



## Towards A Social Contract for Tomorrow

Nanjala Nyabola

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The report should be cited as as: Nyabola, Nanjala, “Social Contracts,” (New York: Center on International Cooperation, New York University, 2021).

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## Table of Contents

Executive Summary.....	1
1. Social Contract Theory.....	3
2. The Future of the Social Contract .....	8
3. Background.....	9
4. Classical Theories of the Social Contract.....	11
5. The Social Contract in Contemporary Political Theory .....	20
6. The Challenges of the Present: The Social Contract Across Boundaries and Across Time .....	24
7. Conclusion: The Future of the Social Contract.....	29
Endnotes .....	32

## About the Author

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## Executive Summary

**T**he COVID-19 pandemic is an opportunity to re-evaluate the principles or ideas that are at the heart of theories of government, and 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, arguing that 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.** It is used to refer to the tacit agreement between citizens and states whereby a state will provide protection and services to citizens, in exchange for citizens abiding by the laws of the land. At the same time, an implicit social contract also exists at an international level, where states agree to some authority being given to international organizations such as the World Health Organization (WHO) in exchange for global coordination on the pandemic. In its simplest form, the concept of a social contract is the expectation of protection and service provision for states in exchange for consent to be governed from the people.

The idea of a social contract is also central to answering the question of what governments are for or for explaining why people obey laws and providing answers to why we live in societies and why we abide by social rules and norms. In legal scholarship, it has been closely connected to the idea of justice and rights, arguing that rights exist because of the social contract. In governance and public policy, the idea of the social contract has been linked to service provision, meaning that the social contract creates an obligation for governments to provide services to citizens in exchange for their loyalty. Leaders of anti-colonial and Indigenous rights movements around the world use concepts that amount to the social contract by any other name to argue for the reorganization of power in their societies. It has formed the basis for the idea of the welfare state, arguing that the swathe of public services offered under programs like the New Deal encouraged civic commitment to the state. This is also offered as an argument for expanding the protections of the welfare state. And in ethics and philosophy, the idea of a social contract is used as an explainer for public morality generally. Each of these ideas contains a kernel of what those who originally used the label envisioned the social contract to be, but the idea really exists in various forms across various societies. As such, the point of this paper is not to capture all the directions that social contract theory has taken, but to highlight some of the basics of the various ways the ideas have shown up around the world as a starting point for holistic policy discussions.

For Pathfinders, the idea of a social contract is central to our redistribution and recognition framework. Specifically, redistribution is about justice in the allocation of material goods to members of the society, as well as putting systems in place that make sure that living in society is ultimately more beneficial for citizens and living in organized international society is more beneficial to countries, rather than harmful to them. The social contract offers a philosophical principle for turning calls for redistribution into social norms. It answers the question “why” for the broad range of policy proposals we put together to encourage states to advance specific

activities. Moreover, the recognition framework sets out the importance of belonging in defining an active citizenry. This paper offers a survey of some key theories of the social contract, distilling some of their core propositions in order to map a way to building back better by restoring and renewing these commitments.

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## 1. Social Contract Theory

**S**ocial 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.

In Western philosophy, the idea of a social contract is generally attributed to seventeenth- and eighteenth-century philosophers that argued that living in society is only good for the individual as long as the society and its leaders provide public goods and services that the individual cannot otherwise secure alone. These philosophers were writing during periods of great republican upheavals in Europe's larger monarchies and European expansion abroad, trying to find a way to justify social organizations without an all-monarch representing a god on this side of the eternal. Thomas Hobbes believed that there are limited quantities of everything—from natural resources, to labor, to man-made material, and we all therefore enter a social contract to minimize this competition which ultimately harms the society by unnecessarily causing harm to members of the species. John Locke hinged his definition of the social contract on the idea of property rights and put a great deal more emphasis on the idea of consent, arguing that without consent to be governed, a social compact isn't enough. Meanwhile Rousseau bridges the gap between Locke and Hobbes in saying that the point of the social compact is to protect both people and their goods, while maintaining their personal freedoms. Thus, a crucial pillar of existing within organized societies is that the collective will of the society is more important than the individual will of the ruler, or even individuals who live within that society (i.e., the particular will). Meanwhile the moral obligations of the leader or of the state don't just stop at providing public goods but extend into doing it fairly and inclusively.

**Thus, the fundamental pillars of social contract theory in the Western philosophical tradition are:**

1. A social contract helps people live better within their societies than outside it
2. There is a qualitative difference between the sovereign and the government, and more importantly, the moral demands on the sovereign cannot be diluted by the idea that either the sovereign or the government can do no wrong
3. Extending authority in a way that infringes on the freedom of the individual to cause them harm is a violation of the explicit and tacit terms of the social contract
4. The social contract is one of consent—without consent to be governed a social contract is invalid

Outside Western tradition, the idea of a social contract exists even if it's not explicitly labelled as such. The African philosopher VY Mudimbe has written extensively about classical or pre-writing African philosophical theories and their ideas of personhood and social responsibility. In his analysis of these philosophies, he finds that while the Western tradition focuses on human beings because of our ability to reason, other societies find 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 creates 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 organization of relations between various groups 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 its defense from external attack. Within political applications of Islam, individual morality is inseparable from public or political morality, and this is emphasized in the stress on the moral conduct of political leaders.

In China, the “mandate of heaven (eleventh century BCE) and Confucian social theory, (sixth to fifth century BCE) are also grounded in ethical rather than legalistic ideas of obligation. Confucianism emphasizes 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’ (fourth 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: where “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 for: 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. 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, fourth to ninth century BCE) and the Digha Nikaya (third to second 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.<sup>1</sup> 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 produced probably amongst the first thinkers to raise questions on the status of women, with Sor Juana Inés de la Cruz (1651–1695) as a prime example. 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 Bolívar said: “We are not Europeans; we are not Indians; we are but a mixed species of aborigines and Spaniards.”

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 organization must be identical. Rather, the validity of the social contract is also on its outcomes, particularly for those who are removed from power.

In contemporary political philosophy, social contract theory has been the basis for various theories on governance and political organization. For instance, John Rawls believed that the idea of justice flows from the social contract because the contract defines the limits of acceptable behavior within a society, and therefore anything that exceeds those limits is by definition unjust. David Gauthier’s analysis of the social contract argues that the idea of a social contract is to provide the rationale for the relationships that exist between states and citizens rather than the existence of an actual descriptions of the relationship. Gauthier is telling us that, we may abide by social norms simply because our parents teach them to us, not because we understand or even agree with them. Rawls is also the main inspiration for Amartya Sen and his seminal work, “The Idea of Justice” that begins with the Sanskrit concepts of *niti* and *nyaya* which both translate into justice, but the former deals more with inputs, and *the latter* with outcomes. Sen considers *nyaya* or human justice to be just as valid as building strong institutions that deliver organizational justice and social contract must also be evaluated on the basis of what it delivers, not just on what it promises or creates.

Overall, 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:

1. **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 are instead 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.
2. **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.

3. **The welfare state:** In the United States and other countries after WWII, the most tangible example of the social contract in practice is the construction of the welfare state. This swathe of economic and social policies was designed to transform economies from a mercantilist agricultural system to a communitarian industrial one, by providing public services and incentives for redistribution. It is an approach that has been embraced by countries like South Korea in their efforts to reconstruct after the COVID-19 pandemic.
4. **Independence in the Global South:** After the end of the second world war, countries in Africa and Asia began concerted efforts to end colonization 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 organization. It was during this time that Mahatma Gandhi developed his ideas of human rights in addition to 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 Decolonization*" is a manual for independent Africa to strengthen the social contract that includes demands for public welfare and political participation of women.

