9 THE CONTRACTARIAN TRADITION AND INTERNATIONAL ETHICS
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Although the contractarian tradition is relatively new compared to other traditions of ethical and political thought such as natural law, the idea of the social contract has frequently dominated modern political philosophy. In the seventeenth and eighteenth centuries, the tradition was developed and criticized by such influential thinkers as Hobbes, Locke, Rousseau, and Kant. In the nineteenth and early twentieth centuries, its influence declined in contrast with more recent traditions such as utilitarianism and Marxism. Yet contractarianism has shown great staying power, and today it is again one of the most influential traditions in political theory, largely due to the work of contemporary American philosopher John Rawls.

All contractarian arguments have a common structure, and it is this common structure that unifies the tradition. At the same time, the tradition is broad enough to permit a wide range of disagreements. The first section of this chapter presents a logical analysis that maps the common structure of contractarian arguments. With this map in hand, we will be better able to understand why the contractarian tradition has often yielded radically different conclusions across a variety of issues in international ethics.

The second and third sections of this chapter illustrate the historical range and diversity of the tradition by discussing some of the most influential classical and contemporary contractarian theorists who have written on international ethics. As we shall see, classical contractarians have been pessimistic about the possibility of international justice, whereas contemporary contractarians emphasize the possibility of international reciprocity and social cooperation. In contrast with classical authors, contemporary contractarians also focus more directly on specific issues within international ethics, such as military intervention and global distributive justice.

The final section discusses some recent issues in the contractarian tradition. As I try to show in the case of US foreign policy, the contractarian tradition continues to exercise an indirect but significant influence on practical politics. At a philosophical level, the tradition also continues to inspire lively debate. In particular, contemporary contractarians disagree about "reciprocity": that is, about the idea of "a return in due measure" by each member of a cooperative scheme. Traditionally, contractarians have viewed reliable expectations of reciprocity or cooperation as a necessary condition of social and political justice. Since classical contractarians saw little or no reliable reciprocity in international society, they concluded that duties of justice between states were relatively weak or nonexistent. More recently, some contemporary contractarians have argued that there is more reciprocity and therefore greater scope for principles of justice in international society than has frequently been thought. This contrast reflects the debate within the tradition about the degree and kind of cooperation required to bring claims of social and political justice into play. Nevertheless, all contractarians recognize that reciprocity is generally weaker and less reliable in international society than in domestic society. Because reciprocity is of special significance in international society, the attention paid to this idea by the contractarian tradition has made it an important source of ethical reflection about international relations.

The structure of contractarian arguments

Contractarian arguments use a procedure of collective choice, the social contract, to show how legitimate political institutions might arise. More recently, the social contract has also been used to justify principles of social justice. The basic idea behind the device of the social contract is that the acceptability or fairness of the initial contractual situation transfers to the institutions or principles that are chosen in that situation. For example, in Locke's version of the social contract, individuals in a "state of nature" agree to transfer some of their natural rights to the political community, thereby establishing a government. That government is legitimate only insofar as it rests on and is limited by an original contract between individuals who are initially free and equal.

Obviously, in making any contract individuals must take into account their general circumstances, various moral considerations, and their own wishes and desires. Contractarian arguments merely reformulate these conditions at a higher level of abstraction. Thus, the structure of all contractarian arguments can be broken down into three elements: a description of the "circumstances of justice," a description of the moral constraints built into the initial contractual situation, and
a theory of rational choice. The first two elements set up a framework for deliberation and choice. An account of rational choice then tells us which principles or institutions individuals would choose within that framework. Since any contract must reflect the circumstances that inspired it, describing the initial choice situation is the most important part of any contractarian argument and the principal source of diversity within the tradition. As we shall presently see, it is also the point at which contractarianism most clearly draws on other traditions of political thought.

The first step in all contractarian arguments is to define “circumstances of justice.” In its most demanding sense, this means determining the circumstances that must obtain for justice to have any meaning, raising basic questions about the scope of justice. As coined by David Hume and reinterpreted by recent contractarians such as Rawls, however, the phrase more often refers to the less demanding idea of “the normal conditions under which human cooperation is both possible and necessary” and, even more specifically, to the conditions that are necessary for “the emergence of just institutions” (Rawls 1973, 126). Thus Rawls, following Hume, lists interdependence, vulnerability, moderate scarcity of goods, limited generosity, and roughly equal capacities and aptitudes as the main circumstances of justice (see Hume 1740, bk. III, pt. II, sec. ii, and Hume 1751, sec. III, pt. I; also see Donaldson 1991).

