

Introduction to Social Contract Theory

From Hobbes to Rawls

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What Is Social Contract Theory? Defining the Framework

- Social contract theory examines the relationship between individuals and their government or society.
- **Social contract** is defined as an implicit agreement among members of society to cooperate for mutual benefit.
- The theory seeks to explain why rational individuals would voluntarily give up certain freedoms to secure the advantages of political order.
- Social contract theorists attempt to demonstrate how legitimate political authority can arise from voluntary agreement.
- The concept forms the philosophical foundation for many modern democratic systems of government.

The State of Nature: Human Existence Without Government

Key Concept

The **state of nature** is a hypothetical condition where no government exists and individuals exist without political authority.

- The state of nature serves as a theoretical baseline for comparing organized society.
- Different philosophers characterize this state in dramatically different ways:
 - Some view it as peaceful and cooperative
 - Others describe it as violent and chaotic
- The perceived quality of life in this state determines what kind of social contract people would accept.
- It represents the counterfactual: what would happen if political society dissolved?

Consent and Authority: The Basis of Political Legitimacy

- **Political legitimacy** refers to the moral justification for a government to exercise authority over its citizens.
- In social contract theory, legitimate authority derives from the consent of the governed.
- Types of consent that theorists debate include:
 - Express consent (explicitly given)
 - Tacit consent (implied through behavior)
 - Hypothetical consent (what rational people would agree to)
- The consent requirement addresses the fundamental question: why should any person be obligated to obey another?
- This principle directly challenges the divine right of kings and other non-consensual theories of government.

Rights and Duties: The Currency of Social Contracts

Important Distinction

In social contract theory, **rights** are claims individuals can make against others, while **duties** are obligations owed to others.

- Social contracts establish which rights are retained in society and which are surrendered.
- **Natural rights** are those theorized to exist prior to any government or social agreement.
- Political institutions are created to protect certain rights and enforce corresponding duties.
- The balancing of rights and duties creates the moral foundation for civil society.
- Different contract theorists propose different distributions of rights and responsibilities.

Historical Context: Why Social Contract Theory Emerged

- Social contract theory gained prominence during the **Enlightenment period** (17th-18th centuries) when traditional sources of authority were being questioned.
- The theory emerged as a response to religious wars and political instability across Europe.
- It offered an alternative to the **divine right of kings** theory that justified absolute monarchy.
- Social contract thinking provided a rational, secular basis for political obligation.
- Early theorists were attempting to reconcile individual freedom with the necessity of political order.

Hobbes and His Times: The English Civil War

Historical Context

Thomas Hobbes (1588-1679) developed his theory during the English Civil War (1642-1651), a period of violent political upheaval and regicide.

- Hobbes witnessed firsthand the chaos that resulted from challenging established authority.
- His work *Leviathan* (1651) was written in response to the breakdown of political order.
- The execution of King Charles I (1649) deeply influenced Hobbes's pessimistic view of human nature.
- Hobbes's primary concern was establishing a theory of stable government that could prevent civil war.
- His experiences led him to value security and order above all other political goods.

Leviathan: The Sovereign as Artificial Person

- In *Leviathan*, Hobbes describes the commonwealth as an "artificial person" created by agreement.
- The **sovereign** represents the unified will of all those who enter the social contract.
- Hobbes uses the biblical sea monster "Leviathan" as a metaphor for the awesome power of the state.
- The sovereign power is:
 - Created by the people's consent
 - Authorized to act on behalf of all citizens
 - Necessary to maintain peace and civil order
- This unified sovereign authority stands above the conflicting desires of individuals.

The Hobbesian State of Nature: "Nasty, Brutish, and Short"

Hobbes's Famous Description

"...the life of man [is] solitary, poor, nasty, brutish, and short."

- Hobbes presents the most pessimistic view of the **state of nature** among contract theorists.
- In this pre-political state, Hobbes argues that humans exist in a condition of perpetual **war of all against all**.
- This conflict arises from:
 - Natural equality of human physical and mental capabilities
 - Scarcity of resources in the environment
 - Each person's right to self-preservation
- Without a common power to restrain them, people live in "continual fear and danger of violent death."
- This bleak portrait justifies Hobbes's argument for a powerful sovereign authority.

