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Victoria Kahn. *Wayward Contracts: The Crisis of Political Obligation in England, 1640-1674.* Princeton: Princeton University Press, 2004. xiii + 370 pp. $49.50 (cloth), ISBN 978-0-691-11773-7.

Reviewed by Ted Vallance (University of Liverpool)
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Passionate Subjects

Victoria Kahn's *Wayward Contracts* is one of those rare works that succeeds in being genuinely interdisciplinary, bringing new insights to the study of early modern political thought and literature, as well as offering food for thought for political philosophers. The main focus of her work, perhaps not fully conveyed by the title, is the emergence of a new "contracting subject" in political and literary works of the period (p. 280). In opposition to what Kahn describes as the "thin" presentation of the individual in modern liberal political philosophy ("an abstract, decontextualised individual with no ties or allegiances, of no particular age, sex, education or community," p. 282), she looks to early modern writers for a discussion of the political subject that acknowledged, indeed wrestled, with the fact that subjects were both men and women, and were human beings subject to their passions, as well as the exercise of reason. What emerges is a highly convincing combination of intellectual history and the history of the emotions.

Kahn begins by situating her work in opposition to those historians of political thought who have also identified the seventeenth century as a pivotal period in the emergence of contractual theories of political obligation, but who understand the significance of the period lying in the development of our "thin" proto-liberal subject, and who have therefore focused most on those thinkers, Thomas Hobbes and John Locke, who treated their contracting subjects as existing in a pre-political state of nature (though in her work, Kahn clearly demonstrates that Hobbes was preoccupied with the contingencies of that pre-civil freedom). However, Khan argues that early modern writers "argued that the state was an artifact brought in being by a powerful, if sometimes fictional, speech act," and that, consequently, "early modern contract theory is best thought of as a radically new poetics of the subject and the state" (p. 1). (Her comments here remind me of Richard Tuck's observation that Hobbes's *Leviathan* had absolute epistemic, as well as political, sovereignty.) It was a poetics which recognized "the power of language to solicit the passions and transform the will" (p. 25). Hers is a work then, preoccupied with the artifice and imagination involved in thinking about political obligation.

The book is divided into two main parts. The first offers an examination of what Kahn regards as some of the building blocks of the new poetics of obligation, the languages of natural law, common law and covenant theology, as well as a discussion of the meaning of consent and the idea of voluntary servitude. The second part, which constitutes the mainstay of the work, looks both at the discussion of political obligation during the civil war and interregnum, and at the post-restoration reaction to these new theories of obligation. She offers a very fresh re-reading of those hoary old legal chestnuts, the Five Knights Case and Hampden's Case, demonstrating the ways in which the attempt of Charles I to prove in court his prerogative right to exact levies from his subjects undercut the rhetoric of the Caroline court itself, with its emphasis upon mutual love as the fundamental bond between prince and subject. Particularly impressive, too, are Kahn's observations on the gendered aspects of political discourse, the way in which the relationship between monarch and subject had traditionally been equated with the relationship between husband and wife. During the civil wars, Parliamentarian pamphleteers, such as Henry Parker, turned this metaphor around to suggest that Parliament was the male and the King the female part of this union. Reading political tracts in this way also sheds new light on the divorce tracts of John Milton and the works of Margaret Cavendish, uncovering their political undertones. Kahn's discussion of the paradox in Hobbes's work–his opposition to rhetoric, romance and the passions and the none the less inherently emotional reading of the act consent as the product of fear–is another highlight.

Such a wide-ranging account inevitably has its short-

comings. In her introduction, Kahn warns of the limitations of approaching "the seventeenth century through anachronistic spectacles" (p.20). However, (and it does seem a little churlish to say this, given how comfortably the book straddles a number of disciplines: literary criticism, the history of political thought, and political philosophy), in a number of places the book would have benefited from a greater awareness of the current historiography. Kahn erects a bit of a straw man of sixteenth-century (and earlier) political thought. She skates over the discussion of a political contract as part of the notion of an ancient constitution when arguably this idea of a historically real if unwritten pact between the monarch and Parliament was one of the most powerful political myths of the whole early modern period. Well after 1688, this theory continued to be a preferred means of understanding political obligation, even though it essentially focused on the corporate allegiance of the nation's representatives, rather than on the individual.[1] She does not mention Patrick Collinson's reformulation of the Elizabethan polity as, in the eyes of some of the Queen's own ministers, a "monarchical republic" in which monarchy could even be (albeit temporarily) replaced by a governing council.[2] Overall, the book could have done with conveying more of a sense that there were bountiful discussions of the idea of a corporate political contract prior to the seventeenth century and that such interpretations had a pretty long shelf life.

Her discussion of contracts and covenants could also have been developed a little further in the earlier passages of the book. The commentary on Slade's Case is interesting, but it does over-emphasize this as a watershed in moving from oath to contract. The case was probably less important in sounding the death knell for compurgation than broader trends in terms of what the judiciary were prepared to accept as proof. Equally, though we can find plenty of other commentators (like her Middle Temple lawyer, James Morice) urging that many would prefer to commit perjury and damn their souls than keep their oaths and lose their bodies, political allegiance continued, nonetheless, to be secured by oath well into the eighteenth century. It appears to have taken a very long time for Britons to remove God and the conscience from their understanding of obligation.[3] Also, Kahn connects the puritan practical divinity of William Ames and William Perkins with bellicose sermons of Parliamentary ministers, arguing that "covenant theology came to underwrite political contractualism" (p. 55). She is not the first scholar to make that connection (see the earlier work of G. L. Mosse), but I have always been rather unconvinced by the supposed radicalism of puritan casuistry which mainly seems to counsel passive obedience (of the kind practiced by William Sancroft in 1688) in the face of the monarch issuing unlawful or immoral commands.[4] I am very much in agreement with Kahn (as well as Hobbes and Milton), however, that the arguments of some of the fast sermon ministers during the civil wars could have provided justifications for regicide. These were not really arguments peculiar to the 1640s though, and had been far more explicitly voiced earlier in the writings of John Knox and Christopher Goodman.[5]

These are, however, minor criticisms of what is an enviably broad-ranging piece of work, joining, as it does, discussions of seventeenth-century legal cases, prose romances, political pamphlets, and epic poetry into one convincing whole. Her work is another reminder of how much fuller a picture of early modern political thought we receive when the definition of the "political" is broadened beyond the narrow confines of legalist-constitutionalist discourse.

Notes

[1]. On this see J. Greenburg, *The Radical Face of the Ancient Constitution: St Edwards "Laws" in Early Modern Political Thought* (Cambridge: Cambridge University Press, 2001).

[2]. P. Collinson, "The Monarchical Republic of Elizabeth I," *Bulletin of the John Rylands Library* 69, no. 2 (1987): 394-424; and S. Alford, *The Early Elizabethan Polity: William Cecil and the British Succession Crisis, 1558-1569* (New York: Cambridge University Press, 1998).

[3]. See J. Spurr, "The Profane History of Early Modern Oaths," *Transactions of the Royal Historical Society* 11 (2001): 37-63.

[4]. G. L. Mosse, *The Holy Pretence: A Study in Christianity and Reason of State, from William Perkins to John Winthrop* (Oxford: Oxford University Press, 1957).

[5]. On this see E. Vallance, *Revolutionary England and the National Covenant: State Oaths, Protestantism and the Political Nation* (Woodbridge, Suffolk: Boydell and Brewer, 2005).

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