

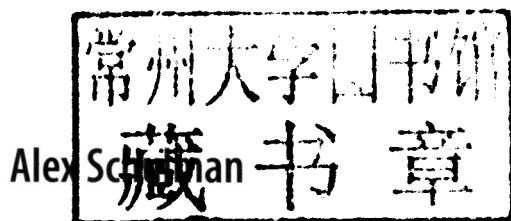
Alex Schulman

The Secular Contract

The Politics of Enlightenment

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The Secular Contract

**This book is dedicated to my parents,
Alan and Carole Schulman**

And let him do his best at deception, he will never bring it about that I am nothing so long as I shall think that I am something.

—*Descartes, Meditations on First Philosophy*

My own mind is my own church.

—*Thomas Paine, The Age of Reason*

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Introduction

This book reexamines the process of secularization that went on in the European Enlightenment, specifically as it relates to theories of politics. The philosophers of the Enlightenment produced what I shall describe as a “secular contract” for modern politics. In what follows I will anatomize this secular contract and also argue that this was a normatively valuable enterprise whose purposes, arguments, and history we need to recover today as we face challenges from fundamentalist religions. The secular contract is about more than the separation of church and state, though it includes that among its premises. It is also about more than official religious tolerance, though some of the writers I shall examine spoke eloquently in favor of tolerance. At its core it involves not only the separation of the political-temporal sphere from spiritual matters, but the application to politics of a new, evolutionary form of knowledge birthed from the scientific revolution, a form of knowledge that of necessity diverges from both divine-scriptural authority and the hierarchical-dogmatic authority of a priestly caste. In this sense it deserves to be mentioned as something that runs concurrent to the development of “social contract” theorizing in the same period, but that also stands in distinction to it, and is not subsumable under it.

The social contract was used by the Enlightenment as “less a scientific interpretation of political facts than an ideology for change.”¹ “Liberal theory,” writes Carole Pateman, “and its conception of self-assumed obligation, was born in conflict with divine right and patriarchalist theorists who insisted that relationships of subordination and authority were God-given or natural.”² As Harvey Mansfield writes of the lineage leading up to the American founding:

If rule derives from divinity, all government is theocracy, more or less, since even if priests are not rulers, rulers are required by the principles of divine right to serve, in some sense, as priests. If rule is made by men, government is constituted by human choice out of human nature, and ‘constitutional government’ so understood, though it may seek or accept the support of religion, is not based on—is indeed constituted against—divine right.³

I should say at the outset that the “secular contract” is an ideal type, built by my fusing together various aspects of Enlightenment political philosophy, something

to be approached asymptotically. It is not an explicit justificatory mechanism (like Rousseau's "general will") that can affirm or dissolve society, with logical precision and beyond doubt, at a given point in time. Indeed, I doubt that any such mechanism is actually available to humans as we exist collectively and historically. I accept a conception of the social contract as a metaphor signaling, historically, the decline of hierarchical corporatism and the rise of egalitarian individualism.⁴ The secular contract is premised upon the social contract, upon the idea that humans can in some sense create their own political universe on this earth, un-predetermined by a law-giving *theos* and constrained only by certain natural conditions. And as with the social contract, a secular contractarianism would be best theorized not in reference to an actual foundational moment, but instead as a "metaphor for a process of association and mutuality,"⁵ a "reconstruction . . . made with a view to the immediate application of the discoveries about natural right to present-day political life"⁶ or a "political metaphor designed to explain the way that individuals' moral obligations might be self-imposed"⁷—except the content of the politics in this case emphasizes human cognitive evolution, something not necessitated by a straight social contract (as evidenced most starkly by the neo-Spartan Rousseau). Thus the secular contract is at once a branching off from the social contract, and a key addendum to it.

