

## IS THE SOCIAL CONTRACT INCOMPATIBLE WITH THE SOCIAL SAFETY NET? REVISITING A KEY PHILOSOPHICAL TRADITION

*By ERIC M. MESLIN, AARON E. CARROLL, PETER H. SCHWARTZ, SHEILA KENNEDY  
INDIANA UNIVERSITY*

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**ABSTRACT:** *The American political landscape is characterized by ideological posturing and seemingly intractable disagreement. Nowhere is this more obvious than in current efforts to reform health care which has become more about scoring political points than about developing public policy that would benefit millions. Especially worrisome is the odious habit of dismissing proposals – especially those that see an expanded role for government – as somehow inconsistent with American ‘values’. We believe that progress may be possible by re-engaging directly with and expanding on our basic understanding of social contract theory and its influence on American civic discourse.*

**Keywords:** *Social contract theory, Affordable Care Act, Hobbes, Locke, Rousseau, Health reform, civic discourse, political culture, safety net*

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## INTRODUCTION

**A**s this is being written, two opposing forces are at work: the Obama administration announced in mid-April 2014 that at least 8 million Americans have signed up for ‘Obamacare’ (Young, 2014), meeting expectations that were in doubt only a few months earlier; meanwhile, the U.S. Congress (particularly the Republican-led U.S. House of Representatives) remains mired in a dysfunctional relationship with the White House that consistently stymies efforts to reform policies, especially social welfare policies, even when such reforms have widespread public support. Improvements that most knowledgeable observers believe to be necessary seem increasingly beyond political reach. From health care to immigration reform to economic policy, the American political landscape is characterized by ideological posturing and seemingly intractable disagreement. This situation is worrisome for two reasons: first, it is regrettable that programs and policies that would benefit millions are being rejected or curtailed for reasons unconnected to evidence of their value; second, it suggests that civil discourse and civic literacy are themselves under siege.

There are many questions beginning with: Why? What aspects of American political culture generate resistance to even modest efforts to mend or extend the social safety net? Why is it that we cannot address the plight of the unemployed and the undocumented, even when it is clearly in the interests of both political parties to do so? Is there an explanation for American legislators’ current unwillingness to moderate their positions even slightly, in order to make at least some progress on the challenges we face? And most importantly, would greater civic literacy—a more informed appreciation of the origins of America’s legal framework and culture by the general public—help ameliorate the current impasse?

We believe the answer to these questions lie, at least in part, in what we might call America’s *constitutional culture*. While we certainly recognize—and do not discount—many other factors, especially the influence of a deeply-ingrained if not always visible racism, which continues to distort public debate and derail progress in so many aspects of American life, anthropologists and sociologists have long confirmed the existence of national and regional characteristics, referred to as *folkways* (Encyclopedia Britannica 2014) that are an outgrowth of the fundamental assumptions that shape societies. Those *folkways* are rooted in religious and historical assumptions about the nature of reality and “the way things are.” In the United States, along with a strong and still-potent Puritan influence, the political culture has been shaped largely by the Enlightenment philosophers whose theories about personal autonomy and the proper role of government became an indelible part of its constituent documents and ultimately, the national psyche.

Take the contemporary debate over healthcare reform. This fight cannot be understood without recognizing the continued potency of the country’s foundational assumptions, and especially the continued relevance of social contract theory most directly attributed to 17<sup>th</sup> century British philosopher John Locke (1690/1955). In this paper, we echo arguments made by historians and legal theorists like Daniel Boorstin (1953) and Louis

