

It's Time to Go Back to Basics of Governance

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The COVID-19 pandemic is an opportunity to re-evaluate the principles or ideas that are at the heart of theories of government, that is the fundamentals of governance and public theory. *What is government for, but also what should government do and how.* Engaging with the crucial philosophical questions of governance is integral to building back better: going back to basics is a major step in figuring out how to prevent mistakes from happening again. The social contract is one such principle: the idea of a social contract is central to answering the question of what governments are for: explaining why people obey laws, providing answers to why we live in societies, and why we abide by social rules and norms.

Recognizing the ongoing debates, national and international, around the meaning and origins of the term social contract, this paper tries to point to some of the important thinking from the south and from non-western sources and traditions that have helped shape modern understanding of social contract theory. It is not intended to be a comprehensive review, in such a short paper, but rather a selection that reflects the richness and variety of such sources and how they have impacted thinking throughout the ages.

Overall, looking at ideas of social contracts outside Western philosophical tradition reminds us that it is not just about the form of the social contract or that all political organizations must be identical. These theories also remind us that compulsion and punishment are not a strong foundation for strong systems of governance. We have to create societies that people *want* to live in.

What is the Social Contract?

Social contract theory refers to the tacit agreement between citizens to cooperate to ensure collective security and welfare, and that authorities need to provide protection and services to citizens, in exchange for citizens consent to be governed. Individuals cede some of their personal freedoms to the government in exchange for protection from some of the physical and structural violence of life outside of society. At the same time, those who govern accept limitations on the exercise of arbitrary power. The social contract has been used for many purposes historically, in the sphere of public policy to justify taxes, citizen security, protection, and the provision of public goods; politically to challenge poor governance; as an underpinning of theories of justice; as the basis for the welfare state and the extension of social protections.

What are some of the similarities and differences in social contract thinking historically and across continents?

Social contract theory is often understood to refer to the work of European philosophers Thomas Hobbes, John Locke, and Jean-Jacques Rousseau (see below). In fact, when we look back with a less Western-centric perspective, political thought on the rights and responsibilities of governors (sovereigns and states) and citizens, and on what drives governance by consent rather than governance by force alone, occurs in all regions. Outside the Western tradition, the social contract theory is not always stated in explicit terms but is still part of ideas of social organisation. Looking at these bodies of thought gives us some important insights into the use of social contract thinking to build back better in the future, after COVID-19.

For example, VY Mudimbe has written extensively about African philosophical theories and their ideas of personhood and social responsibility, going back to oral traditions that appear to have been passed down from thousands of years ago, well before the start of written records. While Western philosophy focuses on human beings because of our ability to reason, some societies believe that while humans have a special capacity because of their ability to reason, this capacity mainly gives us a responsibility to protect beings that do not have that capacity for reason. This opens new ways of thinking about ethical obligations that people have towards the natural environment, particularly in the context of climate change and obligations to future generations.

Within Islamic thought, the Medina Charter of 622 is the earliest document that outlines how relations between various groups were to be organized in order to ensure the survival of the city of Medina. The idea was that equal social and political rights for different groups would allow all the residents of the city to unite in defence from external attack and this would protect Medina. Within political applications of Islam, individual morality is inseparable from public or political morality, and this is emphasised in the continuing emphasis on the moral conduct of political leaders. For example, Al-Farabi argues that the sovereign must be guided by rational thought rather than passions—with the goal of protecting citizens. Therefore, it is not the system of government that determines political outcomes because the social contract isn't premised on building structures but on examining moral conduct. Contemporary definitions of *madaniya* include a democratic state where a leader governs in consultation with the public, and as such the concept of the civic state is embedded in the post-revolution constitution in Tunisia.

In China, the “mandate of heaven” (11th century BCE) and Confucian social theory, (6th-5th century BCE) are also grounded in ethical rather than legalistic ideas of obligation. Confucianism emphasises leadership as an obligation to win people over into a society guided by shared moral values. “The superior sage,” it is said, “does not intend to rule the acts of the people, but to rule the hearts of the people.” However, obligations go beyond moral ones. Mencius’ (4th century BCE) writing on the “mandate of heaven” (*tianming*) argues that the sovereign is supposed to provide material goods to ensure the well-being of the population, not just moral conduct: “both material and normative performance of the leader was important in running the state” ([Selina Ho](#)).