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 twentieth century, although some of the underlying concepts can be expanded to analyze the international system. 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. **Two contemporary challenges highlight the growing urgency of this analysis:**

1. 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 centers. With whom does a refugee enter into a social contract with—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?
2. 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.
3. 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.

4. 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.

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## 2. 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 twenty-first 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 include the natural environment as 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. It 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. Address 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. Think 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. Emphasize and protect fundamental rights and freedoms while recognizing citizens also have responsibilities to each other, to society, and to the state.
5. Be premised on consent to be governed, offered freely and voluntarily by citizens. It must create space in the public sphere for this through peaceful protest, an engaged bureaucracy, and the effective use of local government.
6. Recognize 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.

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### 3. Background

**T**he COVID-19 pandemic has created a great deal of social and political upheaval around the world and triggered an urgent re-engagement with some of the fundamentals of governance and political theory. Amidst questions of social and economic protection, delivery of public services, and claims of vaccine nationalism are basic questions like what is government for? Although much of the world is still processing and responding to the crisis, this is also an opportunity to engage with these fundamental questions of social and political structures as part of a broader initiative to rebuild better societies than those that stumbled in the face of adversity. Not just what is government for, but also what should government do, and how. Pandemics may be once in a generation event, but sound governance and government is supposed to insulate society from such shocks. Therefore, 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.**

One of the basic tenets of modern governance is the idea of the social contract. Generally, the basic principle is that 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.<sup>2</sup> In public policy and governance, it is used to refer to the tacit agreement between citizens and states that a state will provide protection and services to citizens, in exchange for citizens abiding by the laws of the land. For instance, the COVID-19 pandemic reminds us that there are services like public health that can only be provided by a centralized government, even if we disagree on the ways in which those services should be paid for. We allow the government to tell us when to wear masks or to curtail our freedom of movement in exchange for their protecting us from mass death and disruption caused by an unchecked pandemic. At the same time, an implicit social contract also exists at an international level, where states agree to the authority and coordination of international organizations like the World Health Organization (WHO) in exchange for global coordination on the pandemic.

The idea of a social contract is also central to answering the question of what governments are for or for explaining why people obey laws, providing answers to why we live in societies and why we abide by social rules and norms. It has formed the basis for the idea of the welfare state, arguing that the swathe of public services offered under programs like the New Deal encouraged civic commitment to the state. In legal scholarship it has been closely connected to the idea of justice and rights, arguing that rights exist because of the social contract.<sup>3</sup> In governance and public policy, the idea of the social contract has been linked to service provision, meaning that the social contract creates an obligation for governments to provide services to citizens in exchange for their loyalty. This is also offered as an argument for expanding the protections of the welfare state.<sup>4</sup> Leaders of anti-colonial and Indigenous rights movements around the world use concepts that amount to the social contract, by any other name, to argue for the reorganization of power in their societies. Significantly, it has formed the basis for the idea of the welfare state, arguing that the swathe of public services offered by the government encouraged civic commitment to the state. And in ethics and philosophy the

idea of a social contract is used as an explainer for public morality generally.<sup>5</sup> Each of these ideas contains a kernel of what the social contract is and represents. This paper cannot fully capture all the directions that social contract theory has taken, but to return to the basics as a starting point for holistic policy discussions about building back better following the current global crisis.

In its simplest form, the concept of a social contract is the expectation of protection and service provision for states in exchange for consent to be governed from the people. But the idea of a social contract is also central to answering the question of what governments are for or for explaining why people obey laws, providing answers to why we live in societies and why we abide by social rules and norms. For Pathfinders, the idea of a social contract is central to our redistribution and recognition framework.<sup>6</sup> Specifically, redistribution is about justice in the allocation of material goods to members of the society, as well as putting systems in place that make sure that living in society is ultimately more beneficial for citizens and living in organized international society is more beneficial to countries, rather than harmful to them. The social contract offers a philosophical principle for turning calls for redistribution into social norms. Moreover, the recognition framework sets out the importance of belonging in defining an active citizenry. It answers the question “why” for the broad range of policy proposals we put together to encourage states to advance specific activities. This document offers a survey of some key theories of the social contract, distilling some of their core propositions to map a way to building back better by restoring and renewing these commitments.

For policy makers, the idea of a social contract is urgent to understanding many of the lines of fracture that have emerged in disparate societies around the world. The global rise of protest, the rise of civil war and unrest, resistance to public health initiatives, the collapse of welfare states around the world, the spike in international migration and mobility—all of these are indicators that the fundamentals of social organization are under threat. Moreover, the COVID-19 pandemic has brought the international social order under heightened circumstances. Essentially, rather than aggregate every aspect of social contract theory, the paper will gather some of the more salient ones as a starting point for a conversation on the social contract of the future.

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## 4. Classical Theories of the Social Contract

The label social contract is explicitly used by a handful of Western philosophers, but similar concepts exist in various societies around the world. In Western philosophy, the idea of a social contract is generally attributed to seventeenth- and eighteenth-century philosophers like Jean-Jacques Rousseau, Thomas Hobbes, and John Locke, all of whom used various formulations of this starting point to make the argument that living in society is only good for the individual as long as the society and its leaders provide public goods and services that the individual cannot otherwise secure alone. Other key thinkers have referred to the social contract to critique it, including Marx and Engels who felt that the works of Rousseau, Hobbes, and Locke did not go far enough to address disparities of class.<sup>7</sup> After all, a person can only cede rights to the states if they have rights within that state's context, and even in the ideal Greek city-state "democracy" meant participation of land-owning male elite. The plight of women, the enslaved, children, and persons with disabilities were barely considered in these analyses, except for Rousseau who considered slavery odious and a blight on humanity. Still, the social contract has emerged as a powerful tool for expanding the idea of rights to these groups, and many of those who criticize the idea don't suggest that it shouldn't exist; only that it should be applied to everyone equally. These philosophers were writing during periods of great republican upheavals in Europe's larger monarchies and European expansion abroad, trying to find a way to justify social organizations without an all-monarch representing a god on this side of the eternal. The social contract in this sense was therefore writing against the divine right to rule as the complete and unchallenged answer to why people should live under a specific system of government.

### 4.1 Hobbes, Locke, and Rousseau

Writing in 1650, Thomas Hobbes believed that the point of a social contract was to reduce unnecessary competition between people for scarce resources. "If two men desire the same thing," he wrote "which nevertheless they cannot both enjoy, they become enemies; and... endeavor to destroy or subdue one another."<sup>8</sup> The basic idea is that there are limited quantities of everything—from natural resources, to labor, and to man-made materials. We all therefore exist in the world in competition for these scarce resources by default and enter into a social contract to minimize this competition as it ultimately harms the society by unnecessarily causing harm to members of the species. The social contract according to Hobbes is voluntary, and beneficial to all who enter it at the very least for avoiding death.<sup>9</sup> Therefore, we enter a social contract because it is good for the survival of humanity.

The basis of the contract is this voluntary transfer of rights between various parties, including the state, and without it there is no social contract. This consent can either be explicit or tacit, but any abuse of the public faith by the state and the leader invalidates the social contract.<sup>10</sup> This definition hinges on the idea that individuals must be made better off by being part of the society than existing outside it and maintain a freedom to exit a social contract if it is no longer beneficial to them. In the modern era, one such example is the growing global constraints on migration and refugees directly violating the idea that individuals have a right to withdraw their participation in a social contract that no longer guarantees their survival or protection. In

cases where people feel like their society is failing them, they should in theory be able to leave and seek that protection elsewhere.