Contractarian descriptions of the circumstances of justice vary in their assumptions. One description of circumstances might assume that individuals (or states) are altruistic and law-abiding; another might assume that they are highly competitive and inclined to break the law in the absence of sanctions. Obviously, such motivational assumptions set limits on the sort of social and political arrangements to which parties to the social contract can reasonably agree. The presumed material circumstances of cooperation also vary. Contractarians make different assumptions about the level of material scarcity and economic interdependence in a society, and also about a society’s stage of social and political development.

Some of the circumstances of justice that are characteristic of domestic society, such as limited generosity, also clearly obtain in international society. The extent to which other circumstances obtain, such as roughly equal capacities, remains a matter of debate. With respect to circumstances of justice, then, the contractarian tradition exhibits a range of more or less “optimistic” assumptions about the possibility and ease of social cooperation. For example, whether contractarians are “realists” or “cosmopolitans” in international ethics depends partly on how favorable they think circumstances of justice are to international cooperation.

The second element in all contractarian arguments is a description of the ethical constraints that are built into the initial choice situation. As critics outside the tradition have often pointed out, contractarians must rely on extra-contractarian assumptions in order to explain the moral force of the contract. For example, Locke’s social contract presupposes that individuals already possess certain natural rights. Those rights are not justified in contractarian terms; rather, they explain the moral force and scope of the contract itself. Until recently, contractarians have generally assumed that parties to the social contract possess a fairly full and detailed knowledge of their situation. Since Rawls’s hypothetical contract theory, however, many contractarians have limited the information available to individuals in the initial choice situation, to keep agreement from being influenced by “morally arbitrary” factors such as knowledge of one’s class position or natural talents. As we shall see, followers of Rawls have extended his argument to international society by imagining that states meet to agree on principles of global justice under similar conditions of ignorance about their own stage of economic development and level of natural resources.

Given this reliance on extra-contractarian moral assumptions, there are few, if any, “pure” contractarians. Few political thinkers simply presuppose a contractual situation without further justification. Rather, the contractarian tradition permits a range of more or less “moralized” descriptions of the initial contractual situation. Hobbes’s “state of nature” illustrates one extreme version, in which extra-contractarian moral constraints have minimal importance. Rawls’s theory illustrates the other extreme, in which the agreement of the contractors is all but dictated by the normative constraints built into Rawls’s initial situation or “original position.”

In one sense, there is nothing unusual about the contractarian reliance on extra-contractarian assumptions; political theorists outside the contractarian tradition also ordinarily draw on several other traditions of political thought at once. Machiavelli, for example, can be read as a “quattrocento” humanist concerned with the virtue of princes; a “civic” humanist concerned with the vigor of republican government; or a “realist” concerned with the economy of power (for humanist and civic republican readings, see Skinner 1978, 123–39, 180–6; for a realist reading, see “Machiavelli,” Chapter 4). In another sense, however, the extent to which the vocabulary and concepts of contractarianism mesh with other traditions is unusual. In principle,
the method of the contract is available to theorists working in almost every other major ethical tradition. There are even a few contemporary theorists, such as John Harsanyi, who argue that parties to the social contract would choose to organize their society according to utilitarian principles (Harsanyi 1975, 594-606).

Historically, however, contractarians have almost always rejected utilitarianism. Instead, they have generally claimed that the moral constraints embedded in the initial choice situation express distinctive, non-utilitarian principles of justice. Hobbes, Locke, and Rousseau all argue that the domestic social contract rests on individual rights; Kant’s account of a federation of states is motivated by a non-utilitarian conception of moral duty; and Rawls argues that his theory expresses a distinctive, non-utilitarian notion of justice as fairness. While not hesitant about explaining the contractual situation in terms of extra- contractual principles of right or justice, contractarians are generally hesitant about explaining it in terms of good consequences. In contractarianism, what can be done in the name of good consequences is generally limited in two ways: by the normative constraints represented in the contractual situation and by the institutions or principles chosen by the contracters. These limitations on the importance of consequences might seem to make contractarianism somewhat irrelevant to international society, where the importance of consequences in guiding state action appears to loom large. But, again, the applicability of contractarian principles to international society depends on whether there is enough reciprocity in international society to make the social contract a rational undertaking.

Although limited in importance, a concern with consequences does enter all contractarian arguments in essentially the same way. Once the circumstances of justice and the moral constraints of the initial-choice situation have been described, all contractarian arguments also need a third element: a theory of rational choice to explain why parties to the social contract agree to certain institutions or principles. Contractarian theories of rational choice are generally instrumental in character: individuals (or states) are left to form their own preferences, which are not subject to criticism as long as they are not mutually contradictory or otherwise irrational in some weak, formal sense. At this point, however, some classical and contemporary contractarians differ significantly. Classical contractarians such as Hobbes understand instrumental rationality primarily as directed at minimizing important kinds of harm; contemporary contractarians more frequently understand instrumental rationality as maximizing preferences or goods within the framework of the social contract. In Rawls’s

work these two ideas are combined in the idea of “maximizing the minimum” share of goods individuals in domestic (or international) society might receive. All of these theories of rational choice are skeptical about the possibility of reaching agreement about final ends.