Absolute Sovereignty: Why Hobbes Rejects Limited Government

- Hobbes argues that the sovereign must possess **absolute power** to effectively maintain peace and security.
- Any limitation on sovereign authority would create a dangerous division of power.
- Divided power inevitably leads to:
 - Conflict between competing authorities
 - Lack of clear final judgment in disputes
 - Return to the chaos of the state of nature
- Hobbes rejects constitutional checks and balances as inherently unstable.
- For Hobbes, even a tyrannical government is preferable to no government at all.

Self-Preservation as the Foundation of Morality

Hobbesian Ethics

For Hobbes, morality is derived from the rational desire for **self-preservation**, not from divine commands or abstract principles.

- Hobbes's ethical theory is fundamentally concerned with survival and security.
- The **laws of nature** are rational precepts that promote self-preservation.
- The first and most important natural law is to seek peace when it can be obtained.
- Only when peace is secured can other goods (industry, knowledge, arts) be pursued.
- This foundation makes Hobbes's moral theory thoroughly materialistic and practical.

Critiquing Hobbes: Problems with Absolute Authority

- Critics argue that Hobbes creates a cure (absolute sovereignty) that may be worse than the disease (insecurity).
- Hobbes's theory provides no recourse for citizens against tyrannical rule or abuse of power.
- The **Prisoner's Dilemma**: Without mutual assurance, rational citizens might not form a social contract.
- Historical evidence suggests humans in pre-political societies were not necessarily in constant warfare.
- Later theorists questioned whether individuals would rationally surrender all rights apart from self-preservation.

Locke's Historical Context: The Glorious Revolution

Historical Background

John Locke (1632-1704) wrote his *Two Treatises of Government* (1689) in the context of the Glorious Revolution (1688), which established constitutional monarchy in England.

- Unlike Hobbes, Locke wrote in a period moving toward constitutional settlement rather than civil war.
- Locke's work served as a justification for limiting royal power and protecting parliamentary authority.
- His theories reflected the growing political influence of property-owning classes.
- Locke was responding to Sir Robert Filmer's defense of absolute monarchy in *Patriarcha*. However, it can also be seen as a response to Hobbes.

Life, Liberty, and Property: Locke's Natural Rights

- Locke identifies three fundamental **natural rights** that exist prior to government and cannot be legitimately surrendered.
- The right to **life** is the basic entitlement to existence and self-preservation.
- The right to **liberty** encompasses freedom of action, thought, and conscience within the bounds of natural law.
- The right to **property** includes:
 - The fruits of one's labor
 - Possessions acquired through legitimate means
 - One's own body and capacities
- These rights form the moral boundary that legitimate governments must respect.

Locke's State of Nature: Inconvenient but Not Unbearable

Locke's View of Pre-Political Society

Unlike Hobbes, Locke describes the state of nature as a state of **perfect freedom** and equality, governed by the law of reason.

- In Locke's state of nature, individuals possess natural rights and moral duties toward one another.
- People are generally capable of following the **law of nature**, which teaches that no one should harm another in life, health, liberty, or possessions.
- The state is characterized by inconveniences rather than perpetual war:
 - Lack of established laws
 - Absence of impartial judges
 - Insufficient power to enforce judgments
- These inconveniences motivate rational people to form political society, not fear of violent death.

Limited Government and the Right to Revolution

- Locke's theory explicitly rejects absolute sovereignty in favor of **limited government**.
- Government is entrusted with power for specific purposes: protecting natural rights and promoting the public good.
- Political authority is fiduciary in nature—rulers act as trustees of the people's rights.
- When government betrays this trust by systematically violating rights, citizens possess a **right to revolution**.
- This revolutionary right serves as an ultimate check on government power and a guarantee of liberty.

Consent of the Governed: Express vs. Tacit Consent

The Consent Problem

Locke recognizes that most citizens have never explicitly consented to their government's authority, creating a potential legitimacy problem.