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Hartz (1955) who authored two of the most influential books of the 1950s, explaining—and defending—the notion of American exceptionalism. In *The Genius of American Politics*, Boorstin attributed American “greatness” to a lack of class conflict and an “instinctive conservatism.” In *The Liberal Tradition in America* (1955), Hartz agreed. Both credited Locke with providing a philosophical base for the new country, obviating the need to create a new and separate tradition; American political philosophy was seen as a “long footnote” to Locke. We suspect that while Americans may never have heard of Locke or the Enlightenment, they have nevertheless internalized Locke’s philosophy in ways that make social inclusion and extensions of the social safety net particularly difficult. In a very real sense, John Locke doomed more comprehensive healthcare reform, at least in the short term, and made it far more difficult to extend unemployment benefits, increase payments under Temporary Assistance for Needy Families (TANF), or raise the minimum wage. If we are to have any success in changing the long term prospects for these and similar reforms, we will need to go beyond the academic, moral, and fiscal arguments, no matter how persuasive some of us find them, and directly engage the need to update and expand our basic understanding of the social contract.

## **THE AFFORDABLE CARE ACT**

Americans have historically been leery of government interventions that might be considered welfare. Access to healthcare is a case in point. Rising costs and the plight of the uninsured are not a recent development. Indeed, proposals to provide national health insurance can be traced to Theodore Roosevelt and have included various versions from almost every President since. But with few exceptions (some of which, like Medicare and Medicaid, are significant, and others that were state-wide experiments) the ‘big idea’ of having the federal government ensure universal access to comprehensive health care has been impossible to implement. Equally elusive is an answer to the question why.

In 1993, concerns about the cost of healthcare and the number of uninsured Americans prompted the Clinton administration to propose significant reforms to the U.S. health care system. The Clinton plan met with great opposition both for the content of its proposals and the process by which it was drafted. After considerable public and political debate, the plan was rejected (Davis, 2001). Subsequently, policymakers limited efforts to reform the health care system to incremental changes such as Medicare Prescription Drug Coverage and expansion of the State Children’s Health Insurance Program (SCHIP) (National Research Council, 2004; Berman, 2004; Frakt & Pizer, 2006).

The effectiveness of such incremental reforms, however, was limited. The United States famously spends more on health care per capita than any other country – about 48% higher than the next highest spending country (Sweden), and about 90% higher than countries that might be considered global competitors, such as France, England, Canada, and Japan (The Henry J. Kaiser Family Foundation, 2012). Health care costs have grown an average of 2.4 percentage points faster than the U.S. gross domestic product since 1970, and in 2010, national health care expenditures in the U.S. totaled \$2.6 trillion, a 3.9% increase from 2009 (The Henry J. Kaiser Family

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Foundation, 2012). Between 2006 and 2007, premiums for employer-sponsored health insurance rose by 4-5%, outpacing overall inflation and wage gains (The Henry J. Kaiser Family Foundation, 2013). By 2012, Census data revealed that the number of uninsured Americans had reached 48 million (DeNavas-Walt, Proctor & Smith, 2013). By 2008, there were more uninsured people in the United States than at any time since the passage of Medicare and Medicaid in the mid-1960s (DeNavas-Walt, Proctor & Smith, 2013). Even more dispiriting, beginning in 1997, though the country saw a steady decline in the percentage of children who were uninsured; 8.9% of children under the age of 18, or 7 million children, were still uninsured in 2012 (DeNavas-Walt, Proctor & Smith, 2013).

As the U.S. approached the 2008 Presidential election, health care reform was again on the minds of most Americans and the candidates. Most observers believed that there was a mandate for sweeping reform, and during President Obama's first 100 days in office, he and the Democratic majorities in the House and Senate approached the issue from that perspective. In the end, the Patient Protection and Affordable Care Act (ACA, 2010) instituted far less sweeping changes than many supporters wished and many critics feared; gone was the idea of universal national health insurance and a public option as part of the health insurance exchanges. Nevertheless, the resulting law did include historic changes to American healthcare – including the individual mandate, the expansion of Medicaid, and requirements that private insurers spend a fixed percentage of policy premiums received on medical care rather than overhead – and it aroused historic opposition and rancor. By March 2014, the House of Representatives had held more than fifty votes to repeal the ACA. Even after the Supreme Court upheld the constitutionality of the mandate and President Obama won re-election in 2012 on a campaign in which the ACA was a central issue, critics fixed their sights on elections in 2014 and 2016 and issued promises to undo or cripple the law.

