Rewriting the social contract

Catherine Fieschi on the need to keep our modern tyrants at bay

These days, the seminars and conferences I attend span a set of pressing concerns – populist politics, regulating tech giants, the fragility of European institutions, environmental degradation or generational disparities. Of late, they have all tended to converge on a single endpoint: no matter where we start we always land on the need for a new ‘social contract’.

The term used to be a staple of liberal discussions, but it had fallen out of favour. Now it can feel like the political equivalent of balsamic vinegar – once a condiment of appropriate exception, now laded over everything. Our collective return to the term says much about our shared hopes and fears.

While much of this is about how we live together under new pressures, it is also about the need to re-examine the mechanisms that led us to decide – in an Enlightened age long, long ago – that might does not make right. In a world of Trumps, Orbans, Salvinis, Modis and Xi Jinpings – but also Apples, Googles and Facebooks – and where the strong seem to be able to prey with impunity upon the weak, it is no wonder that we are tempted to get back to basics.

A social contract is an attempt to codify legitimate authority without enshrining the tyranny of the strongest. For authors such as Rousseau, Hobbes or Locke the social contract was a consensual agreement through which, in return for the loss of some freedoms, there would be a legitimate regulation of collective life. And everyone would be free, because everyone had forfeited the same rights.

As we explore our political foundations, it is worth noting where each of us chooses to place the emphasis. Broadly speaking, the French place the emphasis on the ‘social’, while Anglo-Saxon versions tend to emphasise the ‘contract’. These preferences hold even across two republics like France and the United States where the role of the state and the status of the individual lend a very different flavour to the social contract.

French interpretations find their roots in Rousseau’s almost metaphysical notion of the general will – a somewhat miraculous, and elusive, transformation of the preferences of the individual into the interests of a citizen body that bestows vast powers upon the state. The result is one in which the notion of government is rooted in the social body of the nation.

It is interesting that President Emmanuel Macron’s reference to a ‘contractual Republic’ in his July address to the French Congress in Versailles is perceived by many in France as a step too far in the direction of ‘contract’ – without enough attention paid to the ‘social’. Note that when French people spot a breach in the contract they take to the streets – while Americans take to the lawyers (hence the dominance of the courtroom drama – from To Kill a Mockingbird to The Good Fight – as the form through which the nation licks its political wounds).

For Europeans, the legalism of American politics can often feel disconnected from social and political developments. But that technicality in politics is one of the tell-tale signs of where the emphasis is placed in the social contract. Trump here is an interesting phenomenon: is The Art of the Deal nothing more than a hyper-capitalist perversion of the contract, or simply a reversion to Hobbes’s lawless state of nature in which a tweeting president is a wolf to man?

One of the only explicit versions of the social contract in Britain occurred under the Wilson government of the 1970s – a very pragmatic approach to wage restraint in exchange for the repeal of the 1971 Industrial Relations Act. It is a political transaction – a bargain in the context of strong civil society organizations in the form of trade unions and an uncodified constitutional settlement.

Sweden’s famed social contract, on the other hand, is an alliance between a strong state and a strong individual in the context of an atrophied civil society.

What these models share is the value placed on reciprocity as the cornerstone of the social contract. Some argue that these foundations are laid by a shared feudal past – sometimes imported, as in the case of the US. Where there was feudalism, the argument goes, the social contract can take root.

The case of Russia is often used to illustrate this point: characterized by its vast spaces, few towns and thus little commerce, the imperative of frontier defence against the Mongols, and a monolithic religious tradition that short-circuited much philosophical tradition, Russia offered a poor terrain for the emergence of the type of feudalism seen in western Europe. Could this explain its enduring acceptance of arbitrary rule?

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