- **Express consent** occurs when someone explicitly agrees to join political society.
- **Tacit consent** is implied through:
 - Accepting the benefits of political society
 - Using public highways
 - Living within a territory
- The tacit consent doctrine attempts to explain how obligations can exist without explicit agreement.
- Critics argue that tacit consent is too easily presumed and offers no genuine opportunity to refuse.
- This remains one of the most controversial aspects of Locke's social contract theory.

Locke's Legacy in Democratic Theory

- Locke's ideas provided the philosophical foundation for modern **liberal democracy**.
- His emphasis on natural rights directly influenced the American Declaration of Independence and Constitution.
- Locke established the concept of government as servant, not master, of the people.
- His theory supports several democratic principles:
 - Separation of powers
 - Constitutional limits on government
 - Protection of individual rights
 - Representation of the governed
- Locke's general framework remains a dominant justification for democratic institutions worldwide.

Rawls and 20th Century Political Philosophy

Reviving Contract Theory

John Rawls (1921-2002) reinvigorated social contract theory in his landmark work *A Theory of Justice* (1971) after it had fallen out of favor for nearly two centuries.

- Rawls wrote in response to the dominance of utilitarianism in Anglo-American political philosophy.
- He sought to develop principles of justice that protect individual rights while allowing fair economic distribution.
- Rawls's work emerged during the Civil Rights Movement and debates about social inequality in America.
- He created a sophisticated contract theory that incorporates modern economic and social theory.
- Rawls's approach shifted focus from historical narratives to hypothetical agreement under fair conditions.

A Theory of Justice: Reviving Social Contract Theory

- Rawls presents justice as the first virtue of social institutions, just as truth is for systems of thought.
- His theory aims to provide an alternative to both libertarian minimalism and utilitarian majoritarian approaches.
- Rawls argues that principles of justice should be those that free and rational persons would accept in an initial position of equality.
- The contract in Rawls's theory is entirely **hypothetical**—it describes what principles rational agents would choose under specified conditions.
- This approach makes the social contract a tool for discovering principles rather than explaining historical government formation.

The Original Position and the Veil of Ignorance

Rawls's Thought Experiment

The **original position** is a hypothetical situation where individuals choose principles of justice without knowing their place in society.

- The **veil of ignorance** prevents choosers from knowing:
 - Their social class or economic status
 - Their natural abilities or intelligence
 - Their conception of the good or life plans
 - The generation to which they belong
- This ignorance ensures impartiality by removing self-interest from decision-making.
- Behind the veil, rational choosers will select principles that benefit the least advantaged positions.
- This method attempts to model the moral point of view where fair terms of cooperation are determined.
- Rawls believes this procedure leads to principles that reflect our considered convictions about justice.

Rawls's Two Principles of Justice

- Rawls argues that rational persons in the original position would agree on two fundamental principles:
- **First Principle** (Liberty Principle): Each person has an equal right to the most extensive basic liberties compatible with similar liberty for all.
- **Second Principle** (Difference Principle): Social and economic inequalities are to be arranged so that they are:
 - To the greatest benefit of the least advantaged persons
 - Attached to offices and positions open to all under conditions of fair equality of opportunity
- The first principle has priority over the second, meaning liberty cannot be sacrificed for economic benefits.
- These principles establish a framework for evaluating the justice of social institutions.

Justice as Fairness: Ensuring Equal Basic Liberties

Basic Liberties

The **basic liberties** Rawls identifies include political liberty, freedom of speech and assembly, liberty of conscience, freedom from arbitrary arrest, and the right to hold personal property.

- Rawls insists that these liberties cannot be traded away for economic advantages or social benefits.
- Basic liberties can only be restricted for the sake of liberty itself—to secure the equal liberty of all.
- This principle rejects utilitarian arguments that would sacrifice individual rights for greater overall happiness.
- The priority of liberty establishes a form of constitutionalism where certain rights are beyond political negotiation.
- This aspect of Rawls's theory aligns with the liberal tradition of Locke and Kant.

The Difference Principle: When Inequalities Are Justified

- The **difference principle** permits economic inequalities only when they benefit the least advantaged members of society.
- This principle represents a middle path between strict egalitarianism and unrestricted capitalism.
- Economic inequalities can be justified when they:
 - Create incentives that increase productivity
 - Generate innovations that improve overall welfare
 - Lead to a system that improves the position of the worst-off
- The principle requires asking: "How do social and economic arrangements affect those with the fewest advantages?"
- Rawls argues that rational self-interested parties would choose this principle as insurance against ending up in a disadvantaged position.