Chinese political theory around the “mandate of heaven” also has two notable differences from the European “divine right of kings,” against which Hobbes, Locke, and Rousseau were fighting: anyone (not only royal

descendants or those of noble blood) can succeed to the mandate of heaven; and it can be lost if a ruler does not meet standards of moral and material leadership. This is because just rulers are a product of a cosmic will that orders the world towards the prosperity of people then a leader who is overthrown or rejected by the people has lost the “mandate of heaven.”

In India, two formative theories of the origin of the state are found in the Mahabharata (composite authors, 4th-9th century BCE) and the Digha Nikaya (3rd-2nd BCE). The Mahabharata lays out origins of the monarchical state, sharing with the European tradition of the divine right and the Chinese mandate of heaven elements of divine origins of authority: like European thought it also includes an element of hereditary kinship. The Digha Nikaya, by contrast, describe an originating act for a republican state whereby people agree to elect one of themselves as the “Mahasammata,” grand elect. “It implies that the main purpose of government is to establish order, and that the King, as head of the government, is the first social servant, and ultimately dependent on the suffrage (perhaps to be replaced by consent, since this does not refer to voting) of his subjects. (Basham 1967). The Digha Nikaya is very strong on consent, and indeed democratic process, in the formation of authority, but does not lay out the conditions under which authority can be revoked.

In Latin America, as in Africa, there was undoubtedly a vibrant tradition of thinking amongst indigenous people on the relationship of people with each other, with the planet and with authority, but this is not well-documented. In the Middle Ages, Ibero-American thinkers included Alonso de la Vera Cruz (ca. 1504–84), who composed the first fully philosophical treatises in Latin America. Latin America probably produced amongst the first thinkers to raise questions on the status of women, Sor Juana Inés de la Cruz (1651–1695), The next period of Latin American thinkers was dominated by theorists of anti-colonialism and independence, exemplified by the thinking of Simón Bolívar (1783–1830) in Venezuela and Colombia, Miguel Hidalgo (1753–1811) and José María Morelos (1765–1815) in Mexico, and much later, José Martí (1854–1895) in Cuba. This period was notable for some of the first ideas about ethnic and racial identity and citizenship, for example from Bolivar: “We are not Europeans; we are not Indians; we are but a mixed species of aborigines and Spaniards.”

Western thinking on the social contract is first tracked amongst the Sophists in ancient Greece (5th and 4th century BCE), who debated how individuals might reach agreement to live together peacefully, the institutions that permit this and our obligations to each other. Social contract thinking, in the West, as elsewhere, is far from a monolithic tradition. There are, for example, significant differences in intent between the three leading representatives of contractarianism in Europe, Hobbes (1588–1679), Locke (1632–1704), and Rousseau (1712–78). While at the highest level of generality, they can all be said to be looking for an account of legitimacy in the exercise of power that differs from accounts of divine right, Hobbes used the contract device as a way to justify the transfer of rights to a powerful monarch, Locke to show that the powers are limited by the obligation to respect property and well-being, and Rousseau, to constrain the exercise even further by considerations of individual freedom (compatible with the freedom of all).

Rousseau was concerned with the form of institutions that would balance individual freedom with a recognition of interdependence and the need to compromise—such as representative parliaments. Later thinkers such as Kant articulated an account of legitimacy according to which citizens need to be involved in making the law to which

they voluntarily agree to subject themselves. Rawls, perhaps the most important Western social contract theorist in subsequent centuries, made central the notion of equality of opportunity, that “those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system.”

Across different continents, there are therefore several similarities between different strands of thought on the relations between governors and governed based on consent—or the social contract writ broadly. We can see similarities: Hobbes’ state of nature which is “nasty, brutal and short” has something in common with the Indian framing of the law of fishes (*mastyā nyaya*¹) where there is no barrier to big fishes eating little ones—both of which set up the perceived need for a social contract. But there are also differences. The African tradition gives more role to the obligations of both people and rulers to protect nature. The Chinese and European traditions are fairly explicit about the circumstances under which the legitimacy of authority can be lost, other traditions less so.

Overall, looking at ideas of social contracts outside Western philosophical tradition reminds us that it is not just about the form of the social contract or that all political organizations must be identical. These theories also remind us that compulsion and punishment are not a strong foundation for strong systems of governance. We have to create societies that people *want* to live in.