Even the greatest modern social contractarians have tended to emphasize the "exist[ence] over time" of "a just and stable society of free and equal citizens"⁸ rather than the progress of such a society. This does not mean they are *anti*-progress; only that they, and thus we political theorists in general, have perhaps thought too little about its institutional preconditions.⁹ Classical social contract theories generally tell stories about how humans entered into political society from some sort of pre-political state, and in doing so justify or at least explain a preferred social order. What is usually missing from such theories is any comprehensive way to deal with the evolution of human societies over time—and this during a period when the West began a process of material progress and social change unequalled in any human society since the advent of agriculture. The secular contract is a way of re-theorizing the early modern/Enlightenment social contract so that it can politically incorporate the era's idea of progress. Solidifying progress presupposes religious disestablishment, and not just in the familiar institutional sense: the timeless perfections of divinity and scripture have to be *intellectually* disestablished. The story told by this book can be boiled down as: *from contract to progress via science and secularization*.

Whatever the contractarian thought experiment's normative value, humans do not rationally rebuild their political world with every succeeding generation—if we did, that might actually threaten progress rather than enabling it, as we will see James Madison insist—and thus the conditions for affirming transparency and consent all the way down will always be, in practice, hard to consider met. "The problem is that, construed strictly, making actual consent the legitimating keystone of political authority is plainly implausible," writes Bryan McGraw, "or, at the least, it makes every plausible government almost by definition illegitimate";

and turning to “tacit consent [has the] rather dubious effect of inoculating governments precisely against what the legitimacy-consent linkage was meant to do in the first place.”¹⁰ The classical contractarian philosophers address this problem, but often in an unsatisfactory way—I will examine this question in more detail later on, especially in light of the late eighteenth-century exchanges between Burke, Paine, Jefferson, and Madison. In any case, few probably consider a process of constant political reconstruction possible or, indeed, desirable. Part of the assurance of an ordered future one presumably desires as a reason for contracting in the first place is fatally undermined by too perpetual a reconstruction or revision of the contract. This is a dilemma that contemporary radical democrats, who “affirm the inescapability of conflict and the ineradicability of resistance to the political and moral projects of ordering subjects, institutions and values,” and value “unending and never-quite-mastered struggles of resistance, adjustment, and negotiation” as such, tend to avoid.¹¹

The “social” in “social contract” ideally renders the contract approved by the society in question, as a whole. How precisely this is to happen has bedeviled, and continues to bedevil, those who want to adopt a contractarian outlook. Continuous active public legitimation seems illogical; but the “thought experiment” method of Immanuel Kant and, in our own era, John Rawls¹² can come to seem so airy that the “contract” in question threatens to vanish into the ether—or into the misty realms of a Deified constitutional moment. The major differences in legitimation mechanisms between, for example, Hobbes’s *Leviathan* and Rousseau’s *Social Contract* are still mirrored as conflicts about the amount and character of participation necessary for a legal-political order to rightly deem itself consensual. “Participatory democrats” as a sect of modern political theory have been the most challenging, arguing, for example, that “political obligation in the liberal democratic state constitutes an insoluble problem; insoluble because political obligation cannot be given expression within the context of liberal democratic institutions.” I agree that consent theory “runs into difficulties when confronted by the demand to show who has, and when, and how, actually and explicitly consented to the liberal democratic state” and that liberal theorists “rarely treat their own ideals and values as seriously as they deserve and take a hard look at the practical requirements, especially the *political* requirements, for social life to be a voluntary scheme.”¹³

Stated thus, the problem may indeed be insoluble. In any case, I will not seek to solve it, so much as to offer a different way of looking at it, based on the very Enlightenment alleged to have bequeathed us (as Hegel argued in its immediate wake) the incoherent idea of a politics legitimated by contract and consent. Thus an aspect of my argument in what follows is that viewing society as a secular contract buttresses the social contract idea by making more meaningful—though not, of course, unassailable—the assumption of continual, piecemeal consent in the latter: the “daily plebiscite” of Renan, but one that accords with (at least potential) progress and evolution. Within the secular contract, political “action”—to use the term Hannah Arendt made popular,¹⁴ though of course hers is only one specific way of imagining a “participatory” state—is but one way of participating in the