Why hasn't the U.S. been able to achieve real health care reform? What accounts for the resonance of recurring accusations about death panels-- an inaccurate term first coined by Sarah Palin (2007)-- or "socialism", as pejoratively portrayed by Brewton (2009)? We suspect that most Americans are compassionate people who are uncomfortable with the idea that others go without health care in the richest country on the planet; they would be unlikely to endorse the notion that only people with means should have access to medical care. Yet surprisingly large numbers continue to oppose the ACA and similar governmental interventions.

Social welfare programs are where our culture's deeply ingrained understanding of the social contract conflicts with our more humanitarian impulses. Americans' current division over the ACA is yet another iteration of the deeply embedded conflict between the Social Darwinist attitudes exemplified by William Graham Sumner (1992) and the Social Gospel most closely identified with Walter Rauschenbusch (1917). No matter how logical or effective, programs requiring extensive government involvement, or that include "mandates" of any sort, trigger an almost visceral reaction in those who tend more to Social Darwinism, a belief that "productive" people's rights are thereby violated, and that such approaches are contrary to freedom, to "real" Americanism.

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In other words, at a basic—perhaps unconscious—level, many people believe that government involvement in healthcare, or government intervention via provision of a social safety net, is somehow un-American and therefore must be rejected. It does no good to point out how deeply government is already involved in providing a social safety net through Social Security, or in providing health care in particular (e.g., the Veterans Administration which is the largest integrated health care system in the country serving more than 8.75 million Veterans each year)-- the issue is emotional, not factual. The passage of Medicare generated cries of socialism, and the New Deal-- even in the midst of the Great Depression-- was aggressively opposed. It is the rare social program that hasn't had to contend with accusations of incipient communism, for reasons the next section helps illustrate.

## THE ROLE OF NORMS AND VALUES IN SOCIAL PROGRAMS

Efforts to achieve significant and sweeping (rather than incremental) social reforms in the U.S. have largely ignored (or avoided) in-depth discussions of fundamental norms, values, and principles; yet it is the compatibility with these normative ideas that provides the foundation for successful reform efforts. The failure to explore such foundational issues leaves proposals open to crippling attacks. Too often, a meritorious proposal is defeated by attacks portraying it as a violation of individual rights or a deviation from the foundational principles of U.S. society. As noted above, critics often attack reforms by labeling them *socialist*, a tactic that is popular because it is designed to cause an instinctive reaction that equates socialism with communism – a tried and true method of garnering support for what many take to be the antithesis of democracy. Using this rhetorical tactic is effective, especially when uttered dismissively as directly contrasting with fundamental principles of American democracy. Claims about universal health care provide a number of other examples of the favored scare tactics used to trigger such worries:

- *The state will choose your doctor and your treatment options, not you* – a charge that the proposal threatens individual freedom.
- *Scarce resources will be used inefficiently, or spread too thin, and you will be denied care that you need, perhaps inadvertently, perhaps as a result of rationing* – a claim that the measure fails to respect the sanctity of life and that persons will be considered expendable if treatment is too expensive. (Hence the “death panel” accusations.)
- *Scarce resources will be re-allocated so that everyone has the same level of (inadequate) healthcare*—a claim that those who “merit” healthcare services by reason of greater productivity will somehow be cheated of what they have “earned.”
- *The government will become larger, more overbearing, and more intrusive* - a claim that healthcare reform threatens the value of individual liberty.

An especially instructive example of such an argument occurred during the first Clinton administration. In 1992 US Department of Health and Human Services (DHHS) Secretary Louis Sullivan described the different

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approaches to health reform being proposed by incumbent President George H.W. Bush, and candidate Bill Clinton, as follows: “[The] fundamental difference is philosophical. It is a question of whether we want to remain true to our commitment to choice and the private sector” (Sullivan, 1992). The Sullivan statement draws a stark dichotomy between government control of health care and private market control. In a country where belief in the market’s invisible hand is quasi-religious, and suspicion of government is endemic—where former President Reagan (1981) could count on an appreciative response to his assertion that government “isn’t the solution, it’s the problem” (para 10)—the prospect of government control of anything triggers deeply-held fears. The fact that this is a false dichotomy (people without health insurance cannot exercise “choice,” and neither can the millions of Americans who get their insurance through their employers) doesn’t detract from its continued political salience.

