

The U.S. Constitution as an Active Social Contract

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Reading Brief 1

The Constitution of the United States outlines a social contract among the American people dating back to 1787. Its origins meet the criteria set out by Locke for the just creation of a government, and the document itself is structured to protect the natural rights of its inhabitants. Most importantly, today's citizens are not bound by aged ink scratched across a scroll many lifetimes ago, but personally engage with the social contract on a regular basis, tacitly keeping the agreement alive. In these ways, the Constitution establishes itself as a valid social contract.

The genesis of the Constitution is a textbook case for the just formation of a social contract. As David Hume would say, when King George III first threatened the colonies' right to property, he invalidated the previously existing social contract between the American colonies and the monarchy (Part II, Essa XII). By taxing without allowing fair representation, he took the legislative power away from the people and undermined his role as king (Locke, Ch 11). A bloody revolutionary war freed Americans from the chains of monarchy, releasing them once more into the state of nature. The need for political structure within the resulting vacuum allowed for the creation of the Constitution.

John Locke argues a political system exists whenever a group of individuals freely agree to remove themselves from the state of nature. This is precisely what occurred with the Philadelphia Constitutional Convention. At this meeting, representatives from each state gathered to peacefully discuss alternative forms of governance; while direct individual input is ideal for the formation of a social contract, representation is more feasible where large numbers are concerned and can still give majority consent (Locke, Ch 4, 11).

The political system chosen by the majority—that of a federal republic—agreed with the definitions of the major classical social contract theorists. Should the arrangement have violated the natural rights of its citizens, it would have nullified itself. Instead, the Constitution states that

all men are created equal, promising protection of citizens' property and natural freedoms and thereby meeting the primary responsibilities of a commonwealth (Locke, preface, Ch 8).

A just government should provide a legislative power and a judicial power to objectively enforce the laws, and the U.S. Constitution lays out a careful system of separated powers in order to do just that (Locke, Ch 3). The executive, judicial, and legislative powers create checks and balances maximizing accountability and limiting the potential for corruption. Montesquieu outlined a similar system with slight modifications in his work *Spirit of the Laws*, saying the separated branches offer security from tyranny (Ch VI).

The Constitution manages to stay relevant as a social contract. Hume skeptically argues that if consent was ever given, it was given so long ago that subsequent generations are no longer actively involved and any modern institution has been heavily altered from its original form (Part II, Essay XII). However, the U.S. Constitution relies upon the active participation of current citizens. Virtually every federal position is the result of a direct or representative appointment, so that majority directive continues. The content of the Constitution itself changes to reflect the shifting values and demands of the people; since its inception, twenty-six amendments have been attached.

The Constitution establishes itself as a social contract through the tacit consent of U.S. citizens. Although cynicism about the government abounds, the populace is more interested in reform than revolution, and the social contract peacefully and justly created so many years ago continues to find support within the hearts of the people.

References

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