Contractarians are reluctant to prescribe final ends for individuals (or states) for two reasons. First, as we have already seen, the contractarian tradition tends to regard parties to the contract primarily as holders of rights or duties and only secondarily as “maximizers” of goods. Second, contractarians are somewhat skeptical about our ability to reach theoretical agreement about final ends, and even more skeptical about our ability to arrive at practical agreement about such ends. As a practical matter, contractarians generally think that the best we can hope for is agreement on a more or less extensive set of instrumental goods, the chief of which is some form of political society. If such practical agreement about final ends is difficult to reach in domestic society, it is even more difficult to reach in international society, where an even greater range of views about the best way of life prevails. In these circumstances, most contractarians have regarded agreement on the common procedural value of the rule of law as the best that states can achieve.

At this point, there are obvious connections between contractarianism and the liberal tradition. Liberals who begin from a qualified skepticism about the possibility of political agreement tend to favor contractarian arguments because the contractarian tradition does not require individuals (or states) to agree to more than a “thin” or instrumental theory of goods. Liberals who begin from strong deontological views about rights or duties also often tend to favor contractarian arguments because the initial contractual situation can be easily set up to reflect those kinds of ethical constraints. Typically, liberals hold both views, being skeptical about final ends and inclined towards strong views of the “right” or justice. Hence, the prevalence of contractarian arguments in the liberal tradition.

In contractarianism the common good receives a rather bare and instrumental definition. Among contractarians, the idea of the common good may amount to no more than the absence of social war, the creation of a common authority, the protection of basic rights, the equitable distribution of certain instrumental goods, or perhaps the possibility of “social union” or harmony between smaller associations. There is nothing in the contractarian tradition that corresponds to the more robust notions of the common good found in other traditions such as natural law. It is true that in Rousseau, Kant, and Rawls, the social contract also appears as a condition of another ideal of
individual welfare or excellence, namely individual autonomy. Nevertheless, autonomy is a much less exacting ideal than the natural-law idea of virtue. Similarly, the idea of a domestic political community appears as a mediating link between individual and government in the contractarian theories of Locke and Rousseau, while the idea of a moral or cosmopolitan international community appears in Kant and the work of Rawlsians such as Charles Beitz. With the partial exception of Rousseau, however, all of these notions of community and the common good are explicable primarily in terms of respect for the principles of the contract itself.

Contractarianism is an individualistic political tradition, then, not in the sense that it necessarily posits “atomistic” individuals who have no social ties, but in the sense that it rejects any ideal of a natural or organic relationship between individuals and the community. Instead, the artificial device of the social contract is used to establish critical standards for evaluating basic social and political relationships and institutions, as well as all de facto distributions of political power. By the same token, authority in the contractarian tradition is based on actual or hypothetical agreement, not on the wisdom of rulers who discern the common good. This conception of authority has its roots in the contractarian emphasis on the free, equal, and separate status of each individual, and in its philosophical and practical skepticism about agreement concerning final goods, whether individual or communal.

To summarize: the contractarian tradition is distinguished by the device of the social contract, which brings together a description of the circumstances of justice, various extra-contractarian moral assumptions, and an instrumental theory of rational choice. It is further distinguished by its rejection of utilitarianism at a foundational level, by skepticism about the possibility of agreement about final ends, and by an emphasis on the free, equal, and separate status of individuals who consent to social and political institutions. Individual contractarians explain and emphasize these ideas somewhat differently. Nevertheless, the tradition can be identified by a common vocabulary and approach. This vocabulary also has considerable rhetorical power, which is another reason why the tradition has proven so influential.

Classical contractarianism

Hobbes, Locke, Rousseau, and (in international ethics) Kant are the classical figures in the contractarian tradition. Unfortunately, their writings about international relations are for the most part scattered or incomplete. Yet, despite the fragmentary character of this work and their deep disagreement about the nature of the social contract in domestic society, these writers share a common, skeptical view of the scope of ethics in international relations. In particular, they share a deep pessimism about international circumstances of justice. For all of them, international relations is a “state of war,” not in the sense of actual fighting, but in Hobbes’s sense of a “known disposition thereto.” With the partial exception of Locke, all of them regard individuals outside of civil society as primarily motivated by scarcity, fear, or a desire to dominate. In this situation, promise-breaking and anticipatory violence are often mere counsels of survival. Thus, while all of these writers recognize the possibility of international law, all have doubts about its efficacy. More importantly, none of them think that international government is as possible or as desirable as domestic government, albeit for somewhat different reasons. In these general respects, classical contractarianism has deep affinities with classical realism (see “Early modern realism,” Chapter 4).