John Locke, writing in 1690, more or less agreed with Hobbes except that his definition of the social contract hinged on the idea of property rights. For Locke, the right to own and dispose of property preceded any rights that came from the social contract: “the labor of his body, and the work of his hands, we may say, are properly his.”<sup>11</sup> But Locke also put more emphasis on the idea of consent as the key principle that creates a social contract important enough to “put an end to the state of nature between men.”<sup>12</sup> Without consent to be governed a social compact isn’t enough to justify the existence of a body politic or a society, and governance by compulsion still exists within that state of endless competition and cycles of retribution that characterizes the state of nature.

Published in 1762, Rousseau is often cited as the first to deal extensively with the idea of the social contract. For him the “social order is a sacred right that is the basis of all other rights.”<sup>13</sup> Rousseau bridges the gap between Locke and Hobbes in saying that the point of the social compact is to protect both people and their goods, while maintaining their personal freedoms.<sup>14</sup> “The first and most important rule of government is to follow the general will.”<sup>15</sup> The social contract is both tacit and explicit, but it is binding and any modifications of the term of the contract invalidates the entire contract and allows people to pursue their natural liberty, even if it means losing their conventional liberty within the contract.<sup>16</sup> Rousseau’s biggest shortcoming is in his treatment of “The Other”—his treatment of slavery and the rights of women are both wanting in the modern era—and therefore he doesn’t seem to comprehend social constraints on the ability to practice freedom.

Thus, a crucial pillar of existing within organized societies is that the collective will of the society is more important than the individual will of the ruler or even individuals who live within that society (i.e., the particular will).<sup>17</sup> This might seem obvious from a theoretical perspective, but in practical terms as societies become more deliberative and more platforms are created for political expression, there are more places where opinions are expressed that might stand for the general will. Is the general will expressed in elections if those elections are compromised by external interference or by foreign capital? Is protest the general will if it comprises a small group of civil society members who dare to speak out against an authoritarian regime? Where do we find the general will in the digital age when researchers argue conclusively that our political expressions online may not actually directly mirror our real preferences?

But a second crucial principle in Rousseau’s social contracts is the centrality of morality in rule making, or as he calls it “bringing all the particular wills in conformity with the general will.”<sup>18</sup> For Rousseau, good governance is inseparable from “the law of duty,” and that “nothing can take the place of morality in the place of government.”<sup>19</sup> Without a doubt, the question of morality has been contorted in contemporary political discourse as it has become so intertwined with specific forms of religious expression including secularism, and with that, debates about the place of religious practice in public life. Yet the appeal of a social contract is to create a framework for morality that isn’t dependent on religion, but on the obligations between a citizen and their state. For Rousseau, the burden of morality falls more on the leaders of the society rather than on the citizen, not just to deliver public goods, but also to invite citizens to “love their duty” of participating in the society.<sup>20</sup> This means creating conditions in which participation in civic life is done voluntarily and even joyfully, rather than

with compulsion and suspicion. The moral obligations of the leader or of the state don't just stop at providing public goods but extend into doing it fairly and inclusively.

Thus, the fundamental pillars of social contract theory in the Western philosophical tradition are:

1. There is a general will and a private will. The former is what is commonly expressed as the will of the people, while the private will is the individual will. A social contract works to align the general will to the individual will so that as far as possible living in a society helps people achieve their individual goals or aspirations.
2. There is a qualitative difference between the sovereign and the government, and more importantly, the moral demands on the sovereign cannot be diluted by the idea that the government cannot be wrong. Essentially, the structure of government is separate to the identity of the leader, and citizens enter a social contract with the government and not with the leader as an individual. The sovereign merely represents the government, and the social contract creates a moral obligation on the sovereign to act with the survival and best interests of the body politic.
3. Life in a body politic is an interplay between freedom and authority, meaning that individuals give up their freedom and subject themselves to the authority of a government but only as long as that authority doesn't infringe on their fundamental freedoms. Extending authority in a way that infringes on the freedom of the individual so as to cause them harm—in a way that makes more sense for them to live outside the body politic than within it—is a violation of the explicit and tacit terms of the social contract.
4. That the social contract is one of consent—without consent to be governed a social contract is invalid. Individuals must willingly enter into organized society, but this willingness can be expressed actively (e.g., by taking up citizenship) or passively (e.g., by failing to resist the laws of the land).

#### 4.2 Classical social contract theory outside the Western tradition

Thinkers from other parts of the world have also thought critically about the social contract even if they have not explicitly labelled it as such. Within Islamic thought, the Medina Charter of 622 is arguably the first instance of constitutional law in society, outlining how relations between various groups were to be organized in order to ensure the survival of the city of Medina.<sup>21</sup> The idea was that equal social and political rights for different groups would allow all the residents of the city to unite in defense 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 emphasized in the continuing emphasis on the moral conduct of political leaders.

The concepts from the Medina Charter exist in subsequent frameworks of Islamic political theory. During the Arab spring, protesters notably chanted “*madaniya*” to mean “civilian rule.” The word *madaniya* has a long history in Islamic political theory first articulated in the 9<sup>th</sup> century by Abu nasr al-Farabi, known by his Latinised name Al-Farabius. His commentaries on the works of Aristotle and Plato are well recorded although some of it is lost to history, including his commentary on Aristotle's Nicomachean Ethics. In his seminal work *al-Siyasa al-Madaniya*, Al-Farabi explores the ideal relation between the citizen and state in a model town, beginning with the hypothetical of a morally and intellectually perfect sovereign.<sup>22</sup> The most important value in this framework is reason—that the sovereign must be guided by rational thought rather than passions—with the goal of protecting citizens.<sup>23</sup>



Notably, Al-Farabi is not challenging the idea of a monarchy, unlike his Western compatriots. Rather he is interested in the moral and intellectual qualities that make up a good monarch. 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.

*Madaniya* became a rallying cry for the Arab Spring in the 2010s because of the presence of the military in public life across the Middle East and parts of Africa. In Islamic political thought “*dawla madaniya*” is the opposite of a theocratic or a military state and is one that is governed by civic participation even if the form of the government may implicate a monarch.<sup>24</sup> The idea is that the social contract is fundamentally a relationship between the sovereign, the state, and citizens, and any forces that tilt the balance of power in public life away from citizens and towards the state or the sovereign unfairly undermines the integrity of the body politic or society. Each of these elements of society has a key role to play in achieving the ultimate goal of a society—the welfare of the citizens. This in some ways relates to the idea of the social contract as the provision of welfare.

Contemporary definitions of *madaniya* include a democratic state where a leader governs in consultation with the public,<sup>25</sup> and as such the concept of the civic state is embedded in the post-revolution constitution in Tunisia.<sup>26</sup> The Arab Spring began in Tunisia after growing realization that the presence of the military in public life had made the sovereign nearly untouchable, even though he was no longer acting in the interests of the citizens. The post-revolution constitution protects the idea of *madaniya* or civilian rule as a demand for restoring balance of power between citizens, their government, and their leaders. Within this theoretical framework, the social contract is one where citizens must be able to freely participate in public life and to examine the moral character of the sovereign freely. Like Sen, the focus is on the outcomes of the social contract, not just its form.