A more contemporary example comes from those who maintain that policymakers advocating social welfare reforms similar to systems in France, Canada, Germany, Sweden, or New Zealand are advocating *nanny-state* solutions that will inevitably impose stifling governmental bureaucracies on an efficient economic system (Santora, 2007). The term *nanny-state* is both provocative and pejorative, raising the specter of a government that oversteps the bounds envisioned by a libertarian reading of Locke (1690/1955), among others.

The rhetoric used against significant health reform is just the most recent example of themes long used to oppose social welfare measures. The social safety net is repeatedly framed as a threat to *life, liberty*, and the individual *pursuit of happiness*. There is a reason that social welfare proposals have historically faced an uphill climb in the U.S.; not only must such proposals stand on their own merits, by demonstrating their medical or economic feasibility, they must also be defended against claims that they are un-American and contrary to the principles that animated the Constitution and Bill of Rights. Unfortunately, few Americans are sufficiently acquainted with those principles—or those documents—to recognize the speciousness of such claims, and this deficit of civic knowledge is a significant barrier to efforts to revisit social contract theory. For far too many Americans, revisiting social contract theory is impossible, because they have never visited that theory in the first place.

Available data is plentiful and unambiguous, and it demonstrates a troubling and widespread lack of basic civic literacy in the United States. Only 36% of Americans can even name the three branches of government (Jamieson, 2007). Fewer than half of 12<sup>th</sup> grade students can describe the meaning or operation of federalism. The National Assessment of Education Progress (NAEP) report on civics competencies found that only 27 percent of fourth-graders, 22 percent of eighth-graders, and 24 percent of twelfth-graders performed at or above the *proficient* level in civics (National Center for Education Statistics, 2011).

Democratic self-government requires a civically educated citizenry. When a polity is very diverse, as in the United States, we would argue that it is particularly important that citizens know the history and philosophy of their governing institutions; in the absence of other ties—race, religion, national origin—a common



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understanding of constitutional principles is critical to both the formation of national identity and the ability of citizens to assess whether policy proposals are congruent with the national legal system and political culture. This civics deficit is one of the reasons the rhetoric of individualism and the social contract has been so potent a weapon against social welfare measures; concepts like personal autonomy, individualism, liberty and the like have taken on cultural meanings for large numbers of Americans that differ from more nuanced interpretations held by citizens who are familiar with the primary sources of those concepts.

## **ADVANCING CIVIL LITERACY BY CORRECTING A KEY MISUNDERSTANDING OF THE SOCIAL CONTRACT**

Above and beyond the general lack of civic literacy, these examples demonstrate a key dysfunction in our national conversation: much American thought and dialogue is based on a particular interpretation of social contract theory, specifically a reading of John Locke's *Second Treatise of Government* published in 1690 which supports the belief that government's job is to promote individual freedom rather than promote the common good. In its most extreme form, such beliefs are seen as mutually exclusive; that government activity can only support the common good at the expense of individual liberty, or promote individual flourishing at the cost to social well-being. If that diagnosis is correct, then the treatment must involve exploring and promoting a more nuanced (and, we would argue, correct) reading of key social contract thinkers. Once the social contract tradition in political philosophy is correctly understood, social welfare policies can actually be seen to fit quite well within it. In fact, we will argue, failure to provide at least a minimal social safety net—including access to healthcare—is a violation of the principles that grow out of this tradition.

