs](#)
- [The Racial Contract](#)
- [Right of rebellion](#)
- [School of Salamanca](#)
- [Social capital](#)
- [Social cohesion](#)

- Social Contract (Britain) - British Labour Party policy involving trade-offs between employment conditions and social welfare
- Social disintegration
- Social Justice in the Liberal State
- Social rights (social contract theory)
- Social solidarity
- Societal collapse
- Consent theory
- Crito – dialogue by Plato
- Juan de Mariana

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3. https://ore.exeter.ac.uk/repository/bitstream/handle/10871/18609/Castiglione_Introduction.pdf?sequence=1
4. Ross Harrison writes that "Hobbes seems to have invented this useful term." See Ross Harrison, *Locke, Hobbs, and Confusion's Masterpiece* (Cambridge University Press, 2003), p. 70. The phrase "state of nature" does occur, in Thomas Aquinas's Quaestiones disputatae de veritate, Question 19, Article 1, Answer 13 (<http://dhspriority.org/thomas/QDdeVer19.htm>). However, Aquinas uses it in the context of a discussion of the nature of the soul after death, not in reference to politics.
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11. E.g. person A gives up his/her right to kill person B if person B does the same.
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15. *Oeuvres complètes*, III, 364; *The Collected Writings of Rousseau*, IV, 141.

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• Immanuel Kant, ([1797]). *The Metaphysics of Morals*, Part 1.
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