The social contract is about the spirit in which governance is conducted. As such, even without a formal theory of a social contract, it is possible to discern instances where the contract is reinforced or undermined including:

Elections as a renewal of the social contract

In recent years, the idea of democracy has been reduced to conducting regular elections even if those elections do not necessarily represent meaningful deliberation. Yet elections have become vulnerable to manipulation, intimidation, and obfuscation. Unsurprisingly, some of the most visible protests of the current decade have been around elections, criticized for being neither free nor fair, and therefore representing a break in the social contract rather than its renewal.

Exit, Voice, Loyalty:

“Exit, Voice, or Loyalty” is a concept that was developed in 1970 as a theory of how organizations behave but it has been adapted to explain the choices faced by citizens in situations where the social contract fails—they can either leave, they can raise their voice, or they can try and change the system from within, or even do nothing. It provides a useful entry point for thinking through political behavior around the world as a reaction to changes in the social contract, which as indicated above, necessarily invalidate the social contract. Exit is reflected in the choice to migrate; voice is reflected in the rise of conflict and protest to articulate discontent; and loyalty is reflected in the decision to stay without articulating discontent.

¹ Mastya nyaya (law of fishes) - mahabharata

The New Deal and Welfare States:

In the United States and other countries, the most tangible example of the social contract in practice is Roosevelt's New Deal and the European post-WWII welfare states. In the US, this swathe of economic and social policies was designed to transform the US from a mercantilist agricultural system to a communitarian industrial one, by providing public services and incentives for redistribution. In the UK, the establishment of the welfare state was a compensation for who had gained and who suffered during World War II ([Steve and Stasavage](#)). It is an approach that has been embraced by countries like South Korea in their efforts to reconstruct after the pandemic.

The Quest for Independence in the Global South

After the end of the second world war, countries in Africa and Asia began concerted efforts to end colonisation by European empires. Significant political thought was developed during this period to challenge the idea of the inevitability of empire, the divine right of European kings to rule over the rest of the world, and the inferiority of non-Western political organisation. It was during this time that Mahatma Gandhi developed his ideas of human rights but also responsibilities and duties towards the collective, and public welfare for all as a goal for independent India. Similarly, African independence leaders like Amilcar Cabral believed that a strengthened social contract was a pathway to a more united and prosperous Africa. If African people were to continue living in states that were created by imperialists, they would invert the logic of the state on its head such that the welfare of African people was at the heart of the state's agenda, rather than the extractive demands of empire. For example, Cabral's "Resistance and Decolonisation" is a manual for independent Africa to strengthen the social contract that includes demands for public welfare and political participation of women.

Other Examples of the Overthrow of Unjust Rule

Whether or not the "mandate of heaven" (described above) justifies revolt against poor governance is still debated, but it is notable that in more recent history, Sun Yat-Sen's "Three Principles of the People" and Mao Zedong's "People's War" justified the conditions under which revolt was permissible—in continuity with the idea of losing the "mandate of heaven." In Western thought, Karl Marx and Friedrich Engels follow Hobbes, Locke, and a long tradition of thinkers in justifying the conditions under which revolt is justified. Latin American Marxism has been diverse in its philosophical particulars and is subject to ongoing development. Even so, many forms of Latin American Marxism commits to the following: (1) an end to imperialism, neo-colonialism and class oppression through socialist democratic change and/or revolution; (2) a form of socialist humanism based on (a) ending the capitalist exploitation of human being by human being, and (b) upholding a model of dignity based on economic and social equality; (3) a conception of philosophy as committed to understanding the world in all its dynamic and interrelated aspects, theorizing the meanings of capitalism and socialism, and shedding light on acting accordingly.

In Sunni Islamic tradition, because of a fear that civil strife (*fitna*) would weaken the emerging Islamic empire rebellion against the ruler, the Caliph or the Sultan, was prohibited by contemporary scholars pointing to references in the Qur'an and the Hadith. Unjust rulers could be rebuked or advised to change

their ways but could not be removed unless it could be shown that they had contravened or abandoned Islamic law.

Ibn Taymiyya (d1328) declared Jihad against the Mongols conquerors, even though they had converted to Islam, by declaring their reliance on the Yasa—Mongol tribal law—as opposed to the Shari’a, made them apostates. This approach had also persisted in Shi’i tradition until Ayatollah Khomeini outlined his Wilayat al faqih (guardianship of the jurists) in which he called for the removal through civil disobedience of tyrannical rulers (Taghut) like the Pahlavis.

