

Social contract

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Social contract theory (or **contractarianism**) is a [concept](#) used in [philosophy](#), [political science](#) and [sociology](#) to denote an implicit agreement within a [state](#) regarding the rights and responsibilities of the state and its [citizens](#), or more generally a similar concord between a group and its members, or between individuals. All members within a [society](#) are assumed to agree to the terms of the social contract by their choice to stay within the society without violating the contract; such violation would signify a problematic attempt to return to the [state of nature](#). It has been often noted, indeed, that social contract theories relied on a specific [anthropological](#) conception of man as either "good" or "evil". [Thomas Hobbes](#) (1651), [John Locke](#) (1689) and [Jean-Jacques Rousseau](#) (1762) are the most famous philosophers of contractarianism, which is the theoretical groundwork of [democracy](#). It is also one of a few competing theoretical groundworks of [liberalism](#), but Rousseau's social contract is often seen as conflicting with [classical liberalism](#) which stresses individualism and rejects subordination of individual liberty to the "general will" of the community.^[1]

Overview

[\[edit\]](#)

State of nature & social contract

The *social contract*, as a political theory, explains the justification and purpose of the state and of [human rights](#). According to Hobbes' canonical theory, the essence is as follows: Without society, we would live in a [state of nature](#), where we each have unlimited natural freedoms. The downside of this general [autonomy](#) is that it includes the "right to all things" and thus the freedom to harm all who threaten one's own self-preservation; there are no [positive rights](#), only [laws of nature](#) and an endless "war of all against all" (*Bellum omnium contra omnes*, Hobbes 1651). To avoid this, we jointly agree to an implicit social contract by which we each gain [civil rights](#) in return for accepting the obligation to honor the rights of others, giving up some freedoms to do so. The figurehead of the society we create, representing our joint interests as members and formed by the delegation of our power, is the [sovereign state](#).

A fictional state of nature?

The emergence of the social contract from the state of nature is often explained in terms of [just-so stories](#) whose goal is to show the logical basis of rights rather than attempting historical accuracy. Rousseau's 1754 [Discourse on the Origin and Basis of Inequality Among Men](#) is more a fictional account of what has passed than a realistic description of what happened. However, it is also true that the ambiguity persists, and that Hobbes' [polemic](#) conception of the state of nature (opposed to Rousseau's [irenical](#) conception of it) approach it from the realist description of [civil war](#). Although many read [Leviathan](#), Hobbes' principle work on social contract theory, in the context of the [English Civil War](#), it was written in its entirety during the antebellum period, when Hobbes had fled to the continent. Due to political pressures, Hobbes was unable to publish the tome until war had already broken out, and he could be protected. Hobbes and Rousseau view the social contract as an explicit, actual agreement. Locke sees the contract in more of its traditional fictional sense.

Violations of the contract

The social contract and the [civil rights](#) it gives us are neither "[natural](#)" nor permanently fixed. Rather, the contract itself is the means towards an end — the benefit of all — and (according to some philosophers such as Locke or Rousseau), is only legitimate to the extent that it meets the general interest. Therefore, when failings are found in the contract, we renegotiate to change the terms, using methods such as elections and legislature. Locke theorized the [right of rebellion](#) in case of the contract leading to [tyranny](#).

Since rights come from agreeing to the contract, those who simply choose not to fulfill their contractual obligations, such as by committing [crimes](#), risk losing some of their rights, and the rest of society can be expected to protect itself against the actions of such [outlaws](#). To be a member of society is to accept [responsibility](#) for following its rules, along with the threat of [punishment](#) for violating them. Most of us are comfortable with laws punishing behavior that harms people because we are concerned about others harming us and don't plan on harming others. In this way, society works by "mutual coercion, mutually agreed upon" (Hardin 1968). [1] However, philosophers such as [Michel Foucault](#) and [Gilles Deleuze](#) have argued that this is a repressive conception, declaring that we are all "potential criminals". Indeed, Foucault criticized the concept of "criminal" ("[délinquant](#)", meaning professional outlaw), and pointed out the relationship between crime, [class struggle](#) and [insanity](#) which, as in [crimes of passion](#), can burst out suddenly — thus explaining the motto "we are all virtual criminals".