In order to make that argument, we review the contours of the social contract, especially as developed by Thomas Hobbes (1651/1688), John Locke (1690/1955) and Jean-Jacques Rousseau (1762/1990). Reflecting on their different approaches does nothing to solve pragmatic policy questions, or to change the political culture that makes passage of such proposals so difficult, but it is a useful starting point. Revisiting the foundations of the social contract may allow us to bring a measure of clarity to some of the confusion and widespread public misconceptions about the roots of America's governing principles, misconceptions that continue to hobble reforms (Beauchamp & Childress, 2009; Danis, Clancy, & Churchill, 2002). If we are to foster and ground a truly civil dialogue and discourse, we must genuinely understand and engage with the intellectual tradition that gave birth to this country.

In support of this contention, consider the perspective of John Rawls (1971), a philosopher in the social contract tradition, who wrote one of the most important works in political philosophy in the 20<sup>th</sup> Century: *A Theory of Justice*. It is worth noting that even critics of Rawls see this as a central book in recent political philosophy, since it stimulated so many robust and thoughtful arguments and counter-arguments, among them, Robert Nozick's (1974) arguments for libertarian principles in *Anarchy, State, and Utopia*, and Michael Sandel's arguments for communitarianism in *Liberalism and the Limits of Justice* (1998). Rawls sees political philosophy as playing four key roles in understanding society and political culture (Rawls & Kelly, 2001). First,

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political philosophy plays a *practical role* by helping us to look for common philosophical or moral ground. Second, such philosophy also has a role in *orientation*, by leading to better understanding of how people think about their social institutions, about themselves, and about their own roles and relationship to society. Third, political philosophy can lead to *reconciliation*, by facilitating an understanding of how institutions arise and the context within which they are rational. Through explanations, rather than justifications, frustrations can be calmed and raw nerves soothed. Finally, and perhaps most significantly, political philosophy can be used to *probe the limits of political possibility*. Through such work, Rawls argued, we seek to learn what we can realize as a society; we can discover what is possible, and how we can accomplish our aims (Rawls & Kelly, 2001).

Those aims are inescapably moral, and morality is a social construct. Even countries with very similar antecedents and values will display differences in their approach to social goods. Jecker and Meslin (1994) illustrated this point two decades ago in a paper comparing and contrasting the United States and Canadian approaches to “justice in health care” by suggesting that the U.S. approach to health care policy reflected the prevailing American understanding of John Locke’s social contract theory, in which justice is a voluntary agreement between consenting and otherwise self-interested groups. Canada’s approach was more consistent with the political theory developed by David Hume, for whom an emphasis on concern for others and the needs of the community took precedence over the prerogatives of the individual (Hume, 1978). This strategy was used as a heuristic, to show how a set of shared cultural values developed out of those respective philosophical roots, and how those values continue to shape present day discussions. They were not intended as strict benchmarks against which countries could be tested. But seen in this way it requires little imagination to see how a libertarian reading of Locke’s social contract theory would find support from an American point of view.

A much broader understanding of our founding political philosophy will be necessary if we are to overcome existing cultural barriers to enacting sound social policies in the United States. If we are ever going to revisit our own social contract, lawmakers and the general public must be equipped with information and skills that will allow them to counter the (very effective) rhetoric employed by opponents of social welfare programs. As we note below, it is doubtful that a sufficient percentage of the American public currently possesses that information, and that deficit in civic knowledge and skills is a formidable barrier to the sort of renegotiation that is needed.

Any serious exploration of the policy impediments to a more adequate U.S. social safety net must start by confronting the political and philosophical origins of the United States. Over 200 years after the founding documents were drafted, their values have become embedded in our culture and are still expressed through our political dialogue; they remain central to the essential American “message”. Even Americans who know very little about the nation’s history, who have never heard of the Enlightenment, have been acculturated to adopt those values—or at least, a superficial version of them.