In China, the “mandate of heaven (eleventh century BCE) and Confucian social theory, (sixth to fifth century BCE) are also grounded in ethical rather than legalistic ideas of obligation. Confucianism emphasizes 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.”<sup>27</sup> However, obligations go beyond moral ones. Mencius’ (fourth 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.”<sup>28</sup> Chinese political theory around the “mandate of heaven” has two notable differences from the European “divine right of kings,” against which Hobbes, Locke, and Rousseau were writing: 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.<sup>29</sup> Because just rulers are a product of a cosmic will that orders the world towards the prosperity of people, any leader who is overthrown or rejected by the people has lost the “mandate of heaven.”<sup>30</sup>

In India, two formative theories of the origin of the state are found in the Mahabharata (composite authors, fourth to ninth century BCE) and the Digha Nikaya (third to second century 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: as well as an element of hereditary kinship.<sup>31</sup> Sarkar argues that the Mahabharata’s broad concern with a non-state being absorbed by a larger state (the logic of

the fish) also provides an imperative for states to seek out social contracts for their own survival.<sup>32</sup> In contrast, the Digha Nikaya describes an originating act for a republican state whereby people agree to elect one of themselves as the “Mahasammata,” or grand elect.<sup>33</sup> 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.<sup>34</sup> The Digha Nikaya emphasizes 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, 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. The first written accounts of a type of social contract begin in the Middle Ages, where Ibero-American thinkers including Alonso de la Vera Cruz (ca. 1504–84) composed the first fully philosophical treatises in Latin America.<sup>35</sup> At the same time, Latin America produced probably amongst the first thinkers to explicitly raise questions on the status of women such as Sor Juana Inés de la Cruz (1651–1695).<sup>36</sup> The next period of Latin American thinkers was dominated by theorists of anti-colonialism and independence like 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 Bolívar says: “We are not Europeans; we are not Indians; we are but a mixed species of aborigines and Spaniards.”<sup>37</sup>

Pre-written African political theory also contains accounts of a social contract, increasingly catalogued using anthropology and sociology as entry points. VY Mudimbe is one of the leading figures of African ethnophilosophy and has written extensively about African philosophical ideas of personhood and social responsibility. The Bantu language family is the largest language family in Africa, comprising thousands of languages across much of Africa south of the Sahara. Many scholars have used the study of language as an entry point for understanding what people think about individual and social behavior, and Mudimbe unites these theories in his work on African philosophy. For example, almost all Bantu languages use variations of the root word ‘*ntu*’ to refer to being, where in Kiswahili *mtu* is a person, *kitu* is a thing, and *mti* is a tree. Mudimbe builds on these theories of being to argue that within these societies being is more profound than the Western concept of *cogito* (‘to be rational’, or ‘to think’), and that there is a life force that exists in non-rational living things that is echoed in human beings that is also critical to understanding social structures.<sup>38</sup> Basically, Western philosophy focuses on human beings because of our ability to reason, but these societies believe that social order is about more than people in order to build a truly just society. This theory recognizes that human have a special capacity because of their ability to reason, but this capacity mainly gives us a responsibility to protect beings that do not have that capacity for reason. As set out by Alex Kagame on whose work Mudimbe builds upon, the responsibility on humans is “we are *to know* beings around us in order to know what is good or bad; and we are *to love* how or what is good and avoid what is bad for us.”<sup>39</sup>

What this means is that that our ideas of relation or value must include the natural environment and not just people in order to create social contracts that benefit the entire planet. The ‘*ntu*’ force that flows through all living things unites them in a social order over which human beings with the capacity to reason are custodians. Everything that has life is part of the social order, and a truly inclusive social contract must account for everything that has

life. 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. It also especially challenges the idea of the supremacy of property contained in the Western tradition, that owning things claimed from the natural environment confers additional natural rights to the property owners. We don't own nature, we merely take care of it for ourselves and for future generations, and so whatever social contracts we describe are incomplete if they don't account for these obligations.

### 4.3 Some contemporary approaches to the social contract

Social contract theory has been the basis for various theories on governance and political organization—it is impossible to do justice to the global breadth and depth of the directions the theory has taken since it was first proposed. However, it is possible to identify exemplary figures working in various academic traditions who have significantly developed social contract theory.

Within the Western philosophical tradition, John Rawls is credited with extending the principle into theories of law by his theory of justice.<sup>40</sup> Rawls argues that the idea of justice flows from the social contract because the contract defines the limits of acceptable behavior within a society, and therefore anything that exceeds those limits is by definition unjust.<sup>41</sup> Rawls begins his theory with the idea that all people are equal independently of the constructed inequalities that come from wealth or opportunities, and so the original position is concerned mostly with the most fundamental issues of human existence, rather than secondary issues.<sup>42</sup> For him, using this original position to determine primary principles of justice leaves us in a better position to determine secondary principles of justice, which are just as long as they are consistent with the primary principles. The fundamental theory is fairness premised on equal opportunity and liberty, deepening Rousseau's idea that individuals maintain personal liberty even within the social contract.

*“You cannot give up all your personal liberty to the state because that is antithetical to the idea of being alive, and a law or a principle is just only if it does not violate these primary principles.”*

The social contract is therefore the principles that would be agreed upon unanimously by everyone in a society in this original position.

David Gauthier's analysis of the social contract makes it clear that the theory is grounded in the Western philosophical tradition.<sup>43</sup> These are societies in which individualism trumps collectivism as a basis for social action, and so the social contract is something that can be entered into and opted out of only at an individual level.<sup>44</sup> For Gauthier, the idea of a social contract is to provide the rationale for the relationships that exist between states and citizens rather than the existence of an actual descriptions of the relationship.<sup>45</sup> Gauthier is telling us that, the idea of a social contract is only one of the many reasons why we live in society, but there are other considerations too, especially collective ones that are passed on from generation to generation. We may abide by social norms simply because our parents teach them to us, not because we understand or even agree with them. And this process of living in a society changes us too—many people who migrate between one society into another may change their position on some things that they previously thought were fundamental. Being human. Norms change, values evolve, and a social contract does not exist in stasis. “Thus, man is social because he is human, not human because he is social,”<sup>46</sup> and we must make room in our analysis for forces like patriotism and fear that may produce the same outcome as the idea

of a contract. The “social” is just as important an element of the formulation as the “contract” part.

Rawls is the main inspiration for one of the foremost thinkers of the global South, Amartya Sen. Basing most of his theories on his work in India, Sen’s work is an invitation to move away from formal institutions and focus on what informal behavior reveals about the social contract. His seminal work “The Idea of Justice” begins with the Sanskrit concepts of *niti* and *nyaya* which both translate into justice but the former deals with organizations and behavioral correctness, while the latter looks more broadly on “realized justice.”<sup>47</sup> *Niti* deals more with inputs, and *nyaya* with outcomes, and allows for room to think about what happens when a society has just institutions that produce unjust outcomes? What happens for example when courts that otherwise produce sound judgments endorse slavery or gender inequality? What happens when institutions cannot produce justice for everyone? It is noteworthy that unlike Rousseau, Locke, Hobbes, and even Rawls who begin their analysis of the social contract with the positionality of the white man in the West, Sen begins with the Indian woman—his grandmother—in India. His central referent object is different, and this shifts his ideas on where the social contract is executed and therefore where justice happens. Sen considers *nyaya* or human justice to be just as valid as building strong institutions that deliver organizational justice.<sup>48</sup> A social contract must therefore also be evaluated on the basis of what it delivers, not just on what it promises or creates.

Sen’s work on justice expands not only the application of social contract theory, but also possible origins or starting points for a more inclusive way of thinking about social contracts. He reminds that drawing from narrow philosophical pools or theories of knowledge can rob human thinking of more inclusive ways of thinking about what government is for. Western political philosophy cannot be separated from its context: it was primarily being propagated by wealthy, powerful male members of society who were writing against monarchical rule but failing to see how secondary social structures that flowed from that monarchical rule could affect people with less social capital. Women, children, the enslaved, foreigners, exiles, and other groups that are abstracted from power by virtue of their identity or socio-economic condition all get either deliberately or tacitly excluded from these theoretical frameworks, resulting in theories of contract that are focused on building strong structures and hoping that the benefits of such strong structures will organically flow to everyone. Sen reminds us that this almost never happens, and that a good social contract is one that sees those with augmented or diminished capacity to even enter a social contract with power in the first place and thinks through what the contract looks like from their perspective.