Some rights are defined in terms of the [negative](#) obligation they impose on others. For example, your basic property rights entail that everyone else refrain from taking what is yours. Rights can also involve positive obligations, such as the right to have stolen property returned to you, which obligates others to give you back what's yours when they find it in the hands of others (or, in modern society, to send the police in to do it). Theorists argue that a combination of positive and negative rights is necessary to create an enforceable contract that protects our interests. Recently, [liberal](#) thinkers such as [John](#)

[Rawls](#) have stressed positive rights, while [libertarian](#) thinkers such as [Robert Nozick](#) have emphasized negative rights.

History

Classical thought

It might be argued that social contract ideas go back to the Greeks; [Plato](#) has [Socrates](#) make a case for social contract ideas in [Crito](#) but criticizes them in [The Republic](#) ^[2]. Some have argued that [Epicurus](#) explicitly endorsed "social contract" ideas; the last fourth of his *Principal Doctrines* state that [justice comes from agreement not to harm each other](#), and in laws being made for mutual advantage (pleasure, happiness), and that laws which are no longer advantageous are [no longer just](#). In this sense, the Greeks had little to do with contractualism as it is formulated by modern philosophy: [conventionalism](#) is in fact quite the opposite of contractualism, since it considers [justice](#) to be the product of social conventions (as in the [sophists](#)' acceptance of the term), while contractualism considers nature to be the grounds of justice.

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. Among these, [Francisco Suárez](#) (1548-1617), from the [School of Salamanca](#), might be considered as 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 lead to articulate notions of popular sovereignty by means of a social covenant or contract: 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. However, these arguments relied on a corporatist theory found in Roman Law, according to which "a populus" can exist as a distinct legal entity. Therefore these arguments held that a community of people can join into a government because they have 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.

It is largely as a result of having rejected this medieval, Roman-Legal, and Aristotelian notion that in common parlance, contractualism refers to the theory of sovereignty first elaborated by Hobbes in the 17th century. His book [Leviathan](#) is generally considered to be a landmark of [absolutism](#).

Thomas Hobbes's *Leviathan* (1651)

The first modern philosopher to articulate a detailed contract theory was [Thomas Hobbes \(1588-1679\)](#), who contended that people in a [state of nature](#) ceded their [individual rights](#) to create [sovereignty](#), retained by the state, in return for their protection and a more functional society, so social contract evolves out of pragmatic self-interest. Hobbes named the state [Leviathan](#), thus pointing to the artifice involved in the social contract. Other philosophies conceived by Hobbes asserted that man was innately born with no morals or understanding of [God](#). When reading the Bible, one can find that the name of Satan's serpent is Leviathan; thus the naming of his book. His ideas were greatly criticized due to their morbidity and anti-Christian ideals and mainly forgotten for a time. Sustained philosophical and theoretical interest in his work was renewed in the nineteenth century, when Hobbes's theories were invoked by utilitarians as providing some philosophical precedents for utilitarianism in the history of political thought.

John Locke's *Two Treatises of Government* (1689)

[John Locke's \(1632-1704\) *Two Treatises of Government*](#) differs from Hobbes' conception of an [absolute monarchy](#) by arguing in favor of a [right of rebellion](#) against [tyranny](#), believing that people contracted with one another for a particular kind of government, and that they could modify or even abolish the government. For this reason, he is considered (especially on the American side of the Atlantic) to be one of the main thinkers of [liberalism](#). Locke's social contract theory was intertwined with his understanding of an [innate](#), essential human rationality constituting '[natural law](#)', explained in [An Essay Concerning Human Understanding](#). It is often said that Locke believed, in contrast to Hobbes, that man is naturally [good](#), and is not solely driven by greed and evil; it may be more accurate to say that Locke's theory rests on the presumption that moral values are widely shared independent of governmental intervention. Supposing this presumption were tenable, some have asked under what circumstances government would be needed to protect natural rights to property in the first place.

