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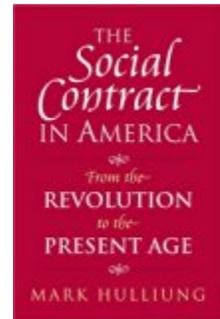


Mark Hulliung. *The Social Contract in America: From the Revolution to the Present Age*. Lawrence: University Press of Kansas, 2007. ix + 256 pp. \$29.95 (cloth), ISBN 978-0-7006-1540-7.

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Revisiting America's Founding Political Idea

Mark Hulliung begins his book *The Social Contract in America* with amusing and disturbing stories about how presidential candidate Bill Clinton, Republican congressional leader Newt Gingrich, and associate U.S. Supreme Court justice Clarence Thomas each awkwardly appealed to American social contract ideas in the 1990s to advance their respective causes. Unwittingly, Clinton drew not on American revolutionaries' ideas, but on pro-British loyalists' views. Gingrich recollected antebellum Jacksonians' outlook on the social contract, while neglecting opposition Whig philosophy. African American Justice Thomas ironically gathered his understanding of the social contract from antebellum southern states' rights slaveholders! To Hulliung, these examples provide distressing evidence of modern Americans' ignorance of their social contract tradition. Having compared American and French political philosophies in *Citizens and Citoyens* (2002), he aims this new study to elucidate the social contract's role in American history.

The great success of *The Social Contract in America* is to show that the social contract was not just a fossil of Lockean theory left over from the American Revolution in the Declaration of Independence, but a live idea very much at play throughout American history. The book is not a systematic study of social contract theory, but an examination of the social contract's role in American political discourse from the revolutionary era to the present. Indeed, it treats social contract thinking as a sign of American exceptionalism. Whereas historicist

and utilitarian theories quickly supplanted social contract philosophy in Europe, the book contends, "America stands alone in its preoccupation ... with the social contract" (p. 7). In the fashion of Louis Hartz's *The Liberal Tradition in America* (1955), Hulliung maintains that Americans across the political spectrum embraced social contract theory, and he specifically denies that they sustained conservative thought in the tradition of Edmund Burke. With social contract theory a given, he asserts, Americans typically argued about which version of the social contract should apply.

The book proceeds through a prologue and six chapters that are both topical and roughly chronological. In the opening chapter on the revolutionary era, the book makes clear that most Americans, patriots and loyalists alike, were Whigs who rejected English Tory Robert Filmer's patriarchal views of government, and worked from social contract theory instead, though not initially John Locke's understanding of it. Like most English Whigs, Hulliung explains, future American loyalists and patriots both for a long time drew on Hugo Grotius's and Samuel Pufendorf's conservative conceptions of the social contract. Putting their emphasis on the preservation of "constituted authority" (p. 16), both of these theorists imagined contracts in which the people surrendered certain rights to their rulers to secure social stability, including the right to rebel. An exception was what Pufendorf called the "original contract" (p. 16), which Whigs said that the English people approved in the Glorious Revo-

lution of 1688-89 to limit royal power. Still, according to Hulliung, English Whigs viewed this agreement as a permanent constitutional settlement that obviated the need for rebellion and any new social contracts.

Unlike historians like John Phillip Reid who regard American revolutionary rhetoric of the 1770s as largely a reiteration of the Whig “original contract,” Hulliung sees the American Revolution as an event that truly, if belatedly, transformed American thinking.[1] The need to justify rebellion and then establish new state governments, he argues, prompted Americans to adopt and then apply John Locke’s more radical reasoning from first principles—that governments originate in contracts formed by the people emerging from the state of nature, and that the people always retain residual rights to abolish governments not protecting their natural rights. Even conservative patriots like John Adams and Alexander Hamilton accepted these Lockean notions, says Hulliung. And when Americans occasionally quoted Niccolò Machiavelli, Baron de Montesquieu, and Sir William Blackstone, they never embraced those thinkers’ underlying political theories, but adapted them to America’s prevailing Lockean philosophy. The working assumption thereafter was that American government truly was a *novus ordo seclorum*, a “new order of the ages” willed into being by the American people.