polity. Here I reflect my Enlightenment source material, where participation just as often meant adding to the stock of human knowledge and therefore human cognitive progress. But this was not *a*-political, either: indeed, a chief concern of my Enlightenment interlocutors is what sort of political order best supports that sort of participation. Participation in cognitive growth, and the expansion of opportunity for life experience in this world demonstrates why participation in (arbitrary, as typically birth-determined) surrounding sociopolitical structures is not the only factor in whether lives are held to be consensual. We might see our lives as ones of consent if we participate in the politics we find ourselves in, and thus gain a voice in their legitimation—but if our sociopolitical boundaries are hemmed in by, say, a long-running, large-scale attitude that prizes stasis and piety rather than cognitive expansion and mobility, then how consensual could they really be?

Literally we now take “secular” to mean the opposite of sacred or religious, and this is also the sense in which I will mostly use it. A secular contract would thus be a bonding together of humans without the previously felt necessity of divine or priestly legitimation, and a promise not to allow future progress to be sacrificed to the timelessness of any conception of the sacred. “Secularization” once literally meant the expropriation of hitherto Church-held property by the state—but eventually came to be known, as in Max Weber’s work, as a more general long-term process of de-spiritualization or “disenchantment.” Again, I combine these two understandings when interpreting the Enlightenment: the expropriation these thinkers were concerned with was in the sphere of ideas as well as that of material property. The sociologist José Casanova has argued that the true core of the secularization thesis held by most of sociology’s founders lies in the “functional differentiation and emancipation of the secular spheres—primarily the state, the economy, and science—from the religious sphere and the concomitant differentiation and specialization of religion within its own newly found religious sphere,” as opposed to the end of religion itself, or its total privatization.¹⁵ Those latter forecasts have not proved entirely prescient. But here I am less interested in secularization as an empirical sociological prediction than in secularization as a normative political position. Casanova identifies in this Enlightenment stance “three clearly distinguishable dimensions: a cognitive one directed against metaphysical and supernatural worldviews; a practical-political one directed against ecclesiastical institutions; and a subjective expressive-aesthetic-moral one directed against the idea of God itself.”¹⁶ But political theory as I understand it is capacious enough to at least attempt to weave together these strands. The secular contract presses the intergenerational necessity of secularizing politics to enable moral, cognitive, and cultural progress *and* to maximize a certain temporally extended idea of consent. And I emphasize generations and the future because “secular” carries another meaning, though one now largely vestigial. It is that of a lasting age or extended time frame, as in the Latin *saeculum* or related French *siècle*. These are extended time frames that are decidedly *not* visions of timelessness.

To the extent that social contract theories, and the stories of origin that accompany them, do not claim exact knowledge but rather thought experimentation

towards ideal normative conclusions, then their critics are beating at an open door when they accuse the contractarians of a lack of historicity. The lack is admitted because, it is contended, premises from historical contingency could justify just about anything, while a truly rational legitimization of social arrangements can only follow on suitably universal premises. So, T. M. Scanlon writes, “An act is wrong if its performance under the circumstances would be disallowed by any system of rules for the general regulation of behaviour which no one could reasonably reject as a basis for informed, unforced general agreement,” is an elegant contemporary restatement.¹⁷ This matrix of freedom and equality links liberalism to contractarianism, as Jeremy Waldron explains:

the liberal position provides a basis for arguing against some arrangement or institution inasmuch as one can show that it has not secured, or perhaps could not secure, the consent of the people. And it provides a basis for arguing in favor of an arrangement or institution if one can show that no social order which lacked this feature could possibly secure popular consent.¹⁸

