The Dynamic Social Contract

An American Case Study

by

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Series in Politics

VERNON PRESS

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In the Americas:
Vernon Press
1000 N West Street, Suite 1200
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United States

In the rest of the world:
Vernon Press
C/Sancti Espiritu 17,
Malaga, 29006
Spain

Series in Politics

Library of Congress Control Number: 2022950721

ISBN: 978-1-64889-599-9

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Abstract

The social contract is explored as a dynamic sociopolitical instrument that is influenced by the context of human interactions, specifically, space. Space or proximity exists as a variable both increasing interactions and challenging sociopolitical norms or decreasing interactions and reinforcing sociopolitical norms. At its most seminal level, genetic connections cement communion within the social contract, but as space increases the context of connections becomes more abstract. As connections become more abstract, the social contract becomes dynamic or what Benedict Anderson (1983) describes as imagined. We can trace proximity within a sociopolitical model, with connections becoming more and more abstract as proximity increases and group membership becomes more abstract— global, global region, nation, religion, ethnicity, national region, city, town/village, and kin. We accept that kinship or hereditary connections are the most atomistic. And within this tree of proximity, as proximity increases the ties of group membership become more tenuous, and the incentive of collective action decreases Production is the binding glue of the world economic system, and the framework of the study, but it is within the bounds of the productive system that the challenge of proximity and membership collide. The collision occurs as proximity of production increases, and the reaction is a dynamic response within the social contract, witnessed as a retraction.

Introduction

> *They left untouched the old master-servant laws that were highly prejudicial to workers as well is laws that interpreted labor organizations as felonious conspiracies. Capitalism didn't eliminate oppressive upper classes. It just changed the basis upon which they stood. The ladders for social mobility were spread about the landscape more generously, but those without capital suffered as had those without inherited stasis earlier*
>
> Joyce Appleby

Charles Dickens began his famous novel *A Tale of Two Cities,* with the line, "It was the best of times and the worst of times." The line is prophetic when examining citizenship; specifically, within the context of social contract theory. Social contract theory provides a simple understanding of the social contract. Social contract theory in its most simplistic form establishes that people live together in society in accordance with an agreement that establishes moral and political rules of behavior. The question arises, what does it mean to be a citizen? Are there some who have more citizenship rights than others; simply, is there a duality of citizenship? The questions rest in both statutory definitions of citizenship and tacit norms of citizenship. For constitutional democracies, the definition of citizenship is generally defined: In the United States, the *Fourteenth Amendment, Section Two* reads,

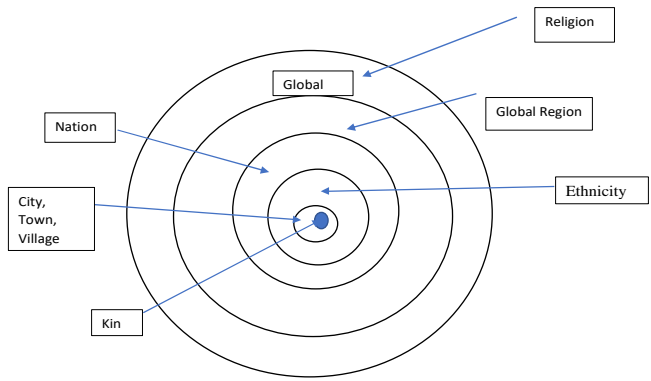
> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Yet, this Amendment, which was ratified in 1868, preceded the sociolegal doctrine of "Separate but Equal," which effectively defined American citizenship through the lenses of skin color. The American Fourteenth Amendment defines "birthright" citizenship, if a person is born on American soil, that person is granted American citizenship. Additionally, if a person is born to American citizens, that person is granted American citizenship. The history of United States citizenship is not an anomaly in world history: In 1842, the newly unified Germany

defined citizenship as a birthright, *jus sanguinis*, of German decent (Pautz, 2005); The Japanese Nationality Law of 1950 follows the *jus sanguinis* format and enlists a strenuous process for naturalization (Lee, 2011). The examples are of statutory laws that define citizenship via the lenses of land and hereditary; you are born on the land or of others from the land.

At its most seminal level, citizenship is the paramount maxim of the social contract. The social contract, which can be understood as a tacit agreement among individuals through which organized society is brought into existence. Yet, from the preceding examples, the social contract can be formally and informally exclusive, allowing citizenship privileges to others and simultaneously denying it to others. Within the scope of citizenship, let us utilize a description of Western citizenship provided by Peter Riesenberg (1992): citizenship is a form of exchange among privileged members.[1] It is a simple description echoed by three political philosophers that offered the most succinct explanations of the social contract and citizenship, Thomas Hobbes, John Locke, and Jean-Jacques Rousseau. The three philosophers differ on their positions regarding the political spectrum, but all share a key similarity in their belief that there should exist a contract of supreme power, government, that exists to administer the rights of man, citizens, the privileged members.