Sen is still undoubtedly working in the Western tradition, building on the work of Rawls who in turn is building from the work of Rousseau. Yet, in other parts of the world, alternative ways of thinking about the relationship between the citizen, their government, and the state exist, many of which do the work that Sen begins of shifting the focus of the analysis away from those who have power to those who don’t. Africa’s struggle for independence for instance produced a raft of critical analysis on the relationship between the citizen and the state—both colonial and post-colonial. Frantz Fanon’s seminal essay “Concerning Violence” in his treatise ‘The Wretched of the Earth’ outlines how violence was the key organizing principle of the colonial state but had no place in independent Africa. “What counts today,” he writes, “is the need for redistribution of wealth. Humanity must reply to this question or be shaken to pieces by it.”<sup>49</sup> Fanon argued that Africa’s post-colonial states must not be defined by the violent

racism and inherent inequality of the colonial state but must, on attaining independence, make equality their central organizing principle.

Like Fanon, African leaders like Thomas Sankara and Amilcar Cabral provided both theoretical and practical leadership in Africa's independence movement, fighting physically and ideationally for a new social contract in independent Africa. Cabral's philosophies were grounded in prioritizing the practical needs of the people. "Do not confuse the reality you live in with the ideas in your head," he famously admonished, urging a social organization in independent Lusophone Africa that valued Indigenous knowledge and experience while creating avenues for African people to benefit from developments elsewhere. Cabral and Sankara also stand out for their emphasis on the role of women in building a just and inclusive independent Africa. Sankara noted that historically women had been excluded from power—'relegated to the ranks of beast of burden'—but he reminded that the political revolution would fail without equality for all the oppressed. "The revolution and women's liberation go together," he said, "we do not talk of women's emancipation as an act of charity or out of a surge of human compassion. It is a basic necessity for the revolution to triumph. Women hold up the other half of the sky."<sup>50</sup>

It is worth noting that there are several neoclassical political theories of social relation in the global South that emphasize the collective over the individual as the primary unit for political action. The Kenyan philosophy of *harambee* which is the country's national philosophy is translated as "let us pull together" and emphasizes the collective responsibility to shape the destiny of the political unit.<sup>51</sup> In Indonesia, the concept of *Gotong Royong* is translated as "mutual assistance" and also emphasizes that within the idealized Indonesian social contract individuals have obligations towards each other.<sup>52</sup> Both these concepts broaden out the idea of a social contract to include the relationship between individuals within a community, even without the presence of a leader.

This notion of separating provision of public welfare from the character of the state finds echoes in the Latin American approach to the social contract, which is underpinned by a history of revolution and counter-revolution framed around a tension between consolidation of power in the presidency and addressing citizen demands. Enrique Krauze writes about the period of reconstruction in Mexico in the 1920s as a period of tremendous reform following the passage of a new constitution in 1917.<sup>53</sup> This provision of wide-ranging social benefits renewed public confidence in the revolutionary leadership, but as with many other South American countries, domestic policies faced intense imperial pressure from the United States.<sup>54</sup> Indeed, maintaining a social contract in the shadow of imperialism is a major theoretical concern for thinkers in Latin America where the ideological relationship to the US influences the construction of domestic political systems either for the better or the worse.

Meanwhile, the reorganization of public life away from an all-powerful sovereign is a major concern for those engaging with social contract research in Asia. Providing public goods was a major pillar in efforts to dismantle the imperial state across Asia, and these efforts involved remaking the social contract as one between the citizen and the government, as opposed to living under a benevolent sovereign. Thus, Jafar Suryomenggolo uses the reform of labor and the introduction of trade unions as an entry point to evaluating Indonesia's departure from monarchical and one-party rule towards democracy.<sup>55</sup> Sang-Young Park also documents the rise of the welfare state in South Korea between the 1960s and 1980s as a major moment of renewal for the social contract there, focusing on how egalitarian approaches to education as a

public good fostered broader allegiance to the state.<sup>56</sup> Both of these approaches focus on how public goods can reorganize the social order and move towards a more discursive public sphere.

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 organization must be identical. Rather, the validity of the social contract is also on its outcomes, particularly for those who are removed from power. The social order that flows from a social contract must enhance the lives of those who participate in a specific body politic and must protect their ability to participate and to criticize those who govern. Any actions that unfairly tilt the balance of power away from citizens and towards the sovereign by circumventing these rights necessarily undermines the validity of the social contract.

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## 5. The Social Contract in Contemporary Political Theory

**S**ocial contract theory remains vitally important as an entry point for understanding the relationship between individuals, their communities and their leaders. More than just the form of government, the social contract is about the spirit in which governance is conducted. Even so, classical social contract theory contains many limitations within it, notably that it is centered on the experiences of men, and specifically the experiences of men in proximity to power. It presumes certain characteristics within the individual that simply do not hold in heterogenous societies: that they have voice, power, and an ability to understand, and articulate their demands towards the state. Still, it remains foundational and even without a formal theory of a social contract, it is possible to discern instances where the contract is reinforced or undermined, with some examples provided below.

### 5.1 Elections as a renewal of the social contract

In his writings on the social contract, Rousseau argued that there has never been a true democracy, but that the process of deliberation between the citizen and the state is a crucial element of a meaningful social contract and working towards this ideal.<sup>57</sup> Healthy deliberation between the individual and their government—the ability to speak, be heard, and influence behavior in both directions—is the true measure of democracy? Voting is merely one way of conducting this deliberation, but it is an important one—a way to measure the unanimity or the extent of agreement within the body politic. According to Rousseau the more unanimity the more the outcome of the election represents the general will.<sup>58</sup> It’s important to remember that Rousseau was writing at a time when voting wasn’t a universal activity, and this was a time when “democracy” generally referred to opportunities for men who owned land. An election that shows a body politic that is too divided to come to a consensus is broken: but so too is one that consistently delivers unanimity which shows the citizens have “fallen into servitude, have lost both liberty and will.”<sup>59</sup> Similarly, the majority that wins an election must also be acting of their own individual free will: “when they cease to do so, whatever side a man may take, liberty is no longer possible.”<sup>60</sup>

In recent years, voting has become equated with elections. The idea of democracy has been reduced to conducting regular elections even if those elections do not necessarily represent meaningful deliberation. The examples of performative elections that neither represent the will nor the interests of the individual and the society are almost impossible to count. In August 2019, the secretary-general of the United Nations (UN) issued a report on “Strengthening the role of the United Nations in enhancing the effectiveness of the principle of periodic and genuine elections and the promotion of democratization.”<sup>61</sup> The report noted that while elections remained “compelling and effective ways for citizens to participate in their countries’ political processes and have their voices heard” in several instances they struggled “in carrying out a free and genuine process in which human rights and political processes were protected for all. The result at times was violence and loss of life.”<sup>62</sup> Several countries are routinely delivering plebiscites of 98 percent of all votes counted, defying both mathematics

and the principle that unanimity is not a universal good.<sup>63</sup> Coercion of the majority has become easier with the rise of digital tools that allow for widespread manipulation of political opinion.<sup>64</sup> Mass protest against election outcomes have happened in the last two election cycles in the US, as well as in countries like Belarus, Zimbabwe, Brazil, and numerous other countries.<sup>65</sup> Elections are no longer reliable bell-weathers of the general will but instead have become vulnerable to manipulation, intimidation, and obfuscation.<sup>66</sup> The flattening out of public deliberation to just elections is perversely undermining the social contract.