Subsequent chapters of *The Social Contract in America* demonstrate that the social contract idea enjoyed a lively career in America after the revolution, even as it died in Europe. During the antebellum period, Hulliung contends, conservatives and reformers, northerners and southerners, all continued to frame their political arguments in terms of the social contract. Southern slaveholders initially revived the pre-Lockean contract theories of Grotius and Pufendorf, then deployed social contract ideas to defend states’ rights, next rejected the contract altogether when sectional conflict intensified, and finally restored it to justify secession. Meantime, northern Loco-Focos and abolitionists affirmed Lockean ideas of natural rights, while Whig Party moderates like Daniel Webster, John Quincy Adams, and Edward Everett celebrated the social contract as “an unlikely emblem of continuity” (p. 71). In fact, as opposed to scholars who suggest that a “counterrevolutionary” anti-contractarian tradition developed among Americans like Rufus Choate and George Fitzhugh who held ideas similar to those of English conservative Edmund Burke, Hulliung marks these figures as exceptions and claims that Burke’s philosophy rarely got traction on this side of Atlantic, perhaps only in brief flickers of time during the antebellum

and Cold War eras.[2]

It was the Civil War and then the rise of industrial society that precipitated the social contract’s downfall in America, according to Hulliung. All along, *The Social Contract in America* shows, Americans had been ambivalent about the “right of revolution” that social contract theory allowed, whether a moderate change in political power exemplified by the English Glorious Revolution of 1688-89 or the complete transformation typified by the French Revolution of 1789. Thomas Jefferson’s admonition that “the earth belongs to the living” (p. 38) seemed to justify revolution and a new social contract for every new generation, but secession and civil war left Americans wary. Even Abraham Lincoln’s Gettysburg Address reaffirmed the social contract under existing government, not under a new government. Late-nineteenth and early-twentieth-century industrial growth further discredited the social contract idea when corporate conservatives co-opted natural rights theory and “liberty of contract” for themselves. Progressive reformers like Herbert Croly subsequently scoffed at the individualistic natural rights theory underlying the social contract idea and instead embraced socially minded, evolutionary, and German historical theories that favored strong state guidance of the nation’s collective development. Only in direct-democracy measures like the initiative, referendum, and popular election of senators did Progressives sustain social contract philosophy.

In two fresh and revealing chapters, however, Hulliung shows that land reformers and minority group supporters of the Declaration of Independence kept the social contract idea alive after the Civil War. Building upon John Locke’s conception of the social contract, Hulliung argues, a long line of American writers and reformers from Thomas Paine and Thomas Jefferson in the eighteenth century, to Thomas Skidmore, Seth Luther, George Henry Evans, and Henry George in the nineteenth century contended that access to land was a fundamental right under the social contract, although they disagreed about remedies for increasing inequality in landholding, and disappeared as commentators after the 1890 closing of the frontier and rise of urban-industrial society.

The book barely touches on the social contract’s implications for Native American land rights, however, and just mentions Radical Republican demands for freedmen land after the Civil War as a rejected possibility. In a short passage, *The Social Contract in America* affirms the accepted view that Americans adopted Lockean ideas of

land use to justify dispossession of native territories, even against the Cherokee, who arguably signed their own contract by forming a tribal constitution. Elsewhere, again briefly, the book observes that writers used natives as a reference point to denounce the deprivations of the landless urban poor, and notes that imperialists simply brushed aside native land claims in the name of progress. Still, readers might want to know more about the social contract's role, if any, in shaping the whole of federal Indian policy from the "domestic, dependent nation" doctrine onward.

Appeals to the Declaration sustained social contract ideas even longer than land claims did, according to Hulliung. A long string of marginalized groups—antislavery agitators, women's rights activists, Jacksonian Democrats, working-class organizers, socialists, urban machine politicians, and civil rights advocates—all cited the Declaration's references to human equality and consent of the governed to defend their claims for social inclusion and justice. Martin Luther King's mention of the Declaration in his 1963 "I Have a Dream" speech and the Black Panther Party's inclusion of a long quotation from the Declaration's preamble in its 1967 Ten-Point Program marked perhaps the Declaration's last such use by social agitators.