The Rights of Indigenous Peoples

In Latin America, indigenous peoples have been at the forefront of demanding a more inclusive social contract. In Mexico, the Zapatista movement not only drew attention to the deep economic inequalities in the country, but in a country with a long history of leftist thought, underscored that without special efforts the unique rights of indigenous people would be ignored. Indigeneity, rooted in a specific relationship to the central state that was a successor to the imperialist state, demands special emphasis in order to make the social contract more inclusive for all.

At the same time, an implicit social contract also exists at an international level, where states agree to some—albeit limited—authority for international organizations like the World Health Organization (WHO), European or African Unions, in exchange for global coordination on the pandemic. It is worth noting that the original social contract theory was written before the idea of international government which really came into its stride in the 20th century. *What obligations does the international order have toward individuals? What obligations does the international system have towards states? And what obligations does the international order trigger between citizens.*

Four Contemporary Challenges Highlight the Growing Urgency of this Analysis

- ***Challenge One: An international refugee crisis***

Refugees are increasingly abandoned by the state they are seeking to enter—either abandoned at sea, corralled in cages, or held indefinitely in increasingly inhospitable offshore detention centres. With whom does a refugee enter a social contract—who has the obligation to provide public goods and protection for refugees? And what obligations do countries have towards each other within the framework of an international social contract?

- ***Challenge Two: COVID-19 pandemic***

The COVID-19 pandemic highlights that national action can have international ramifications, and that there is an urgent need to reflect on what obligations this creates for coordinated international action. In addition, the success of governments that have provided broad and deep social protections during the pandemic is a reminder that the social contract when implemented properly, works to the benefit of both individuals and the state.

- **Challenge Three: Climate change**

Climate change raises the question of future generations. The cost of climate change is primarily in ways that cannot be quantified by money, and inaction over climate change is externalizing the worst costs of the crisis to future generations, including but not limited to death, loss of resources, a diminished quality of life through a decaying natural environment, and others. Climate change is also a moment to re-evaluate the international social contract, that is, the obligations that countries have towards each other.

- **Challenge Four: Digital citizenship**

Digital citizenship challenges the idea that citizenship flows exclusively or even primarily from our national origin as many of the social functions of the state in the social contract are usurped through new avenues. Issues of social concern in one part of the world are fodder for national media in another, leaving citizens personally invested in the outcomes of specific political events.

The Future of the Social Contract

Creating societies that people want to live in is central to stemming the tide of protest, conflict and exit that has characterized the 21st century. Strengthening the social contract by reinforcing the rights and responsibilities of citizens and the obligations of leaders and the state restores political balance. Significantly a social contract that explicitly covers the rights of those who are most removed from power as well as the middle citizenry—offers promise for all citizens of a specific state. The social contract of the future must therefore be inclusive, recognize that poor decision making by the present generation creates challenges that future generations will have to live with, and that the natural environment must be part of our calculations. Ideally, such a social contract would draw lessons from global philosophical traditions to develop as broad a conception as possible of the citizen, to theorize their relationship to the state, and to imagine different ways of organizing our societies in service of better futures for all. In practical terms, a social contract for the future must:

1. **Restore balance between citizens, states, and their leaders.** The social contract of the future must protect citizens from excesses of either the bureaucracy or the sovereign. It creates a set of civic responsibilities on the citizen—including obeying the law and paying their taxes—that are in balance with the obligations that the state has towards citizens. Thus, it is not just punitive or extractive towards citizens, but is a balance between what they put into the system and what they get out of it. This social contract creates avenues for deliberation and protects freedom of speech, expression, and association. It also reinforces the notion of collective action for transnational challenges, urging greater coordination at national and international levels.
2. The social contract of the future **addresses the needs of the citizen** to be seen and heard by their government and the international community, in addition to providing public goods on an equitable and inclusive basis.
3. The social contract of the future also **thinks beyond the present** to consider the welfare of future generations, as well as the custodial relationship between individuals and the natural environment. Efforts at a Green New Deal represent practical efforts in this regard.
4. The social contract for the future will **emphasis and protect fundamental rights and freedoms** while recognizing citizens also have responsibilities to each other, to society, and to the state.

5. The social contract of the future must be **premised on consent to be governed, offered freely and voluntarily by citizens**. A social contract for the future must create space in the public sphere for this through peaceful protest, an engaged bureaucracy, and the effective use of local government.
6. Finally, a social contract of the future **recognizes that citizens must be free to express their displeasure with the state either through protest or migration**, and states must be reminded to protect the right of protest and the right to seek asylum, even while addressing the root causes of protest and exit.