And the link between elections and the social contract is made even more tenuous when the standards for elections are compromised by those overseeing them. In contemporary practice, the standards for a deliberative election that strengthens the social contract are often summarized in the principles of “free and fair” as set out in the 1994 UN Declaration on Criteria for Free and Fair elections.<sup>67</sup> From a social contract perspective, the idea is that everyone consents to the public deliberation and is fully aware of its implications as the main way through which the social contract is renewed. This makes elections deeply important to maintaining the social contract. Yet recently electoral observation has come under fire for signing off on elections that citizens and local civil society argue were not free, fair, or transparent. For example, in the 2017 Kenyan elections, observers signed off on an election that was overturned by the Supreme Court for failing to reach the standards of “free, fair, and transparent” as enshrined in the Kenya constitution.<sup>68</sup> Research shows that election observation missions around the world tend to focus disproportionately on the election day rather than on events leading up to and away from the election, thereby skewing the idea of what makes democracy work disproportionately towards the measures of a successful election day.<sup>69</sup> In Africa especially, election observation missions have been criticized for endorsing power grabs and ignoring significant evidence of malpractice by officials in support of the incumbent.<sup>70</sup> 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.

## 5.2 Exit, voice, loyalty

“Exit, Voice, or Loyalty” is a concept that was developed in 1970 as a theory of how organizations behave.<sup>71</sup> Since then, 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.<sup>72</sup> 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; and loyalty is reflected in the decision to stay without resistance.

According to the International Organization for Migration (IOM), there are 280.6 million international migrants around the world of whom approximately 20.6 million are refugees, the highest number in the last thirty years.<sup>73</sup> The Internal Displacement Monitoring Centre puts the number of internally displaced persons at 50.8 million at the end of 2019.<sup>74</sup> These statistics bear truth to the argument that even though there are more people in the world than ever, there are also more people on the move than ever before in recorded history. IOM recognizes four types of migration—child and young migrants, labor migration, forced migration and displacement, and return migration—but notes that in coming years, with the growing threat of climate change, climate induced migration will also rise.<sup>75</sup> The failure to manage the climate



change crisis is a breach of the duty to protect the rights and the interests of the citizen within the context of the social contract. There are therefore growing concerns that ‘exit’ will become an ever more necessary recourse for people around the world.

Civil war is another face of the breakdown of a social contract and is the main trigger for exit is conflict. According to the Council on Foreign Relations’ conflict tracker, there are twenty-six active conflicts in the world at the beginning of 2021 spread across all continents except Europe, of which eight are worsening.<sup>76</sup> Civil war represents a rupture of the social contract because it indicates a lack of faith that the sovereign or government is still acting in the interests of large swathes of the population. Conflict represents vocal expressions of dissatisfaction with the state of the social contract—a recourse to disruption as a method for conveying dissatisfaction with how discontent is handled within the polity.

Protest is also on the rise around the world, even though trackers like these do not include escalating political tensions in countries like Belarus where armed reprisals against protesters amount to a heightened form of civil discontent. The global emergence of the Black Lives Matter protest movement signifies that racial discrimination and racist violence remains pervasive in societies around the world in a social and political order whose central organizing theories did not necessarily take the life experience of black people into consideration at inception.<sup>77</sup> Indeed, racism, misogyny, and other forms of systemic exclusion are a reminder of the limits of social contract theory—when we idealize theories of political organization without taking into account who they do not see, we risk overlooking the concerns of large swathes of the society until protest is the only option left. The rise of protests against various forms of racism in the United States for instance is an expression with frustration at institutions that have refused to acknowledge the pervasive and various manifestations of racial inequality within the state system.<sup>78</sup>

Some analysts argue that the current wave of global protest represents a more fundamental discontent with the social system than responses to specific grievances.<sup>79</sup> Global political grievances on inequality and exclusion have also been exacerbated by the COVID-19 pandemic which has laid bare numerous structural inequalities created or exacerbated by race, as well as triggered racial animus against the country’s Asian population.<sup>80</sup>

### 5.3 The welfare state

Beginning in the 1930s, several economies in the world engaged in a swathe of social and political reforms to increase public service provision with the idea that spending on public welfare would fuel the transformation of imperial agricultural and mercantilist societies into modern industrial states. In the United States this wave of public investment was labelled a New Deal,<sup>81</sup> a label that many modern states apply to their own initiatives in this direction. The immediate trigger of the New Deal was the Great Depression which created significant social and economic upheaval and invited a re-evaluation of the mercantilist, agriculturalist approach to the society.<sup>82</sup> This was the germ of the welfare state that further surged in popularity after the Second World War, when countries in Europe needed significant investments to grow. The idea is that significant public investments in infrastructure and social welfare would provide a social safety net for the most vulnerable in society and stimulate private spending which would in turn stimulate the economy. The success of the New Deal in rebuilding the US economy and turning it into the largest economy in the world in part explains why the idea of a social contract has been distilled to the notion of providing public

goods. In the modern age, South Korea has embraced A Green New Deal as a framework for reconstruction following the COVID-19 pandemic, and not only includes a promise for public investment in the environment but also in digital technology.<sup>83</sup>

#### 5.4 The quest for independence in the global south

Although Latin American countries nominally achieved independence from Spain and Portugal as early as the seventeenth century, most of the Global South remained under imperialist control until the twentieth century. After the end of the Second World War, countries in Africa and Asia began concerted efforts to end colonization by European empires through armed resistance and through peaceful resistance. 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 organization. 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.<sup>84</sup> As mentioned, 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 Decolonization" is a manual for independent Africa to strengthen the social contract that includes demands for public welfare and political participation of women.

#### 5.5 The rights of Indigenous peoples

The rights of Indigenous peoples also provide a moment for evaluating the validity of the various social contracts that exist or that are idealized in political theory. Most of the classical theories outlined here were developed in a moment of conquest and imperialism, and thus did not necessarily see Indigenous people as parties to the social contracts of imperial nations like France or England. In Mexico, the Zapatista movement began as an effort to demand equality for Mexico's Indigenous people and has succeeded in placing indigenous rights at the center of the country's political agenda, even while more broadly challenging the politics of neoliberalism.<sup>85</sup> Similarly, several pivotal moments South Africa's anti-apartheid movement also centered around the social and political rights of the black majority. For instance, the Soweto Uprising of 1976 began as a student resistance to the prohibition on teaching African languages in South African schools.<sup>86</sup> In independent South Africa, the uprising is not only marked as the Day of the African Child on June 16, but also with a language policy that recognized eleven national languages and permits children to receive their education in indigenous African languages.

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## 6. The Challenges of the Present: The Social Contract Across Boundaries and Across Time

The world has changed a great deal from the time that the classical social contract theories were written, significantly that more challenges that affect civilians originate from and are resolved at the international level. The original social contract theory was about the idea of government but was written before the idea of international government which really came into its stride in the twentieth century. When a government or a sovereign claim to act in the interests of their citizens at the international level it implicates the citizen's personal freedom and their consent to be governed particularly when those actions are against their individual interest (e.g., declarations of war). This not only raises the stakes for the domestic social contract but invites an analysis of the transnational social contract—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.

Three contemporary challenges highlight the growing urgency of this analysis. One is the global refugee challenge that as previously mentioned has left almost 29 million people around the world seeking safety outside their countries of origin. At several key borders around the world, many of these refugees are abandoned by the state they are seeking to enter—either abandoned at sea, corralled in cages, or held indefinitely in increasingly inhospitable offshore detention centers. The Global Compact for Refugees, agreed upon in 2018 was supposed to represent an international response to this growing challenge, setting in place new standards for human rights and transnational action. The key objectives of the document are to ease burdens on host countries, enhance self-reliance of refugees, expand access to third country solutions, and support conditions in countries of origin for return in safety and dignity.<sup>87</sup> At the core of the document is an effort to resolve the question: who has the responsibility for citizens who opt out of the social contract with their countries of origin?