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## HOBBS, LOCKE, AND ROUSSEAU REDUX

In his great work *Leviathan* published in 1651, Hobbes argued that that the principal purpose of a social contract is to protect people from the harm that others might do them. The social contract removes man from the state of nature, and a life that Hobbes famously described as “solitary, *poore*, nasty, brutish and short,” (Hobbes, 1980, p. 186) where people live “in that condition called *Warre*; and such a warre, as is of every man, against every man” (Hobbes, 1980, p. 185). Because this is the case, social institutions must be established to control human nature and protect us from each other. Social cooperation and mutual reciprocity flow from the recognition that these are rational behaviors that confer substantial advantages to individuals in a society. Nothing in Hobbes’ approach to the social contract suggests any benevolent, other-regarding motivation to establish civil society. Rather, he suggests that people will participate in social institutions if voluntary compliance is an apparent good to them. Political systems and social institutions are valued for the advantages they provide, not for their fundamental fairness.

Like Hobbes, Locke (1690/1955) argues in *Of Civil Government* that the state of nature is sufficiently dangerous that a social contract is necessary to protect the interests of individuals. In the standard reading, Locke places great emphasis on the importance of property rights and on limiting the power of the state (Nozick, 1974). Unlike Hobbes, however, Locke’s state of nature is not necessarily a state of war. The basis for society is not simply avoidance of an unpleasant life, but its ability to improve lives that are already minimally acceptable.

But there is another reading of Locke. According to some interpretations, Locke’s version of the social contract offers a mechanism for social improvement. The evidence for this is found in two passages of the *Second Treatise* in which Locke (1690/1955) writes in Chapter 5:

“For this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others” (p. 329).

The usual reading of this passage is that individuals are entitled to 100% of the fruits of their labor. But the phrase “where there is enough, and as good, left in common for others” is intriguing. Who gets to decide what should be done with the property left in common for others and how it will be used? Locke would certainly agree that the government has the right to use this other property/money for protection of property (e.g. national defense and police), but does the government also have a right to use it on behalf of other citizens—i.e., to redistribute it? Locke is mostly silent on this but arguably, a reading of Locke does support the idea that government has the moral authority, even the duty, to redistribute some portion of wealth/property for the good of others. Indeed, modern social contract theorists like Rawls (1971) explicitly argue for this interpretation.

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The second passage can be found in Chapter 15 of the *Second Treatise*, where Locke (1690/1955) writes about the relationship between parents and children, saying, that a child “having received life and education from his parents, obliges him to respect... and support... both his father and mother” (p.428). What Locke is saying is that there is a responsibility, binding on children, to care for their parents (because parents gave them life, liberty, property, etc.). Perhaps the obligation of children to take care of their parents may serve as an analogy, or even a basis, for government’s obligation to look after all the parents in society, i.e., those who helped build or sustain it. The direct relevance today in the U.S. is Medicare, the federal insurance program that guarantees health insurance to people over 65. Indeed, it is ironic that this government program was the source of the rather bizarre exchange that occurred during one of the town hall meetings discussing the ACA, where a senior citizen demanded that his Representative “keep your government hands off my Medicare” (Rucker, 2009). It becomes difficult to discuss the role of government, let alone the social contract, when so many people are unaware that programs from which they benefit are, in fact, government programs.

Here, then, is the genesis of the schizophrenic American reaction to social welfare: individuals become horrified by the stories of destitution, or by their own experiences of the system, and demand that something be done. But with concrete proposals for policy change comes warnings that the reforms will undermine individual liberty, both by reducing individual choice and by imposing onerous taxes. This oppositional rhetoric is especially powerful when coupled with the very human tendency to be uneasy when confronted with change of any sort. This superficial-- almost visceral-- reaction makes it doubly important for people to be aware that the social contract is more complex than generally assumed.

Even at his most libertarian, Locke (1690/1955) did not suggest that property rights should trump the power of the state to facilitate human flourishing. Indeed, in some readings of Locke, the social contract allows the state to do much more than most libertarians would countenance, including projects that serve the public welfare (Rawls & Freeman, 2007). Locke’s social contract is a more substantive collaboration than libertarian orthodoxy allows, and appeals to Lockean social contract theory as the source of oppositional rejections of social welfare programs are not cut and dry. That being said, the dominant reading of Locke is still used to characterize social welfare programs as somehow un-American. This traditional reading makes the goal of providing a minimum standard of living or providing healthcare for all seem inconsistent with both the need to limit the reach of the state and to respect the sanctity of property rights. The more recent readings of Locke challenge this, reminding us that different interpretations are possible.