According to Hobbes, before the social contract individuals live in a state of nature which is also a “war of all against all.” This war is generated by the natural motives mentioned above, together with equality of power and the absence of any central authority with effective power. Under these conditions, anticipatory violence is often the most rational strategy for survival and is morally permissible, given the natural “right” of each individual to judge and to do whatever is necessary to his or her self-preservation. In other words, there is little or no reliable reciprocity in the individual state of nature and no authoritative interpretation of the requirements of justice. As a consequence, Hobbes says that in the state of nature nothing can be considered just or unjust.

Nevertheless, Hobbes also says that there is a “law” of nature that directs individuals to seek peace insofar as they can without risking their own survival. Unfortunately, there is so much insecurity in the individual state of nature that it is usually impossible to act on this duty. Conditions in the state of nature are so intolerable that individuals are either driven to create a government by means of the social contract or (more frequently) willing to submit to conquest, which Hobbes regards as an equally legitimate way of founding the state. The state that is created by contract or conquest is the “Leviathan,” a “mortal god” who possesses an almost absolute authority. Since the sovereign of this state defines justice, his actions cannot be either just or unjust. There is no right of rebellion against the sovereign, nor
any other recourse against his laws save by the sovereign's own permission.

Once the domestic state has been created, however, matters outside become more ambiguous. On the one hand, the state now cushions individuals from the worst consequences of the individual state of nature. In addition, the state is much more capable of surviving in the international arena than are individuals before the domestic social contract. Hence, at the international level both individuals and the state are more able to seek peace. By the same token, however, there is now much less urgency to do so, since individuals are protected by the state, while the same natural motivations of scarcity, fear, and glory still tend to guide foreign policy. In other words, a central government is no longer a necessity, as it was in the domestic context. Given these more moderate circumstances of justice in international society, the observation of common rules of conduct is sometimes reasonable (although such rules lack an essential feature of law for Hobbes, namely, a central authority that can interpret and enforce them). Yet the sovereign’s primary duty is still to protect himself and his subjects, even if this requires breaking treaties and violating agreements. As a result, the standing of international law is always precarious. Hobbes’s experience of the English Civil War and his sense of logical consistency also rule out the possibility of states agreeing to a world federation, since Hobbes thought that the sort of division or limitation of authority characteristic of federations was both dangerous and nonsensical. Ironically, states remain in a war of all against all at the international level because the state has successfully eliminated that war at the domestic level.

As many commentators have noted, Hobbes’s description of international circumstances of justice resembles Locke’s description of domestic circumstances of justice, since Hobbes recognizes the possibility of a somewhat greater degree of reciprocity in the international state of nature. Of course, Locke also clearly postulates various natural moral duties and rights in the state of nature, while it remains a matter of scholarly controversy whether Hobbes’s laws of nature are essentially prudential or moral in character (for two different views of this issue see Oakeshott 1962, 248–301; and Kavka 1986, 338–85). But if we leave this complex issue aside. Locke differs from Hobbes primarily in arguing for a right of punishment in the state of nature, more limited rights of government, a right of domestic rebellion, and rights against conquest. In contrast with Hobbes, Locke’s notion of a natural right of punishment brings him closer in international ethics to that part of the natural-law, just-war tradition that rules out conquest yet regards some punitive wars as morally legitimate. For Hobbes, such punitive wars are clearly a matter of prudence rather than justice, whereas wars of conquest may be justified in terms of the natural right of self-preservation, which overrules the natural law to seek peace. Yet while Hobbes is more permissive than Locke, their views of international ethics are essentially similar: both recognize only limited possibilities for international law and reciprocity, and both place the preservation of the state first.

In many respects, Rousseau is even more pessimistic. The creation of the state in civil society eliminates violence at the domestic level, only to exacerbate it at the international level. War is an artificial relation between states, not a natural relation among men, and should be fought according to civilized conventions. But the advent of the state system increases the source of all evil for Rousseau, namely, a form of social interdependence that breeds and magnifies inequality, dependency, and resentment. Rather than cushioning the individual from deadly conflict, the state system makes an unprecedented level of organized violence possible and draws the individual into it. For Rousseau, observation of international law, the balance of power, and even international federations are not expressions of a true common interest, but merely temporary tactics of international competition. At the domestic level, things are even worse: threats from abroad are used to justify inequality and tyranny at home, while the individual’s conscience is hopelessly divided between the demands of good citizenship and the dreadful exigencies of the international state of nature. Finally, Rousseau argues that political authority is legitimate only if it expresses a democratic “general will,” which is in turn only possible in a small society. This problem of scale makes Rousseau quite suspicious of the virtue of large states. It also makes it impossible for something as large and heterogeneous as a world community to have a general will (for discussion of the practical impossibility of the law of nature functioning as a universal general will, see Forde’s treatment of Rousseau under “Early modern realism,” Chapter 4). A world government clearly would be illegitimate. The only permanent solution to international conflict is therefore a world of small, virtuous, autarkic republics, each based on Rousseau’s understanding of the domestic social contract. In international society as we know it, neither a world government nor a world federation is possible; in an international society of small republics, neither would be required (Hoffmann 1965).

