

1. Introduction The authority that states claim for themselves is so sweeping and unaccommodating to challengers that, absent a compelling justificatory account, it verges on despotism. An imaginative story offering a less heavy-handed representation of the state will, therefore, be welcome. In the liberal tradition, the protagonist of that story has usually been social contract. There are, of course, numerous variations on the contract narrative, but in each the state is deemed to be not the master but rather the creation of individual citizens. More precisely, to the extent that the state does exercise mastery, it does so in virtue of a status freely conferred on it by those over whom rule is exercised.

The social contract story yields several morals. First, it implies that private citizens are not the mere chattels of their rulers; they are not slaves or unemancipated minors or inferiors by nature. Rather, they are self-determining agents who have exited the state of nature and formed a civil order through an exercise of their own wills. Second, the state is in the service of its citizens. It owes them those performances for the sake of which it was created. Third, the bounds of obedience are not without limit. Should the regime fail to uphold the terms of the social contract, it can justifiably be cashiered. Running through the narrative, then, is a commitment to the dignity of ordinary human beings. The ruled possess a moral status that entitles them to respect even from the most elevated of their rulers (who are, strictly speaking, not rulers but rather those who serve the ruled by exercising power on their behalf). That is so even for Thomas Hobbes, the most absolutist of the contract theorists. Once the state is unable to provide security for its citizens, the obligations they owe to their sovereign are rendered null and void: "The Obligation of Subjects to the Sovereign, is understood to last as long, and no longer, than the power lasteth, by which he is able to protect them. For the right men have by Nature to protect themselves, when none else can protect them, can by no Covenant be relinquished." To be a party to the enabling contract is to be an author of one's own political fate; it is to be not merely a subject but a citizen.

Even beginning philosophy students are aware that the great founding theorists of liberalism differ sharply among themselves concerning the framework of the contract that undergirds the state. I hereby nod at these issues but mostly ignore them in what follows. The essay aims to set out what contract theories share in virtue of being contract theories, not what distinguishes them one from another. In particular, it aims to display the weaknesses of social contract as a basis for grounding a tolerable political order. Five reasons are set out in Section 2 for maintaining that contractarianism is unable to ground the authority that state institutions are routinely deemed to enjoy. If anarchism is to be avoided, some alternative strategy is needed. Section 3 resurrects one such strategy: covenant. I don't mean covenant as a synonym for contract; that would be too slender a circle to be worth traversing. Rather, I mean covenant as paradigmatically enacted at Sinai between Israel and its god and subsequently reinterpreted for purposes both religious and political. (The "new covenant" of Christianity is one but not the only instance of reinterpretation.) Section 4 argues that constitution can usefully be understood as something of a hybrid between contract and covenant, and that it thereby acquires some of the advantages of each. Section V sums up. Quite unimaginatively, the constitution that takes pride of place in the discussion is the American constitution drafted in Philadelphia. Is that special pleading? Of course it is. Political justification does not come easily, and not every document that can be identified as a constitution plausibly