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

A Brief Understanding

[Jean-Jacques Rousseau \(1712-1778\)](#), in his influential 1762 treatise [The Social Contract, Or Principles of Political Right](#), outlined a different version of contract theory, based on the conception of [popular sovereignty](#), defined as indivisible and [inalienable](#) - this last trait explaining Rousseau's aversion for [representative democracy](#) and his advocacy of [direct democracy](#). Rousseau's theory has many similarities with the [individualist](#) Lockean liberal tradition, but also departs from it on many significant points. For example, his theory of popular sovereignty includes a conception of a "general will", which is more than the simple sum of individual wills: it is thus [collectivist](#) or [holistic](#), rather than individualist. As an individual, Rousseau argues, the subject can be [egoist](#) and decide that his personal interest should override the collective interest. However, as part of a

collective body, the individual subject puts aside his egoism to create a "general will", which is popular sovereignty itself. Popular sovereignty thus decides only what is good for society as a whole:

The heart of the idea of the social contract may be stated simply: Each of us places his person and authority under the supreme direction of the general will, and the group receives each individual as an indivisible part of the whole...

Hence, Rousseau's famous sentence: "We shall force them to be free" must be understood as such: since individual subjects resign their free will, as in Hobbes's theory, to form popular sovereignty; besides, since the indivisible and inalienable popular sovereignty decides what is good for the whole, then if an individual lapses back into his ordinary egoism, he shall be forced to listen to what they decided as a member of the collectivity.

Rousseau's version of the social contract is the one most often associated with the term "social contract" itself. His theories had an influence on both the 1789 [French Revolution](#) and the subsequent formation of the [socialist](#) movement. Furthermore, one can note that, as in Locke or Hobbes' theories, Rousseau gave particular attention to subjective and individual questions, as in his [Confessions](#) for example.

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](#), which do not involve agreeing to anything more than negative rights and creates only a limited state, if at all. This is related to the [non-aggression principle](#).

[Pierre-Joseph Proudhon](#) (1809–1865) advocated a conception of social contract which didn't involve an individual surrendering sovereignty to others. According to him, the social contract was not between individuals and the state, but rather between individuals themselves refraining from coercing or governing each other, each one maintaining complete sovereignty upon oneself:

"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).

This idea of a social contract that excludes intervention by the state in individual liberty was also followed by other individualist anarchists, such as [Benjamin Tucker](#) (an enthusiast of Proudhon's writings) who said "Mankind is approaching the real social contract, which is not, as Rousseau thought, the origin of society, but rather the outcome of a long social experience, the fruit of its follies and disasters. It is obvious that this contract, this social law, developed to its perfection, excludes all aggression, all violation of equality and liberty, all invasion of every kind." ([Liberty](#), VII, 1890)

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John Rawls's *Theory of Justice* (1971)

[John Rawls](#) (1921-2002) proposed a contractarian approach that has a decidedly [Kantian](#) flavour, in [A Theory of Justice](#) (1971), whereby rational people in a hypothetical "[original position](#)," setting aside their individual preferences and capacities under a "[veil of ignorance](#)," would agree to certain general principles of justice. This idea is also used as a [game-theoretical](#) formalization of the notion of fairness.

Philip Pettit's conception of 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](#) (as it is assumed that the contract is valid as long as the people consent to being governed by its representatives, who exercise sovereignty), should be modified, in order to avoid dispute. Instead of arguing that an explicit consent, which can always be [manufactured](#), should justify the validity of social contract, Philip Pettit argues that the absence of an effective rebellion against the contract is the only legitimacy of it, in much the same way that [Karl Popper](#) argues that the criteria of scientific work is its [falsifiability](#).