Like Rousseau, Kant thought that individuals have a right to republican government and that a world of republics is a necessary
condition of perpetual peace. From this point on, however, Kant and Rousseau diverge. First, Rousseau located the origin of the conflict between passion and reason in society, while Kant located it in a human nature that is always able to choose between the two. Secondly, although Kant was pessimistic about human beings freely choosing to act on their duty to pursue peace, he speculated that providence working through history might drive them to it through the demands of international commerce and the growing costs of war. War would eventually become too unprofitable for human beings to pursue any longer. Unlike Rousseau, the sort of republics on which Kant pinned his hopes were commercial and juridical in character, not autarkic and highly political. Kant's speculative history leads away from contractarianism and towards Hegelianism and Marxism in the nineteenth century. Nevertheless, as we shall see below, there is still an echo of Kant's view of history in some contemporary versions of contractarianism.

Although Kant thought that a world of republics was a necessary condition of perpetual peace, he did not think it a sufficient condition without further legal guarantees. At this point, however, Kant apparently waivered between the ideal of a world state, which he thought would be the only means of making such guarantees effective, and the ideal of a world federation or "league of peace," which would preserve state sovereignty and independence, but at the price of effectiveness. Kant's providential theory of history explains his hope for a moral transformation of the human race that might make the second solution workable. But this idea of a world federation remains a distant aspiration, and in the meantime moral individuals must resist the very war-making capacity that provides the hidden mechanism for realizing their moral aspirations (Fangle 1976, 361). In the end, we arrive at a dualism very characteristic of Kant: actual states exist in a Hobbesian state of nature, where wars are neither just nor unjust because there is no guarantee of reciprocity and no common judge: yet, despite the prospect that we shall continue in this condition, individuals must hope and act as if an international social contract is not impossible.

**Modern contractarianism**

Turning from classical to more recent contractarianism, we find several striking differences. First, classical contractarians doubt the wisdom of relying too extensively on international law and question the possibility of employing a social contract to create a world federation or government. The classical contractarians tend to be "realists" in practice, even if they also sometimes entertain distant cosmopolitan aspirations, like Kant. In contrast, contemporary contractarian theorists of international ethics often begin with a critique of realism. Part of this shift results from a recent perception of increased international interdependence and reciprocity, while part reflects a more explicit "Kantian" division between normative and empirical theory. Second, in contrast with the classical writers, contemporary contractarians focus more directly on specific issues in international ethics such as intervention, nuclear deterrence, and global distributive justice. We can fill out our understanding of contractarianism by attending to some of these differences.

One of the clearest examples of the difference between classical and contemporary contractarianism is found in Charles Beitz's recent attempt to extend John Rawls's theory of justice to international relations (Beitz 1979). Beitz begins with a critique of both the descriptive and normative aspects of "Hobbesian" realism. According to Beitz, Hobbes's equation of the individual and international states of nature depends on four analogies. Like the individual state of nature, the international state of nature is supposedly characterized by: (1) actors of a single kind; (2) with relatively equal power; (3) who are independent of each other; and (4) with no reliable expectations of reciprocal compliance in the absence of a common superior. Beitz argues that empirically none of these analogies holds for modern international circumstances of justice. Instead, there are significant non-state actors, such as the IMF and the UN; state power is very unequal; there is a significant degree of interdependence; and there is also a fair degree of international reciprocity in the absence of any effective central authority. International circumstances of justice are more favorable to cooperation than Hobbesian realists admit, and attempts to pursue international peace and justice often do not entail irrational risks (Beitz 1979, 35-50).

Of course, each of these contentions has been challenged. For example, it has been argued that nuclear weapons once again equalize state vulnerability (Gauthier 1969, 207-8); that international interdependence is more productive of conflict than cooperation; and that international reciprocity is no more than a short-term tactic (for the last two criticisms echoing Rousseau, see Tucker 1977, 132-40). We cannot discuss these issues here. The point is simply that disagreement about the circumstances of justice among contemporary contractarians explains much of their disagreement about international ethics. Important as this is, however, it is not as crucial as controversy about
the normative constraints that should be built into descriptions of the initial contractual situation.