The Compact represents agreement that there is a collective responsibility for this situation—countries of origin, of entry, and even third countries have obligations for refugees. Yet perhaps because of this expansive definition of obligations, many powerful countries criticized the compact.<sup>88</sup> Notably, the US under Donald Trump argued that the compact interfered with the US's capacity to govern its own asylum policy. At the same time, some critics argue that the compact does not go far enough to address the responsibilities of the country of origin that broke the social contract that led to the refugee exodus in the first place. Some argue that by framing refugees as an economic benefit rather than human beings who deserve protection from the worst of conflict, the Global Compact of Refugees undermines the value of human beings.<sup>89</sup> Others still have argued that the compact does not go far enough to challenge wealthy countries to make room for refugees from poorer parts of the world, leaving neighboring poor countries carrying the bulk of the responsibility.<sup>90</sup> Thus, 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? Countries can indeed offer and withdraw their consent to these international social contracts, but what about individuals?

A second challenge that emphasizes the complexity of transnational challenges to the idea of a social contract is the COVID-19 pandemic. Beginning in China in 2020 and culminating in a near global shutdown through 2020, at the time of writing over 2.8 million people around the world had died from the novel coronavirus<sup>91</sup>. Entire sectors of the world economy including travel and tourism shut down as national and regional lockdowns became the preferred method of controlling movement to contain the disease. Moreover, health systems around the world struggled with the nearly seventy-five million cases that were recorded to date, placing strains on ICU units and public health systems even in the wealthiest countries. The COVID-19 pandemic is in many ways the most urgent and complete challenge to the logic of both a domestic and an international social contract.<sup>92</sup>

National responses to the coronavirus have varied but all are united by the central question of urging policy makers to re-evaluate what government is for. In some countries, governments used disproportionate force from the police as part of their containment measures, resulting in unnecessary deaths and violence against civilians.<sup>93</sup> Some countries have seen protests against mandatory mask mandates and the intensity and duration of the lockdown measures.<sup>94</sup> Meanwhile, at the international level, the United States led perhaps the most visible resistance to the World Health Organizations' oversight into the global pandemic response culminating in withdrawing from the organization and defunding it.<sup>95</sup>

The COVID-19 pandemic is yet another reminder 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. The decision to avoid lockdowns until the last minute arguably allowed the disease to spread internationally at a rapid pace, while poor policy responses in countries like Brazil<sup>96</sup> and Tanzania<sup>97</sup> have culminated in the emergence of new strains of the disease that threaten to evade current systems of surveillance and containment. Slow action by countries based on the personal beliefs of national and regional leaders have allowed the situation to fester and compounded the global threat.

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. In New Zealand, early action to contain the disease involved not just technical and scientific capacity, but also financial support for vulnerable members of the society to stem the impact of a lockdown<sup>98</sup>—including foreigners affected by the border shutdown—and technical support to neighboring countries in order to prevent a regional outbreak.<sup>99</sup> The government recognized that lockdowns and mandatory quarantines were a breach of some aspects of the social contract but tilted the balance of power back towards citizens by providing material support in grants and subsidies,<sup>100</sup> as well as intangible support by opening the channels of communication between citizens and states even more broadly than in normal time. Prime Minister Jacinda Adern routinely provided informal briefings on the progress of the national governments' responses through social media channels even though in regular periods it is not her preferred method of communication.<sup>101</sup> The case of New Zealand emphasizes the idea that a social contract can be amended to respond to emergencies, but that where possible these amendments should still somehow maintain a balance of power between the state, citizens, and their sovereign, rather than tilt power dramatically away from citizens with no time constraints.

The third challenge concerns climate change which concerns the task of building a social contract that represents the interests of future generations. Within public policy frameworks, and indeed in reality, it is a well-established argument that climate change imposes costs on both current and future generations.<sup>102</sup> The natural environment is a global public good that cannot be contained by national boundaries and individuals may be affected by national policies that they had no hand in developing. Climate change therefore raises the question of collective responsibility. The idea of the “tragedy of the commons” captures this challenge well when the pursuit of individual use of the natural environment fuels misuse of the collective or open access resources.<sup>103</sup> For example, while coal plants might make electricity more affordable in poor countries its short term and long-term effects on the environment and public health mean that they undermine the state’s obligations to protect the citizen from harm.

But these are not issues that can only be solved by individual action. They also require collective coordination of citizens and states and requires future thinking action that sees consequences beyond the present. Climate change also implicates the question of the general will identified by Rousseau—the public is divided between those who are alarmed by the threat and want to work on it urgently, those who are not fully aware of the contours of the problems, and those who deny the size and scope of the issue.<sup>104</sup> Can there be coordinated collective action if some people don’t understand the problem at all and if many don’t believe that there is a problem to begin with? These differences in position mean that there is no consensus on what the problem is and what can be done, and this limits channels for deliberation. International avenues for deliberation become locked in distracting debates and this limits what can be done. In fact, some of the international channels of deliberation are part of the problem, in which organizations like the World Trade Organization favor protecting trade over protecting the future.<sup>105</sup>

Moreover, the challenge of climate change also raises the question: can people who don’t exist yet enter into a social contract? The cost of climate change is primarily in ways that cannot be quantified by money – it is in impacts that are felt in other ways. These are what economists call externalities, and the process through which those who benefit from climate change pass on these costs to others is externalization. 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. Strictly speaking, contractual obligations only exist between people who exist, so the social contract from a radical contractivist approach can only exist between states and citizens who currently exist. But moving away from Western philosophical frameworks we see opportunities for framing a social contract that focuses on the custodial obligations of present generations over the future and the natural environment. The aforementioned African philosophical frameworks invite us to imagine the citizen as a custodian rather than an owner of the natural environment, meaning an invitation to use within reason and to leave things better for the future. Viewing the rational citizen of the present as a custodian of public goods opens an avenue for deliberating what obligations states and sovereigns have towards future generations.

Climate change is also a moment to re-evaluate the international social contract, that is, the obligations that countries have towards each other. A 2019 study by two Stanford researchers found that climate change not only reduced GDP and affected productivity, but these effects were disproportionately felt in poor countries even though most of the causes of climate

change occurred in rich countries.<sup>106</sup> For example, the study found that India's GDP per capita was 31 percent lower in 2010 than it would have been without global warming caused by human activity.<sup>107</sup> In Chad, that number was 39 percent, in Venezuela it was 32 percent while in Nigeria it was 29 percent.<sup>108</sup> Moreover, the study found that climate change was exacerbating inequality between nations and consolidating wealth in countries that were already richer.<sup>109</sup> This is a clear instance of the principle that a social contract is invalid if it brings more harm to those who participate than if they lived outside it. Breaking the relation between the individual and the natural environment extends to harms between nations, and this situation invites a consideration of how the international social contract can be improved to protect the interests of poor countries.

Certainly nothing in existing literature on the social contract captures the advent of digitalization, and particularly the rise of the internet as a space for developing new ways of belonging to old and emerging body politics.<sup>110</sup> 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. The rise of social media for example means that protest movements like Black Lives Matter become part of the national discourse in countries as diverse as South Africa, France and Israel.<sup>111</sup> 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.

What does a social contract for the digital age implicate? First, it raises the question of the role of private corporations which are not motivated by any of the criteria that social contract theory considers. Profit, rather than public or collective interest, fuels the action of these organizations and that affects their interests in deliberation or public participation. Second, rather than abide by public laws on various issues, these companies are developing internal standards of conduct or community standards enforced through a system of review, content moderation and bans. This challenges the idea of the state as having a monopoly on rule making for the body politic. Third, the transnational nature of some of these companies also implicates the aforementioned transnational questions—questions like how a company legally registered in the United States can affect political outcomes in Ethiopia because of its policy on content moderation.<sup>112</sup> The digital challenges the idea that citizenship can continue to be exclusively defined by national boundaries, and this emphasizes the need for a social contract that can keep up.