Figure 1.1: Group Membership, expanding from familial to global affiliation.



[1] Aristotle provides the first Western synthesis of citizenship, but the definition is intimately related to Aristotelian virtue. He defines moral virtue as a disposition to behave in the right manner and as a mean between extremes of deficiency and excess, vices. Aristotle synthesizes virtue within citizenship, with a definition of citizenship as a person who possesses the virtues of ruling and being ruled. Therefore, a noncitizen is an individual who does not have or is incapable of virtue.

For simplicity of argument, let us agree that in organized societies some form of a social contract exists and has existed for millennia, and that at its most seminal base the unit of analysis is membership within the group, citizenship. We can further delineate group membership from the tree: global, global region, nation, religion, ethnicity, national region, city, town/village, kin. The tree becomes more expansive as we move up, and conversely, personal connections become sparser as illustrated in *Figure 1.1*. Following group membership to its most basic organizing level, kinship, we can define the kinship connection as the most personal, and global as the most impersonal.

Membership is the binding glue of social contract theory. It is what gives locus to collective identity and action, and it defines access and privilege. At the kinship level, it is simply defined as shared hereditarian lineage, but it becomes more complicated as we move along the tree of membership. At the national level, we can define membership as citizenship within the context of Roman citizenship: citizenship in ancient Rome was a privileged and legal status afforded to free individuals. The privileges of Roman citizenship included: *Lus suffagii*: the right to vote; *Lus honorum*: the right to stand for civil public office; and *Lus commercii*: the right to make legal contracts and to hold property. In the Western world, Enlightenment thinkers coalesced the abstract of Roman citizenship into the concept of liberalism. Liberalism embraces individuality, which holds that given intellectual freedom, individuals/groups will develop institutions into "pareto optimizing" systems. Institutions that exist only in political/socio environments where individuals practice suffrage, exercise the freedom to join or construct public institutions, and can join and/or be bounded by legal rights and contracts, rules. Samuel Beer (2006, p. 695) gives a parsimonious explanation of liberalism: "According to liberal doctrine, the reason men should be free to govern themselves is that they can think for themselves."

Let us define membership as citizenship, nationalism, within the context of liberalism. We witness within this context of membership that personal connections become scarcer. Yet, there are shared identities connected by concepts of sovereignty. Benedict Anderson (1983, p. 6) describes this shared identity, "It is *imagined* because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear them, yet in the minds of each lives the image of their *communion*." The communion weakens as we move from national to global; even imagined connections do not exist outside of shared religions at the global level. Therefore, at the global level the binding glue of the social contract becomes non-existent or marginal, but even within the national sphere, the social contract is not static but predicated on abstract notions of shared fate.

Let us declare that the social contract is not static but is bounded by dynamic institutional constraints. North's (1990, p. 4) definition of institutions clarifies the bounds of a dynamic social contract: "Institutions include any form of constraint that human beings devise to shape human interaction." Thus, institutions act to minimize the costs of interactions and, "…[constrain] …what individuals are prohibited from doing and, sometimes, under what conditions some individuals are permitted to undertake certain activities (North, 1990, 4)." Let us clarify that at its most atomistic level that the social contract is an institution, societies' most basic institution, which we will define as both informal and formal rules that bound human interactions (North, 1990).

Let us explore the rationale of the social contract as a means of shared survival via collective action. The logic of collective action is based in scarcity, a scarcity of resources (Ostrom, 1990). Resources are by nature scarce, and human survival is and has been about managing scarcity. Collective action increases survivability by decreasing transaction costs. A band of hunters is more likely to locate and bring down a large game than a lone hunter, and if one hunter is injured or killed, the loss to the hunting group is not catastrophic. The amount of food (game or crops) is scarce and dictated by natural and human forces: draught, natural disaster, disease, and other humans.

Cementing loyalty or in-group participation can be illogical. It may involve the suppression of self-interest for group interest, altruism. In a simple logic game, individual 1, is a member of group A. Group A is attacked by members of group B, which outnumber and are better armed. A logical choice is for individual 1 is to defect to group B; his/her odds of survival are greater with defection. Conversely, defection decreases the odds of group A's collective survival. Thus, what incentivizes individual 1 to act against his/her own self-interest for collective group survival. For the most atomistic group, it is kinship connections, which we will define as the base level of personal connectivity.

The question arises, outside of kinship connections what incentivizes collective action? John Locke (1687) presented the classical response, which is based on pure self-interest. Locke (1687) wrote within the context of collection action:

> …though in the state of nature he has such a right, yet the enjoyment of it is very uncertain and constantly exposed to the invasion of other. For all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state very unsafe very unsecure. This make him willing to quit this condition, which, however free, is full fears and continual dangers: and it is not without reason that he seeks out and is

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