As we have just seen, Beitz rejects the analogy between individuals and states that underlies the Hobbesian empirical description of the international state of nature. But Beitz also rejects any normative analogy between persons and states. The state is not a moral “person,” and it does not have a moral interest in sovereignty that corresponds to individuals’ moral interest in autonomy. Instead, Beitz follows the logic of Hobbes’s own account in noting that the state is merely a condition of individual welfare, while departing from Hobbes in arguing that it is not always an indispensable condition. Beitz recognizes no distinctive “morality of states”; whatever moral standing the state has derives from a morality for individuals (Beitz 1979, 71–76). Obviously, this rejection of the person-state analogy goes far beyond the rejection of one version of contractarianism. That analogy is also part of the traditional normative justification of international law (for further discussion of the state as a magna persona, see “Origins of the tradition,” Chapter 2).

In addition, Beitz disagrees with recent theorists like Michael Walzer who argue that the traditional rule of nonintervention rests on a right to communal autonomy. Walzer’s contractarianism is of a very extended sort, however. According to Walzer the “community rests most deeply on a contract. Burkeian in character, among ‘the living, the dead, and those who are yet to be born’” (Walzer 1985, 219). Walzer explains that, in his work, “Contract... is a metaphor” for the idea of a shared historical development of a political culture (Walzer 1985, 219). Underlying this metaphor is the individual right to be governed only by consent. Beitz is skeptical that individuals in the modern world consent to their governments in any meaningful sense, and he argues that actual consent by itself doesn’t legitimize anything unless it is in accordance with principles of social justice (Beitz 1979, 77–83). In the absence of actual consent (since all states are inherently compulsory), individual and state principles of conduct must derive from a Rawlsian hypothetical contract.

The basic idea of Rawls’s contract is that in imagining a collective decision about principles of social justice, we should allow individuals only enough information to reach a rational choice, but not enough information to take advantage of knowledge of their own special circumstances. In applying this approach to the problem of international justice, we are to imagine individuals choosing principles of international cooperation without knowledge of their particular identities, interests, or generation and place in society. We must also imagine that these individuals are ignorant of their society’s history, level of development and culture, level of natural resources, and role in the international economy. As noted above, Rawls argues that in such situations it is rational to choose principles of justice that maximize one’s minimum share should one turn out to be the least-advantaged member of society. As applied by Beitz, this argument leads to sweeping principles of global justice: each person in international society is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all; and all basic international social and economic inequalities are to be arranged so that they are to the greatest advantage of the least well-off, consistent with a just savings principle and fair equality of opportunity (Beitz 1979, 143–53).

Rawls’s own brief discussion of international justice leads to more conservative results, largely because he assumes that questions of justice do not arise in a world of relatively self-sufficient nations where there is little economic cooperation or reciprocity (Rawls 1973, 377–79). As we have seen, this assumption is part of the classical contractarian view: in contrast with other traditions such as utilitarianism, contractarianism generally holds first, that circumstances of distributive or social justice principally arise between members of a cooperative scheme, and second, that the state is the largest of such schemes. While contractarians also generally believe in a few “natural” or extra-contractarian duties of justice, their focus is on the sort of justice that comes into play within a scheme of social cooperation. For this reason, contractarians have traditionally viewed redistribution among nations as a matter of charity, not obligation.

Beitz, however, departs from Rawls and the classical contractarians primarily in arguing that requirements of justice are relevant whenever “social activity produces relative or absolute benefits [beyond a certain threshold] that would not exist if the social activity did not take place” (Beitz 1979, 131). Given this very broad interpretation of the circumstances of justice, the world economy must be viewed as a “cooperative scheme” even in the absence of deliberate cooperation. Together with Rawls’s hypothetical contract, this view of the circumstances of justice makes international redistribution not a matter of charity, but a moral duty. Other traditional principles of international society are also transformed. For example, the principle of nonintervention now applies in principle only to states that are socially just. To prohibit intervention against unjust states would be to place an unjustifiable obstacle in the way of reform. Of course, there may be other prudential and moral considerations for thinking that
intervention is normally impermissible, and even for setting up an absolute prohibition on intervention as a matter of positive international law. But in principle, intervention cannot be ruled out on the grounds of state autonomy alone.