Criticism

Social contract is a violation of contract theory

Normally, a contract is not presumed valid unless all parties agree to it voluntarily, that is, no one has been pressured under the threat of physical force to enter into it. [Lysander Spooner](#), a 19th century lawyer and staunch supporter of a right of contract between individuals, in his essay [No Treason](#), argues that a supposed social contract (of the Rousseauian sort) 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. However, the philosophical concept of social contract does not address the same issues as the juridical [contract theory](#), making the name "social contract" potentially misleading.

Implicit social contract theory presupposes its conclusion

The theory of an implicit social contract holds that by remaining in the territory controlled by some government, people give consent to be governed. This consent is what gives legitimacy to the government. Philosopher [Roderick Long](#) argues that this is a case of [question begging](#), because the argument has to presuppose its conclusion:

I think that the person who makes this argument is already assuming that the government has some legitimate jurisdiction over this territory. And then they say, well, now, anyone who is in the territory is therefore agreeing to the prevailing rules. But they're assuming the very thing they're trying to prove – namely that this jurisdiction over the territory is legitimate. If it's not, then the government is just one more group of people living in this broad general geographical territory. But I've got my property, and exactly what their arrangements are I don't know, but here I am in my property and they don't own it – at least they haven't given me any argument that they do – and so, the fact that I am living in "this country" means I am living in a certain geographical region that they have certain pretensions over – but the question is whether those pretensions are legitimate. You can't assume it as a means to proving it.^[3]

Ronald Dworkin's *Law's Empire* (1986)

In his 1986 book *Law's Empire*, [Ronald Dworkin](#) touches briefly on social contract theory, firstly distinguishing between the use of social contract theory in an *ethical* sense, to establish the character or content of justice (such as John Rawls' *A Theory of Justice*) and its use in a *jurisprudential* sense as a basis for legitimate government.

Dworkin argues that if every citizen were a party to an actual, historical agreement to accept and obey political decisions in the way his community's political decisions are in fact taken, then the historical fact of agreement would provide at least a good *prima facie* case for coercion even in ordinary politics:

So some political philosophers have been tempted to say that we have in fact agreed to the social contract of that kind tacitly, by just not emigrating when we reach the age of consent. But no one can argue that very long with a straight face. Consent cannot be binding on people, in the way this argument requires, unless it is given more freely, and with more genuine alternate choice, than just by declining to build a life from nothing under a foreign flag. And even if the consent were genuine, the argument would fail as an argument for legitimacy, because a person leaves one sovereign only to join another; he has no choice to be free from sovereigns altogether.^[4]

A typical counterargument is that the choice is not limited to tacit consent to the status quo vs. expatriation, but also includes accepting the contract, then working to alter the parts that are disagreed with, as by participating in the political process.

Criticisms of natural right

Contractualism is based on a philosophy of rights being agreed to in order to further our interests, which is a form of [individualism](#): each individual [subject](#) is accorded individual rights, which may or may not be inalienable, and form the basis of [civil rights](#), as in the 1789 [*Declaration of the Rights of Man and of the Citizen*](#). It must be underlined, however, as [Hannah Arendt](#) did on her book on [imperialism](#), that the 1789 Declarations, in this agreeing with the social contract theory, bases the natural rights of the human-being on the civil rights of the citizen, instead of doing the reverse as the contractualist theory pretends to do ^[5]. However, this individualist and liberal approach has been criticized since the 19th century by thinkers such as [Marx](#), [Nietzsche](#) or [Freud](#), and afterward by [structuralism](#) and [post-structuralism](#) thinkers, such as [Lacan](#), [Althusser](#), [Foucault](#), [Deleuze](#) or [Derrida](#). Several of those philosophers have attempted, in a [spinozist](#) inspiration, of thinking some sort of [transindividuality](#) which would precede the division between individual subject and collective subject (i.e. society).