Social Contract Theory and Modern Democracy

Contemporary Relevance

Social contract ideas underpin modern democratic systems, providing conceptual frameworks for legitimacy, representation, and constitutional design.

- Democratic constitutions embody the social contract ideal by establishing the terms of political association.
- Regular elections serve as a mechanism for renewing consent and holding representatives accountable.
- The separation of powers reflects contractarian concerns about preventing government abuse.
- Bills of rights codify the natural or inalienable rights that governments must respect.
- Contemporary debates about voting rights, representation, and government legitimacy continue to invoke contract principles.

Healthcare Debates: Modern Contract Perspectives

Healthcare as a Test Case

Healthcare policy debates illustrate fundamental differences in how modern contract theorists understand social obligations and individual rights.

- **Neo-Hobbesian** approaches emphasize social stability and view basic healthcare as necessary for security and social peace.
- **Lockean libertarians** argue that healthcare is primarily a private good with minimal government involvement beyond protecting medical contracts.
- **Rawlsian liberals** maintain that:
 - Fair equality of opportunity requires accessible healthcare
 - The difference principle justifies redistribution to ensure universal access
 - Healthcare represents a primary good necessary for pursuing life plans
- These theoretical differences translate directly into competing policy prescriptions for insurance mandates, public funding, and delivery models.
- The healthcare debate reveals deeper disagreements about the proper scope of the social contract itself.

Immigration and Border Policy: Competing Contract Claims

- Immigration policy exposes tensions between different social contract traditions regarding community boundaries.
- **Contemporary Hobbesians** emphasize:
 - The sovereign's right to control borders as essential to security
 - The primacy of obligations to existing citizens over non-members
 - The importance of cultural cohesion for political stability
- **Lockean approaches** stress property rights and voluntary association, sometimes supporting open labor markets but restricted access to welfare.
- **Rawlsian perspectives** tend to question whether birthplace is a morally relevant criterion for distributing life opportunities.
- These theoretical differences reflect deeper questions about whether social contracts are primarily about security, liberty, or justice.

Education Policy: Divergent Contract Visions

Education and Citizenship

Modern contract theorists agree that education is crucial but disagree fundamentally about its proper funding, content, and purposes.

- **Neo-Hobbesian conservatives** view education as essential for creating shared values and social cohesion.
- **Libertarian Lockeans** argue for educational choice, parental control, and competitive markets in education.
- **Rawlsian egalitarians** emphasize:
 - Equal educational opportunity as a precondition for just social cooperation
 - Resources directed toward disadvantaged students
 - Education for democratic citizenship and mutual respect
- These perspectives lead to different policies on school funding, curricular control, and educational standards.
- The education debate reveals how contract thinking shapes institutional design in pluralistic societies.

Economic Inequality: Contract Theories in Conflict

- Rising economic inequality has reignited debates between different social contract traditions.
- **Modern Hobbesians** worry primarily about inequality that threatens social stability and political order.
- **Contemporary Lockeans** defend market distributions as just when they result from voluntary exchanges of legitimately acquired property.
- **Rawlsian theorists** advocate for:
 - Regulating inequalities through the difference principle
 - Predistribution policies that spread productive assets
 - Political institutions that prevent economic power from undermining democratic equality
- These theoretical divisions shape concrete policy disputes over taxation, welfare, inheritance, and market regulation.
- Each position represents a coherent application of contract principles to contemporary economic arrangements.

Feminist Critiques: Gender Blindness in Social Contract Theory

The Sexual Contract

Carole Pateman argues in *The Sexual Contract* (1988) that classical contract theory masks a prior **sexual contract** that subordinates women in both private and public spheres.