Obviously, these views illustrate one sort of continuity within the contractarian tradition, running between Kant and modern theorists such as Rawls and Beitz. Like Kant, Beitz (and perhaps Rawls) is hopeful that economic interdependence will make it possible to move away from the current state system toward a more cooperative set of arrangements. Like Kant, Rawls and Beitz also draw a sharp distinction between the contractarian ideal and politics in the non-ideal world (for some of the differences between Kant, Rawls, and Beitz on the topics of economic interdependence and the relationship between ideal theory and non-ideal politics, see “Kantian internationalism,” Chapter 7). For example, Rawls’s theory provides little guidance in explaining how we resolve conflicts between the need to reform institutions and the need to honor expectations formed under present institutions. In such cases, we must fall back on an intuitive balancing of various principles, and in radically unjust situations we may have to fall back on consequentialism. As Beitz remarks, “if this is true, then political change in conditions of great injustice marks one kind of limit of the contract doctrine” (Beitz 1979, 171). Nevertheless, the Rawlsian contract does have important practical implications, perhaps the most fundamental of which is that we cannot subscribe to the “statist” view that foreign aid is a matter of charity rather than duty. Finally, like Kant, Beitz exhibits some ambivalence about the state as a mechanism for change. Although for Beitz global principles of justice ultimately apply to persons, not states, and although states often constitute an obstacle to reaching persons directly, it may be that the state system is the only practicable (and perhaps even the morally best) means of applying principles of global justice. Whether this is so depends on further empirical assumptions about how the state system can be expected to develop.

**Contemporary issues in contractarianism**

Contemporary moral and political theorists disagree sharply about whether Rawls’s contract does yield the principles of justice discussed above. More fundamentally, theorists argue about whether Rawls’s extra-contractarian description of the initial-choice situation should be set up to yield such principles. Many theorists believe that the Rawlsian contract excludes too much information without good justification (for an introduction to this controversy, see Daniels 1975).

The area of disagreement among contemporary moral and political philosophers that is most relevant to contractarianism in international ethics, however, concerns the connection between morality and rational choice. Crudely stated, “Kantians” argue that morality can often fundamentally conflict with prudential self-interest. They therefore tend to set up the contract to reflect this strong view of moral requirements. On the other hand, modern so-called “Hobbesians” believe that it is a condition of the rationality and motivational efficacy of morality that it not fundamentally conflict with self-interest (Kavka 1986; Gauthier 1986). They therefore tend to set up the contract to reflect rational self-interest more directly. Hobbesian contractarians emphasize reciprocity as the main rational motive for acting morally in international affairs, and this emphasis once again leads to a more “realist” view of state relations.

Of course, it can be argued that the long-run prudential interests of strong nations require decent treatment of weak ones. But at best this sort of argument leads to the conclusion that (where there is not already a cooperative scheme) the rich need only “buy off” the poor to the extent necessary to forestall international instability. On this approach, international principles of beneficence are greatly limited. Similarly, the idea of common rational self-interest can lead to arguments for arms limitation or even disarmament. But the morality of nuclear deterrence itself becomes less problematic if international relations reflect a Hobbesian state of nature, where nothing can be considered just or unjust. In this situation, the issue of nuclear deterrence is largely a matter of prudence, not morality – assuming there is a strong distinction between the two (for example, see Morris 1985, 479–97).

These disagreements in international ethics reflect a theoretical disagreement more fundamental than any we have discussed. Contractarians disagree about more than how the circumstances of justice should be described or what sort of moral constraints should be built into the contractual situation. At a more fundamental level, they disagree about how much reciprocity is necessary before principles of justice become relevant at all. To resolve this matter, a more general theory of practical reason is required to explain the relationship between morality and prudential self-interest.

Such philosophical debates have only an indirect influence on practical politics. Nevertheless, the indirect influence of philosophers can be profound and lasting. As an illustration, we might observe that the most significant contractarian figure in the background of recent
US foreign policy is neither Rawls', Kant's, nor even Hobbes', but probably Locke's. Consider the intellectual defense that some writers have offered for the "Reagan Doctrine" in US foreign policy. That doctrine holds that it is permissible to provide military aid to insurgents who rebel against repressive non-democratic regimes but impermissible to provide aid to those who rebel against democratic ones. The Reagan Doctrine does not exhibit Hobbesian skepticism about rights of rebellion, Rousseauian skepticism about the virtue of large states, or Rawlsian skepticism about actual consent. Instead, an essentially Lockeian view of the social contract in domestic society is used to decide which states are legitimate. In defense of the Reagan Doctrine, Lloyd N. Cutler, counsel to the US president from 1979 to 1980, invokes Locke directly: "Our Declaration of Independence, influenced by Vattel, Locke and other apostles of the eighteenth-century Enlightenment, proclaimed the rights of any people to rebel by force against a tyrannical regime. Is there a parallel right to rebel by force against a democratic regime that gives all its people the opportunity to vote in free elections open to any candidate? John Locke thought not" (Cutler 1985, 102-3). Cutler's defense of the Reagan Doctrine is unusual, however, in that he wishes to square that doctrine with existing international law, particularly Article 2(4) of the UN Charter, which appears to rule out resort to force even when war is not declared. Other advocates for the Reagan Doctrine, such as Charles Krauthammer, dismiss such legal justifications and argue instead that international law can be ignored whenever reciprocity is lacking. As Krauthammer remarks, "unlike the domestic social contract, international law lacks an enforcer. . . . If one country breaks the rules at will . . . [what] can possibly oblige other countries to honor that claim? The idea that international law must be a reciprocal arrangement or none at all is not new" (Krauthammer 1985, 24). Despite their disagreement over the international legal justification of the Reagan Doctrine, however, Cutler and Krauthammer agree with Locke that actual consent is the correct test of both national and international political legitimacy and that third parties have a moral right to help enforce the rights of others in the absence of an effective central authority.