Building on seventeenth-century innovations, the Enlightenment left us the language of social contract. But its true legacy in political theory may in fact be the positing of a new “contractual” outlook not only between citizens and their governors, but also between citizens and their future equivalents. Such an emphasis on temporal continuity is typically associated with conservatism, but this is mostly because it was monopolized by religious structures before the Enlightenment’s anti-theocratic push. It had been perverted to serve the maintenance of an original social/political/cognitive model, usually owing to its allegedly divine origins. So just as Rawlsian contractarianism posits that (for example) no rational actor would approve a racial caste system for a society in which his racial status was unknown, the secular contract posits that no legislator not already under the spell of a divinity would approve a society that threatens the progressive potential of itself and its progeny through the sanctification of any of its politics, institutions, or cultural/intellectual life. My contention here is that in the work of the contractarian writers, from Hobbes to Kant, and their Enlightenment co-thinkers, one can trace—through their attitudes toward theology, religion, the conflict between the spiritual and the secular, and between church and state—the advent of a form of political theorizing beyond the social contract; one that, in seeking to tame religious belief and filter it out of the public sphere, also deals with fundamental questions about how human societies are to deal with the nature and evolution of knowledge itself.

Enlightenment(s)

The often polemical series of evaluations and reevaluations, denunciations and salvagings, of the Enlightenment has in some sense gone on since Rousseau. “The Enlightenment,” as historian Olwen Hufton puts it, “has never been a neutral subject

for study.”¹⁹ The interface between contemporary politics and recent intellectual trends gives this debate, if anything, a greater salience than usual. Debates for many decades thought to be relatively moribund—about the secular character of modern societies, the desirability and/or availability of the secularization process, and related issues regarding the place of religious faith in society—have been rekindled. In nearly every case it is the legacy of the Enlightenment that is implicitly or explicitly said to be up for reinterpretation, if not outright affirmation-versus-negation. All these works—from massive *summa*-minded exegeses from historian Jonathan Israel and philosopher Charles Taylor to more popularly pitched works by writers like Jennifer Michael Hecht, Mark Lilla, and Susan Neiman²⁰—point us in interesting directions as to the character and future of what, for lack of an ultimately better phrase, we should still call the Enlightenment project. Yet we still lack an account of the specifically political salience of Enlightenment secularization: that is, not only how secularization matters to the proper interpretation of seventeenth- and eighteenth-century political theory, but how such a line of interpretation can provide a normative pathway through contemporary debates. The books mentioned above all, of course, offer *some* kind of an interpretation in this direction. But nowhere is secularization given its proper political centrality, and where the interface is discussed, I find the accounts to be, at least in part, simplistic or misleading. That is hopefully where my own work comes in. I seek to provide a detail-attentive but still openly normative (some might even say polemical) account of the lineage of modern liberalism in the early modern matrix of scientific revolution, social contract theory, and secular-progressive historical consciousness.

Jonathan Israel’s project is closest to my own in its readings and sympathies. He is a tireless expositor of Enlightenment secularization, and I (and we) owe a great deal to his mammoth histories. However, he builds his work around a division of the Enlightenment into “radical” and “moderate” that, while common enough, does not stand up to scrutiny. Or, to put it differently: though one can surely find a party of radicals facing a party of moderates depending upon how one sets out the terms, I argue that what is most important in the political philosophy of the Enlightenment is not what can be attributed to one party of *philosophes* and not another, but rather what they shared. Israel’s view that “undeniably the Radical Enlightenment was republican, did reject divine-right monarchy, and did evince anti-aristocratic and democratic tendencies,”²¹ for example, discards any adequate optic for marquee names like Voltaire—broadly monarchist but with democratic “tendencies” if one seeks them out; deist but merciless toward organized religion—or Voltaire’s *bête noire* Rousseau—who would preserve a Spartan Geneva while consigning Paris to decadence; who would have his city-state execute atheists; at once the most “republican” *and* the most reactionary among the *philosophes* . . . and is an account of the Enlightenment that leaves a Montesquieu or a Voltaire in the dustbin of history satisfactory? To be fair, Israel has recognized the existence of such hard cases in his most recent installment—yet he remains staunch that “On the main points, bridging the points between

Radical democratic Enlightenment and moderate antidemocratic Enlightenment was literally inconceivable both philosophically and practically.”²²