- Classical theorists like Locke and Rousseau excluded women from their social contracts, assuming women belonged in the domestic sphere.
- For example, Locke's theory of consent never addressed how married women who couldn't own property or vote could meaningfully "consent" to government.
- The public/private distinction in contract theory has real-world consequences:
 - Domestic violence was long considered a "private matter" outside state concern
 - Women's unpaid care work remains unaccounted for in economic measures like GDP
 - Contract theories traditionally ignore how family responsibilities affect political participation
- These critiques help explain why political rights for women came so much later than for men in liberal democracies.
- Modern feminist thinkers like Susan Moller Okin ask: "What would a truly gender-neutral social contract look like?"

Marxist Objections: Class Conflict and Power Relations

- **Marxist critics** argue that social contract theory pretends everyone enters society as equals when material conditions create vast differences in power.
- Consider an employment contract: While legally "voluntary," a worker facing homelessness without a job isn't making a truly free choice.
- Contract theory presents formal rights (like free speech) as meaningful equality while ignoring how wealth determines whose voice is actually heard.
- Example: Citizens theoretically have equal political rights, but campaign finance systems give wealthy donors vastly more political influence.
- This critique highlights why formal equality under law doesn't necessarily create substantive equality in lived experience.

Communitarian Challenges: The Myth of the Autonomous Individual

The Embedded Self

Communitarians challenge contract theorists' conception of the person as an autonomous individual whose identity exists before social relationships.

- Contract theory asks: "What would I choose if I had no prior attachments?"
Communitarians ask: "Is that even possible?"
- Real-world example: Americans don't simply "choose" to be patriotic—they are raised with national holidays, pledges, symbols, and stories.
- Communitarians point to how our identities are shaped by:
 - Family traditions we don't choose (like religious holidays)
 - Cultural concepts that shape our thinking (individualism vs. collectivism)
 - Language communities that determine how we express ourselves
- This helps explain why immigrants often feel torn between cultures—our communities constitute who we are.
- Communitarians argue that contract theory's "unencumbered self" doesn't match our actual experience of identity formation.

Is Consent Even Possible? The Problem of Hypothetical Contracts

- When did you explicitly consent to obey your government's laws? Most people never have—highlighting a fundamental problem with contract theory.
- **Actual consent** is virtually nonexistent in politics—no nation has ever asked every citizen to sign a constitution or social contract.
- Consider practical examples of consent problems:
 - Is paying taxes truly "consenting" when the alternative is imprisonment?
 - Does remaining in your birth country constitute meaningful agreement to its laws?
 - Can Rawls claim that everyone would agree to his principles when real-world disagreement is widespread?
- This raises a question students can relate to: If you never signed your university's honor code, are you morally bound by it simply by enrolling?
- These critiques show why consent theory remains both powerful and problematic—it appeals to our intuitions about fairness while struggling with practical implementation.

Social Contract Theory: Key Takeaways

Core Ideas Across Contract Traditions

Despite their differences, all social contract theories attempt to explain political legitimacy through some form of consent or agreement.

- Social contract theory has evolved from Hobbes's security-focused absolutism to more nuanced approaches to rights and justice.
- The state of nature serves as a theoretical device for imagining what society without government would be like:
 - Hobbes: Chaotic and violent
 - Locke: Inconvenient but governed by natural law
 - Rawls: Irrelevant—what matters is fair agreement conditions
- Each theorist's view of human nature and ideal government reflects the political challenges of their historical context.
- Modern debates about healthcare, immigration, education, and economic inequality continue to be shaped by competing contract traditions.

Discussion Questions

- ➊ Which state of nature seems most plausible to you—Hobbes's war of all against all or Locke's inconvenient but peaceful condition? What evidence from history or anthropology might support your view?
- ➋ Have you ever explicitly consented to be governed? If not, what makes government authority legitimate in your view?
- ➌ Would you prefer to live in a society designed according to Hobbesian, Lockean, or Rawlsian principles? What would the practical differences be in your daily life?
- ➍ How might social contract theory need to be modified to address feminist critiques about gender and family?
- ➎ Does Rawls's veil of ignorance actually produce principles everyone would agree to, or does it smuggle in liberal assumptions? Would you agree to his principles?
- ➏ Consider a contemporary issue (climate change, digital privacy, universal healthcare). How would different contract traditions approach this issue? Which approach seems most compelling to you and why?