Opposition brief: Social Contract  
Opposition Brief by Mark Csoros  


“*Men being, as has been said, by nature all free, equal, and independent, no one can be put out of this estate and subjected to the political power of another without his own consent, which is done by agreeing with other men, to join and unite into a community for their comfortable, safe, and peaceable living*”.[[1]](#footnote-1) -John Locke

That’s the main idea behind the Social Contract, a theory of government that factors into most affirmative cases this year. It’s most commonly run as a criterion, as in Monument’s *Public Safety* affirmative, or as an implicit assumption used to support the idea of public needs. More rarely, it’s used an explicit application, and even more rarely, as a value. This brief is designed to help you take down the idea of a Social Contract.

As always, our definitions are key. The double bind at the end of this brief argues that the Social Contract is either irrelevant to the resolution, or inherently unjust. If the Contract is not consensual, then it isn’t something we should base governments off of. If it is consensual then we freely give up our goods, which means it isn’t an infringement upon property rights. That argument rests upon a sound definition of private property rights, which are usually defined to be “exclusive rights to buy, sell, trade, and use tangible and intangible goods” If the affirmative debater tries to deviate too far from this definition, he’s probably trying to pull a fast one on you. If so, reprove him for his chicanery and bring up a more commensurate definition.

The rest of the brief (apart from the double bind) attacks the Social Contract as an idea. In order of organization, it argues that:

* The Contract is not inherently good (Thomas Jefferson and John Locke)
* That it embraces conflicting schools of thought (Encyclopedia Britannica)
* That it isn’t the reason for government (Ph.D. Samuel Gregg)
* That it doesn’t prove the resolution true (Stanford Encyclopedia of Philosophy)
* That it’s in direct contradiction with the idea of inalienable rights (Ph.D. Williamson Evers)

All those arguments are hard to refute, so don’t let aff get away with half-baked responses. Once you start an argument, stick with it, and make affirmative prove you and your ultra-high quality source wrong. There are counter-arguments to be made on affirmative, but they require some rather complex logic and a fair amount of speech time. 1ARs are difficult enough, and adding that kind of pressure will make most affirmatives buckle. Good luck, have fun, and go dominate.

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Valuable for results only (against a Social Contract Value)

Thomas Jefferson, “U.S. Declaration of Independence” Approved by Congress July 4th 1776 <http://www.ushistory.org/declaration/document/>

“Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.”

Analysis: All governments, even governments instituted under the Social Contract, are changeable, reliant on the people, and focused on providing safety and happiness.

Impact: Not inherently valuable. The Social Contract is only valuable insofar as it provides the things we want. As an entity, the Social Contract can’t exist apart from its purpose, meaning that the purpose is more important.

Goal is to protect property

John Locke Second Treatise of Government, Chapter IX “Of the Ends of Political Society and Government” section 123 <http://press-pubs.uchicago.edu/founders/documents/v1ch16s3.html>

“The great and chief end therefore, of Mens uniting into Commonwealths, and putting themselves under Government, is the Preservation of their Property.”

Analysis: John Locke, one of the originators of the idea of Social Contract, believed that the point of the Social Contract is to protect property.

Impact: Property rights valued highest. If we use the Social Contract the way it’s intended to be used, we will support the negative side of the resolution. The Contract exists to protect property.

Conflicting ideas

The Encyclopedia Britannica November 2014 “Social Contract” by the editors of the Encyclopedia Britannica, updated November 26 2014 <https://www.britannica.com/topic/social-contract>

“According to Hobbes (*Leviathan,* 1651), the state of nature was one in which there were no enforceable criteria of right and wrong. Each person took for himself all that he could; human life was “solitary, poor, nasty, brutish and short.” The state of nature was therefore a state of war, which could be ended only if individuals agreed (in a social contract) to give their liberty into the hands of a sovereign, who was thenceforward absolute, on the sole condition that their lives were safeguarded by sovereign power. Locke (in the second of *Two Treatises of Government,* 1690) differed from Hobbes insofar as he described the state of nature as one in which the rights of life and property were generally recognized under natural law, the inconveniences of the situation arising from insecurity in the enforcement of those rights. He therefore argued that the obligation to obey civil government under the social contract was conditional upon the protection not only of the person but also of private property. If a sovereign violated these terms, he could be justifiably overthrown. Rousseau (in *Du contrat* *social,* 1762) held that in the state of nature man was unwarlike and somewhat undeveloped in his reasoning powers and sense of morality and responsibility. When, however, people agreed for mutual protection to surrender individual freedom of action and establish laws and government, they then acquired a sense of moral and civic obligation. In order to retain its essentially moral character, government must thus rest on the consent of the governed, the *volonté* *générale* (“general will”).”

Analysis: There are widely differing theories about the Social Contract, as well as a plethora of different ideas about life without a Social Contract. There isn’t a consensus on what the Contract is, or what it entails.

Impact: Unreliable term. Unless my opponent can clarify what he/she means by the Social Contract, we’re going to have a hard time using it as proof for either side.