Remarkably, *The Social Contract in America* glosses over the "new social contract" sometimes attributed to twentieth-century welfare state politics. At the very end of his book, Hulliung briefly considers presidential candidate Franklin Roosevelt's 1932 Commonwealth Club speech that applied the contract idea to modern industrial society, but then dismisses subsequent New Deal measures as "a far cry from welfare as a natural right guaranteed by a social contract" (p. 202), and as a partisan program lacking a true social contract rationale. Yet, whatever the New Deal's defects, he underestimates the ideological transformation that the New Deal helped to bring about—"a changed concept of the duty and responsibility of government toward economic life," as Roosevelt put it.[3] Under a "redefined" social compact, the New Deal instituted modern liberalism's new vision that twentieth-century government's legitimacy rested on its ability to create responsible economic institutions and provide a social safety net. Notably emulating the old contract, the Democratic National Platform asserted in 1936 that "We hold these truths to be self-evident—that government in a modern civilization has certain inescapable obligations," including the duty "to erect a structure of economic security for its people." [4] As Morton Keller reminds us, modern liberals

pursued this vision through Harry Truman's Fair Deal, John Kennedy's New Frontier, and especially Lyndon Johnson's Great Society in constitutional amendments, antipoverty measures, civil rights laws, and immigration reform.[5] Liberal politics may have frayed since the 1970s, but its ideological impact on modern social contract ideas deserves attention.

Skipping over modern liberal politics, *The Social Contract in America* concludes that the social contract idea has nearly disappeared from political discourse since the 1970s "rights revolution." The social contract was not explicitly repudiated, Hulliung says, but it fragmented theoretically and got replaced by the Bill of Rights as the main focus of public discussion. One by one, he argues, the social contract's precepts—the state of nature, the social compact, and natural law—fell into disuse. John Rawls's *A Theory of Justice* (1971) revived the social contract in the context of moral theory, but had little influence outside of academia. In recent public debate, then, only the idea of rights remains, according to Hulliung, and now just under constitutional law, not under natural law. And Americans have applied the idea of rights so broadly, Hulliung laments, that "rights talk" has lost its ideological potency. "Where everything is a right, the concept is empty, diluted beyond recognition" (p. 203). Yet, readers might wonder whether modern liberal politics has preserved more of the social contract idea than Hulliung suspects. In the wake of Barack Obama's recent election as president (after, of course, *The Social Contract in America's* publication), progressive Democrats have looked hopefully forward to a "new New Deal" to renew the welfare state's "social contract." [6] Whether the social contract suffers a final demise, hence, may ultimately depend on what happens to today's apparent reinvigoration of welfare state politics. Hulliung contends that such politics are "imperiled" (p. 205), but their fate remains to be seen.

Notes

[1]. John Phillip Reid, *Constitutional History of the American Revolution* (Madison: University of Wisconsin Press, 1986), 132-135.

[2]. Daniel T. Rodgers, for example, compares American "counterrevolutionaries" to Burke in *Contested Truths: Keywords in American Politics Since Independence* (New York: Basic Books, 1987), 112-115.

[3]. Quoted in Alan Brinkley, *The End of Reform: New Deal Liberalism in Recession and War* (New York: Alfred A. Knopf, 1995), 10.

[4]. Sidney M. Milkis, "Franklin D. Roosevelt, the Economic Constitutional Order, and the New Politics of Presidential Leadership," in *The New Deal and the Triumph of Liberalism*, ed. Sidney Milkis and Jerome M. Mileur (Amherst: University of Massachusetts Press, 2002), 34-40, quoting the Democratic platform on p. 39.

[5]. Morton Keller, "The New Deal and Progressivism," in *The New Deal and the Triumph of Liberalism*, 318.

[6]. Robert L. Borosage and Eric Lotke, "A New, New Deal?" *The Nation*, January 12, 2009.

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