Many of the themes – about human nature, property, and the purpose of government – reflected in Hobbes and Locke were developed more explicitly by Jean-Jacques Rousseau writings, including the *Discourse on Political Economy* published in 1755, and *On Social Contract*, published in 1762. In contrast with Hobbes (1985) and Locke (1690/1955), Rousseau claimed that man is naturally good, only acting badly through his social institutions. Rousseau sought to diagnose the evils in society, explain their origins, and determine how they might be eliminated. He warned that inequalities in society can lead to dangerous alienation, and

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cautioned that the rich and powerful can create schisms in society. Rejecting Hobbes (1755), he argued in his *Discourse on Political Economy* that we need to align our institutions with the social contract to secure moral freedom, political and social equality, and independence:

It is therefore one of the most important functions of government to prevent extreme inequality of fortunes; not by taking away wealth from its possessors, but by depriving all men of means to accumulate it; not by building hospitals for the poor, but by securing the citizens from becoming poor... and in short, venality pushed to such an extreme that even public esteem is reckoned at a cash value, and virtue rated at a market price: these are the most obvious causes of opulence and of poverty, of public interest, of mutual hatred among citizens, of indifference to the common cause, of the corruption of the people, and of the weakening of all the springs of government. Such are the evils, which are with difficulty cured when they make themselves felt, but which a wise administration ought to prevent, if it is to maintain, along with good morals, respect for the laws, patriotism, and the influence of the general will (para 35).

Although Rousseau argued for free will and respect for the rights of the individual, he also argued for the existence of a *general will* a set of social bonds that hold individuals together. Indeed, the concept of the *general will* is arguably among most important contributions to social contract theory, as Rousseau (1762/1968) begins Book II, Chapter 1 of *On Social Contract*:

“The first and most important consequence of the principles so far established are is that the general will alone can direct the forces of the state in accordance with that end which the state has been established to achieve – the common good; for if conflict between private interests has made the setting up of civil societies necessary, harmony between those same interests made it possible” (p. 69).

This general will is what remains after removing all private and particular biases. The general will is not utilitarian—it is not the sum of individual desires. Rather, it is the convergence of individual beliefs (not unlike Rawls' [1971] *overlapping consensus*). Rousseau argued that society and its institutions should be used to ameliorate inequality in order to alleviate suffering and avoid letting urgent needs go unfulfilled. Significantly, Rousseau claimed that inequality is not the wrong in itself; rather the wrong is the suffering that inequality causes. Social institutions must act to prevent some parts of society from dominating others, and must prevent people with less money and power from being treated unfairly. Everything may not be equal for everyone, but we should all be equal citizens. In Rousseau's just society, inequality is not eliminated, but it is moderated in order to preserve personal independence and avoid the arbitrary use of power and human suffering. One wonders whether, stripped of the names of the authors or the texts they authored, which of the values (Hobbes, Locke – in either interpretation – or Rousseau) the American public would endorse.

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Unfortunately, our highly politicized civic discourse and our troubling deficit of civic literacy prevent such conversations from occurring.

## HE WHO FRAMES THE ISSUE WINS THE DEBATE

We have suggested that the rhetoric used to support (or reject) social welfare proposals implicates key values important to Americans. Indeed, some reform proposals have been attacked by using arguments that rest on an entirely libertarian reading of Locke, ignoring both his more nuanced passages and the communitarian strains of Hume (1978) or Rousseau (1990). Clearly, the history of social policy reform efforts in the U.S. cannot be traced in a straight line from the group of white men who met in Philadelphia back to Hobbes, Locke, Hume, or Rousseau. As with all policies, some have been responses to challenges (such as wars, or economic depression); others have been responses to opportunities (such as great discoveries by scientists, technological advances, or new ways of organizing hospitals and research universities). But the most significant challenge that all policy proposals face is the need to align whatever pragmatic concerns they address with the values of the dominant political culture.