Such dichotomizing or pluralizing of the Enlightenment is an oft-encountered trope, with one of the sides typically being defended, in the process, as the “real” one, or at least the one that should be our principle guide, at the expense of the other. We now have well-argued accounts of not only the radical versus moderate Enlightenment, but also the high versus low Enlightenment,²³ the nation versus nation Enlightenment,²⁴ and the drily rationalistic Enlightenment versus the Enlightenment that embraced sympathy and the emotions.²⁵ This is apart from the powerful tradition of post-1960s history of political thought that rereads this period as the last stand of classical republicanism, wrongly transformed into an ontogeny of modern liberalism by the latter’s apologists.²⁶ Sometimes these divisions overlap. Friedrich Hayek divides the Enlightenment into English versus French, which equals moderate versus radical: “The first of these knew liberty; the second did not. As a result, we have had to the present day two different traditions in the theory of liberty: one empirical and unsystematic, the other speculative and rationalistic.”²⁷ David Gress, in a similar vein, praises a moderate or “skeptical” Enlightenment as being the legitimate offspring of Western history, as against its bastard sibling, the “radical” Enlightenment: Hume against Rousseau.²⁸ Thus Israel’s valuation is reversed, though the structure of the claim remains. A most explicit, propagandistic (xenophobic?) coloring of the radical-moderate dichotomy came recently from the pen of neoconservative historian Gertrude Himmelfarb, who wants “to reclaim the Enlightenment . . . above all, from the French who have dominated and usurped it . . . I propose to restore it, in good part, to the British,”²⁹ and through them to the Americans, who built approximately the right sort of anti-statist, still-God-fearing polity out of it. America’s Christian right intellectuals have pursued this line even further, positioning a Calvinist Locke and his pious cross-Atlantic heirs against atheistic (and thus terroristic) Frenchmen.³⁰

It has been argued from the other side that classical contractarianism and its interpreters have ignored (or covered up) things like sexual and racial domination: most famously in the work of Carole Pateman and Charles Mills.³¹ But a large variety of political arrangements across time and space have been compatible with racial and/or sexual oppression. Why have the societies that historically legitimated themselves via contracts, real or metaphorical, proven more willing to liberate women at a legal level and weaken sexual taboos at a social level than have more traditional societies where religion, caste, or other hierarchical and patriarchal structures have yielded far less to “the standpoint of contract” (Hegel)? Only one culture at one point in time produced progressive public secularism—the one that simultaneously began to talk about its politics as a contract.

One can seek to pluralize or unmask the Enlightenment apart from partisan purposes. The historian Roy Porter, for example, in a fluent and enjoyable account of one of the national Enlightenments (Britain in this case), begins with a warning: “The Enlightenment is not a good thing or a bad thing, to be cheered or jeered.

Apart from anything else, heroes-and-villains judgmentalism would be absurd because . . . there never was a monolithic ‘Enlightenment project.’³² Porter’s instincts are somewhat similar to Himmelfarb’s, though, in mourning “myopia arising from straining on France,” which leads to “hearing in the Enlightenment heartbeat a militant secularism” not necessarily there. “The simple fact is that Enlightenment goals—like criticism, sensibility or faith in progress—throve in England *within* piety.”³³ This begs the question of what is meant by “piety.” At the time, plenty of Britons did not agree, painting an approving or apocalyptic picture (depending on where they stood) of coffee houses rife with skepticism, atheism, and gleeful satirical blasphemy.³⁴ A willingness to live with the Church of England did not a pious person make. While Steven D. Smith, for example, is not entirely wrong to claim that the “unapologetically religious character of [this] eighteenth-century Enlightenment discourse, and more specifically its persistent reliance on the premise of a providential order, may be disconcerting to modern heirs of the Enlightenment,”³⁵ this line of argument suppresses the amount of meaningful Enlightenment theory that exists between having “the premise of a providential order” and being “religious,” either then or now. Porter is surely right—and many have made this observation—that the difference in political and social circumstances between Britain and France left the former without the same need for a dedicated anti-clerical *philosophe* party. “The deism of the *philosophes*,” writes Norman Hampson, “took on an anti-clerical, in some cases an anti-Christian edge that was unnecessary in England or the Netherlands and impolitic elsewhere. The result was often to give a provocative and an aggressive air to what was basically a quite moderate message.”³⁶