Of course, we may question the application of this rationale for intervention. Are the insurgents or "freedom fighters" in question really committed to establishing a democratic government? More basically, we may question the connection between this "Lockean rationale" and Locke's own teachings: did Locke's social contract justify "democracy," or only the more limited ideas of the rule of law and the protection of a few basic rights? The vocabulary of a tradition can be misappropriated, and debates within a tradition are often precisely about such questions of appropriation and misappropriation. It seems clear, however, that despite a great deal of criticism at the philosophical level, eighteenth-century Lockean notions of legitimacy continue to have a strong influence on the way the US government approaches international affairs.

Finally, this Lockean emphasis on natural rights once again illustrates the extent to which contractarians depend on extra-contractarian assumptions and arguments. The most important external criticism of the tradition has always been that this reliance on extra-contractarian assumptions makes the contract itself an unnecessary shuffle: why not appeal directly to the moral considerations that justify the contract? (For the most famous example of this criticism, see Hume 1748.) Contractarians have responded to this sort of criticism in a number of ways.

First, even if the contract is only an organizational device, it is a powerful one. It allows us to draw together many empirical and ethical considerations in a systematic, compact, and elegant way. Rhetorically, the idea of the contract has great appeal. Philosophically, it serves as a useful bridge between moral and political theory. Second, in those cases where the social contract is arguably a reality, the contract gives individuals an important opportunity to exercise control over their own fates. The importance of such control is indicated by the original purpose of the contract for theorists such as Locke. For Locke, the social contract was important because it protected individuals from being bound even by just regimes unless they had first consented. On this Lockean view, freedom is an important value apart from its contribution to social justice (Simmons 1979, 61-71). Finally, some modern contractarians have offered sophisticated philosophical replies to this sort of external criticism. Rawls has argued that his contract really does introduce a distinct set of considerations that cannot be restated in extra-contractarian terms (for a detailed discussion, see Daniels 1979, 256-82). Recent theorists like David Gauthier have tried to derive the conditions of the contract almost entirely from a theory of rational choice rather than from moral assumptions brought to a situation of rational choice (Gauthier 1986).

Whether these kinds of arguments ultimately succeed, the main value of the contractarian tradition is surely that it directs our attention to one of the central issues in international ethics, namely the role of reciprocity. Of course, it might be said that the classical contractarians were not contractarians in international ethics, precisely because they thought that sufficient reciprocity did not exist in international affairs.
But even this view reflects a distinctive, important, and controversial view of justice. It raises basic issues that remain unresolved: To what extent are principles of justice independent of social cooperation? What exactly do we mean by reciprocity or a “return in due measure”? How much must exist before principles of justice apply? More fundamentally, how should we understand the relation between morality and prudential self-interest? Other traditions focus less on the notion of reciprocity in explaining the idea of justice, and more on other considerations, like the common good (for example, compare the discussion of natural law under “The common good and the complete society,” Chapter 6). But it can be argued that in international relations the idea of reciprocity is especially significant and problematic, given the absence of an effective central authority. For this reason, the contractarian tradition is likely to have a strong and continuing influence on ethical reflections about international affairs.

Suggested reading

For the major writings of the classical contractarians, see the suggested reading for Chapter 4 (Hobbes and Rousseau) and Chapter 7 (Kant). Locke’s major presentation of the social contract is in the second treatise of Two Treatises on Government. Within this treatise Chapter 3, “Of The State of Nature,” and Chapter 16, “Of Conquest,” are especially relevant.


The idea of reciprocity as a precondition of social and political justice is perhaps the most distinctive feature of contractarianism. Charles Taylor offers a good point of entry into the contemporary debate about the scope of contractual justice and the relation to duties of justice that apply prior to social cooperation in “The Nature and Scope of Distributive Justice,” in Philosophy and the Human Sciences: Philosophical Papers, vol. 2 (Cambridge: Cambridge University Press, 1985), 289–303.

References