Is not the reason for government

Ph.D. of Philosophy Samuel Gregg July 2011 (Gregg is director of research at the Acton Institute. He has an MA in political philosophy from the University of Melbourne, and a Doctor of Philosophy degree in moral philosophy and political economy from the University of Oxford) “John Locke and the Inadequacies of Social Contract Theory”; The Public Discourse (Public Discourse is an online publication of the Witherspoon Institute, a 501(c)3 research center) <http://www.thepublicdiscourse.com/2011/07/3583/>

“Put another way, political society, and therefore political authority, arises from an immediate demand of practical reason: any given human society needs *someone* to make decisions that bind every member of that society. Humans thus have *always* had some form of such political authority. Such authority finds its foundation not in social contract or some other transmission theory, but from the sheer fact that it is reasonable (and frankly inescapable) to have a ruler or rulers who can make certain types of coordinating decisions for a society and whose decisions are considered authoritative by the citizens.”

Analysis: Government doesn’t come about because of a Social Contract. It comes about because we aren’t perfect, and therefore require a governing authority.

Impact: Not the foundation of government. The Social Contract really isn’t as important as my opponent claims. It attempts to explain the phenomenon of government in terms more complex than necessary. The truth is that government exists simply because we require it, not because we agree to it.

Just a transfer of authority

Stanford Encyclopedia of Philosophy May 2013 “Political Legitimacy”; published April 29th 2010, substantively updated May 13th 2016 <https://plato.stanford.edu/entries/legitimacy/>

According to Locke, and contrary to his predecessor Thomas Hobbes, the social contract thus does not create authority. Political authority is embodied in individuals and pre-exists in the state of nature. The social contract transfers the authority they each enjoy in the state of nature to a particular political body.

Analysis: The Social Contract is just a way to explain why government has power. It doesn’t explain what government should do with that power, which is what we’re debating

Impact: Not proof for the resolution.

Incompatible with Natural Rights

Ph.D. Williamson M. Evers 1977 (Evers has a B.A., M.A., and Ph.D. degrees in political science from Stanford University. Is a research Fellow at the Independent Institute and the Hoover Institution and a member of the Koret Task Force on K–12 Education. And was the U.S. Assistant Secretary of Education for Planning, Evaluation, and Policy Development from 2007 to 2009) “The Social Contract: A Critique”; originally published in the Journal of Libertarian Studies Vol. 1, No. 3, pp. 158-197, Pergamon Press. <https://mises.org/system/tdf/1_3_3_0.pdf?file=1&type=document> (Brackets Added)

Most importantly, all the social contract theories appear to entail in practice a contract of at least partial self-enslavement to Socrates' Athenian regime, to Hobbes' sovereign, to Locke's majority, to Rousseau's popular law- making assembly and administrative government, or to Rand's law enforcement monopoly. In the end, therefore, social contract theory is incompatible with natural-rights liberal theory since [natural rights] this latter theory derives rights from the factual premise of the inalienability of the will and hence rules out from the start legitimate self-enslavement. Instead, we can recognize that the duty of obedience to the rule of just law can be explained, without any recourse to a social contract, in terms of the duty of non- aggression which is the necessary correlative of human rights.

Analysis: If we believe that rights that are inseparable, inherent, and inalienable, we can’t accept a binding Social Contract. The Social Contract, in practice, takes rights that cannot justly be confiscated. INALIENABLE rights are rights that cannot be ALIENATED (taken away) from their owners, even by consent.

Impact: Intrinsically unjust. The idea that people can or should give up essential liberties, even by consent, is at best ethically sketchy. At worst, it denies essential personhood, by allowing rights that are inherent in every human to be violated.

Double Bind: No choice

David Hume (a Scottish Philosopher) 1739 “A Treatise of Human Nature” <https://people.rit.edu/wlrgsh/HumeTreatise.pdf>

“But were you to ask the far greatest part of the nation, whether they had ever consented to the authority of their rulers, or promis’d to obey them, they wou’d be inclin’d to think very strangely of you; and wou’d certainly reply, that the affair depended not on their consent, but that they were born to such an obedience.”

Analysis: The vast majority of people recognize no such thing as a Social Contract. They obey the government because it’s what they’ve done since they were born. Real contracts are consensual, and the so-called “Social Contract” is not, meaning that it’s not a sound model of governance. Now, the affirmative will probably argue that we implicitly agree to the Social Contract. Fair enough. Let’s look at that alternative.

Double Bind: No relevance

David Hume (a Scottish Philosopher) 1739 “A Treatise of Human Nature” <https://people.rit.edu/wlrgsh/HumeTreatise.pdf>

“But were you to ask the far greatest part of the nation, whether they had ever consented to the authority of their rulers, or promis’d to obey them, they wou’d be inclin’d to think very strangely of you; and wou’d certainly reply, that the affair depended not on their consent, but that they were born to such an obedience.”

Analysis: As we saw earlier, private property rights means exclusive control of your property. If we implicitly decide to give up our property under the Social Contract, we’re actually utilizing our property rights. We’re deciding, of our own volition, to give something to the government in exchange for the services that they provide.

Impact: Non-resolutional. If the Social Contract is an agreement, then it actually supports the idea of property rights. It doesn’t prove that private property rights are bad, it proves that we sometimes use our private property rights to enter into contractual agreements.

1. Locke, John. "Second Treatise on Government." (n.d.): n. pag. *Early Modern Texts*. Jonathan Bennet, 25 Jan. 2005. Web. 16 June 2016. <http://www.earlymoderntexts.com/assets/pdfs/locke1689a.pdf>. [↑](#footnote-ref-1)