Other aspects of modern life also highlight the vulnerability of the social contract. The rise of privatization of public goods results in the expropriation of land or communities from the body politic, and this alters the nature of obligation that flow between those citizens and the states that they live in. Privatization changes the social dynamic because it eliminates the obligation for the state to provide certain goods as well as the individual's obligation to reciprocate.<sup>113</sup> There is research from the United States for example that connects the rise of the anti-vaccination movement to the rise of gated communities, as the idea of public health as a public good undermines the neoliberal idea of individual choice that underpins the rise of these communities.<sup>114</sup> Some theorists see rhythms between modern gated cities and the medieval city-states, undermining egalitarianism in the broader state and creating new networks of affinity predicated on class, ethnicity and even race.<sup>115</sup>

Overall, these challenges recenter the concept of public goods in the conversation on the social contract and urge continued engagement with the question: what are governments for?

Transnational crises affect both domestic and international social contract, and deeper analysis is required on what obligations the international system has towards individuals particularly in times like this. Lockdowns and other measures necessarily implicate personal freedoms and the question of consent. But without them, the consequences are felt far beyond the national boundaries, meaning that leaders of one country increasingly have obligations towards citizens of another. How does this impact questions of consent, deliberation, and participation under the theory of a social contract? These are questions that require further reflection.

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## 7. Conclusion: The Future of the Social Contract

**A**t the heart of theories about the social contract is the idea of balance between the citizen and the state. A contract necessarily involves demands and expectations that each party has towards the other and sets out considerations of what must be done once those expectations are not met. The foregoing discussion emphasizes the expectation that citizens have towards their states because of the power balance which is inherently more powerful than the individual. Using Weber's formulation, with its presumed monopoly on the use of force, the modern state has a capacity to inflict great harm on the individual and this tilts the balance of obligations towards the citizen. Still, the aforementioned theories do outline obligations and responsibilities that flow from the citizen towards the states. These obligations can be summarized as the civic duties of the citizen which range from participation in democratic deliberations to not acting in a way that would undermine the advancement of the collective.

The COVID-19 pandemic has brought new emphasis on the importance of balance between the rights, expectations and obligations of the individual, the state, and their leaders. Without balance between the three, national responses to the pandemic world over are floundering. Without citizen participation in individual preventative action—handwashing, mask compliance, and adhering to social distancing rules—even the most robust public health interventions cannot contain the outbreak. At the same time, where leaders act against the public interest and contravene scientific advice, for example by opening their societies too early, prevalence of the disease in the society remains high. Finally, intense suffering is occurring in states that have made no concerted effort to contain the disease. All of the theories outlined before recognized this truth: a successful social contract requires the participation and investment of all the key actors.

Thus, there is sufficient existing material to guide the process of defining a social contract for the future. Significantly, it demands a return to the fundamental questions of what government is for and what we want our societies to look like moving forward. The rise in migration, protest, and conflict is an indicator that there is growing dissatisfaction with the national and trans-national social contract. The COVID-19 pandemic that has literally and figuratively forced a stop to quotidian activities, inviting policy makers to take stock and imagine a social contract for the future. Rather than reinvent the wheel however, it may be a moment to draw from the past and restore that which is broken and rebuild better. The idea that states, their leaders, and citizens have obligations towards each other that must be met in order for societies to function. A social contract for the future retains what is important about the relationship between the state, citizens, and the government, but remains malleable and adaptable to emerging political conditions.

But even before the pandemic there was already substantive evidence that the idea of the social contract required re-examination. The rise of illiberal democracies in which elections return authoritarian administrations to power relates to the notion of *madaniya*, that is, how can the form of the body politic be separated from its substance so that we are not just engaged in rote electioneering but in the restoration and renewal of the social contract? The rise in global inequality also raises the challenge of class as a major category of exclusion. The classic



Western social contract did not engage with class as it did not see anyone outside the wealthy landowning class as part of the body politic. This approach cannot stand, and so thinking about renewing the social contract must also engage with removing the obstacles to effective public participation that are created by inequality. In practical terms, this triggers questions like quotas for women and minorities in electoral systems, or in greater representation for the interests of refugees and migrants. And the rise of the digital and global citizen has raised the question of obligations across borders, where individuals are increasingly making direct appeals to multilateral organizations to intervene in domestic politics following the failure of their relationship with their home state.

In this vein, the UN secretary-general has called for a social contract premised on “inclusivity and sustainability” that both addresses the shortcomings of the contracts of the past while bracing society for the unprecedented challenges of the future.<sup>116</sup> Some of the lessons of the social contracts of the past that can inform such an initiative are captured here:

Principle of the social contract	Approaches where it is contemplated
Foundational principle is that people are better within their societies than outside it	Hobbes, Locke, and Rousseau Classical Islamic Theory Classical Chinese Theory Classical Indian Theory Rawlsian Theories of Justice
Distinction between the sovereign and the government	Hobbes, Locke, and Rousseau Classical Chinese Theory Classical Indian Theory Rawlsian Theories of Justice
Perspective liberation between the state, the sovereign, and the citizen	Rousseau Classical Islamic Theory Classical Chinese Theory Rawlsian Theories of Justice
Infringing on the freedom of the individual is inherently a violation of the social contract	Hobbes, Locke, and Rousseau Classical Indian Theory Rawlsian Theories of Justice
The social contract requires consent to be governed	Hobbes, Locke, and Rousseau Classical Chinese Theory* Fanon
Concern with material conditions of the governed	Hobbes, Locke, and Rousseau Classical Islamic Theory Classical Chinese Theory Classical Indian Theory Rawlsian Theories of Justice Fanon, Cabral, and Sankara Amartya Sen
Individuals within a social contract also have obligations towards each other	Harambee Gotong Royong Ubuntu Gautier
Regard for the natural environment	Classical African Theory – ‘ntu’
Regard for the rights of women	Sankara and Cabral Sor Juana Inés de la Cruz Amartya Sen
Perspectives on future generations	Classical African Theory

The social contract of the future is one that does not paper over the interests of women, the youth, and the systemically disenfranchised. But it also recognizes that poor decision making by the present generation has created challenges that future generations will have to live with, and the natural environment must increasingly be part of our evaluation of what that future social contract entails. Ideally, such a social contract would draw lessons from global precedence rather than narrow 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, this report offers some recommendations for a social contract for the future, namely:

1. **A social contract is about balance between citizens, states and their leaders and the social contract of the future must protect citizens from excesses of either the bureaucracy or the sovereign.** The social contract of the future also recognizes that vesting absolute power in the sovereign risks tilting too much power in that direction, and that external actors like the military must not be allowed to shift power in this way. It is therefore imperative to create avenues for deliberation and protects freedom of speech, expression, and association including supporting civil society and trade unions as platforms for civic engagement. Reinforcing, the notion of collective action for transnational challenges, a social contract of the future also urges greater coordination at national and international levels.
2. **The social contract of the future does more than provide public goods.** It is important to be concerned with the material conditions of the people, but the social contract of the future addresses the needs of the citizen to be seen and heard by their government and the international community while reinforcing ideas of inclusion and recognition. Departing from previous narrow ideas about who the social contract is for, the social contract of the future challenges exclusion on the basis of identity to bring as diverse as possible a representation of the citizenry as it can in order to adequately protect the well-being of as many citizens as possible.
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 of the future must be premised on consent to be governed, offered freely and voluntarily by citizens.** This not only urges the removal of the military and armed forces from civic life, but also urges a renewed commitment to democratic participation and representation, (e.g., through free, fair, and transparent elections). Recognizing that deliberation is an important moment to renew the social contract, 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.
5. 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.

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