But to draw too sharp a distinction between England and France, or Anglo-America and France seems to me equally ahistorical. It does not explain the *philosophe*-friendly yet somewhat conservative-minded yet plainly atheistic David Hume, for example, any better than the eminent historian Peter Gay’s older broad tent of an “Enlightenment Project.”³⁷ Ditto Thomas Jefferson, and for similar reasons. The evidence of cross-channel, and cross-Atlantic transmissions—going every direction—of intellectual and political passions is simply too great. This is not to say that context is unimportant (obviously). But we should not ignore the way in which intellectual trends in the academy, and the demands of the profession, themselves historically contingent, have produced this situation. One is more likely to get the attention of colleagues by pointing out how a previous unity must be pluralized or problematized, or how an existing grand narrative has effaced counter-narratives, and so forth, than by doing the opposite. Up to a point, there are good reasons for this. No one wants to be a terrible simplifier. Yet I believe that Graeme Garrard is right when he says that this drive to Enlightenment pluralization is “an over-reaction to the unavoidable vagueness of language and creates many problems of its own.”³⁸ Or as Gerald Gaus puts it,

Just as we run the risk of oversimplification by too easily identifying ‘the Enlightenment’ view, or thinking that all Enlightenment thinkers advocate

this view, so too do we run the risk of failing to appreciate themes and overriding concerns if refused to allow such general descriptions.³⁹

There is no perfect solution; but at the risk of being that *simplificateur terrible* my framework owes as much to that of older Enlightenment scholars like Ernst Cassirer⁴⁰ and Gay as it does to those who made their names contravening them. No intellectual movement that contains both Montesquieu and Diderot, both Hume and Gibbon, can be reduced to any single set of premises with which a fan of parsimony will be completely comfortable. But I think the development of the web of interlocking positions I call the secular contract is, from the perspective of political theory at least, as good as any.

Liberalism, Enlightenment, and Religion

In the past 20 years, a dauntingly vast literature has developed around questions about how an officially secular state should interact with citizens or groups who make claims based on their faiths.⁴¹ Though I will comment on some of these questions over the course of the book, it seems important to, at the outset, describe how this work does and does not address them. To a surprisingly large extent, this literature, at least at the level of normative philosophy, has grown out of a single concept, or web of concepts: the “political liberalism,” “overlapping consensus,” and “public reason” of the later work of John Rawls.⁴² To sum up a by now well-known story (and admittedly simplify a complex argument): in *Political Liberalism* (1993) Rawls disowned the “comprehensive” liberalism of his earlier work *A Theory of Justice* (1971), opting instead for something like a *modus vivendi*—the “overlapping consensus.” But the area of the overlap, Rawls claimed, was to be “public reason,” a mode of reason-giving that all members of a society in their public capacity as citizens can recognize and discuss. This might proscribe particularistic or nonrational moral viewpoints, like those based in theology. This idea has occasioned an immense outpouring of responses now stretching over decades. Though some have supported the position of Rawls—and of certain deliberative theorists working in the vein of Jurgen Habermas’s “ideal speech situation”—that religious arguments that cannot be rephrased with a secular rationale should be excluded from public life,⁴³ the consensus has shifted toward those who take the position that excluding religion from the public sphere is either illiberal, or undemocratic, or unpragmatic and unnecessary, or some combination thereof.⁴⁴ Some critics of the Rawlsian “overlapping consensus” have gone even further to insist that justice demands not only toleration but positive affirmation or recognition of the value of particularistic group identities, including religious ones.⁴⁵

These are interesting issues, and scholars from political theory and related disciplines have ably staked out a variety of well-defended positions, often (though not always) based on studies of actual cases. But what is important, from my perspective, is as much what has been bracketed from this debate as what has been said in it. Broadly speaking, the strong Enlightenment position has gone missing. The