We believe it is possible to defend robust proposals for reform and to place these proposals squarely within the social contract tradition—invoking the fundamental values that Americans hold dear. It would be a major political mistake to appeal to a different tradition to justify reform in a country founded squarely on the ideas and values emanating from the social contract tradition, and that is most definitely not what we propose. Rather, we believe the time has come to show the value and relevance of America’s social contract tradition in formulating and defending meaningful social policies; to re-frame the debate, and to propose that the social contract be re-imagined in order to continue serving society in the modern era.

If such a reframing seems impossibly utopian, we would offer an analogy to civil rights and our expanded understanding of what is meant by equal protection of the laws. At one point, the belief that African-Americans, women, and gay, lesbian, bisexual, or transgender (GLBT) citizens could be afforded equal legal rights, let alone that such inclusion would come to be seen as quintessentially American, seemed idealistic and unrealistic. Yet imperfect and halting as that social change has been, and as long as it has taken, this change is consistent with the American social, political and moral narrative. This is because America has always been able to reimagine its history and enlarged its understanding of the founding principles.

It is much easier to frighten people into inaction than it is to inspire them to change. In part, this is due to the fact that we conduct our policy debates using rhetoric that is likely to stifle momentum and highlight risks. Some of our failures, however, are due to our inability to adequately explain the ways in which a robust social safety net actually *advances* the deepest values of Americans, and how a concern for social justice is *consistent with* the fundamental philosophy of the United States. If reform is to succeed, proponents must argue for it from within the American constitutional and political culture. This approach is significantly more difficult

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than it might otherwise be because so few Americans are acquainted with the ideas that emerged from these seminal Enlightenment figures, or with the basic premises of our constitutional system.

We suspect that Americans value individual liberty and personal freedom as much or more than they did over 200 years ago, when the experiment of our democracy began. The vast majority of citizens have views that are collectively rooted in the philosophies of Hobbes, Locke, and Rousseau, even if they cannot identify any of those thinkers (and even though those thinkers did not hold identical views). Indeed, one might suggest that the spectrum found in American political thinking reflects the spectrum found in these thinkers: we can find ardent libertarians who might identify with Hobbes, and equally passionate communitarians who would recognize Rousseau as a soul-mate. It is thus not surprising that any attempt at social policy reform based on a monolithic, narrow view of the social contract is doomed to failure. But this is not to say that policy reform is impossible, especially if respectful efforts are made to accommodate those foundational values. It is not enough to argue that a national healthcare system or a more robust social safety net would achieve better results at significantly reduced expense, or to point to public dissatisfaction with the way things are. Any successful attempt to craft legislation expanding the social safety net must argue from within the terms of the social contract itself.

## **CONCLUSION**

As in all countries, no single event or person is responsible for the policies and institutions currently in place—and no single person or event will be responsible for their reform. All American policy is the result of many hands (Starr, 1982), and it will be reformed by many hands. Our current social welfare policies are firmly rooted in America's highly individualistic political culture. Our citizens remain devoted to an ideology of the minimal state and reliance on the free market, no matter how incongruent that ideology may be with the realities of today's administrative state. Policy proposals that ignore this deeply-rooted belief in a (bygone) minimal government will inevitably fall victim to assertions that the proposals violate our most fundamental social norms. It is not enough to point out that established safety nets are increasingly insufficient, or even that current policies have reduced the social mobility that has been one of the proudest aspects of American exceptionalism. Within the United States, despite mountains of data showing otherwise, a widespread belief exists that our health care is the best in the world, that anyone willing to work hard can succeed, and that the social safety net is available to those who need it (or at least to the deserving poor). Even when individuals do recognize the deplorable state of many social health metrics, there persists a stubborn, Lockean refusal to entertain the idea that more government may be the solution.

If we are ever to achieve reform, it will be through a public conversation that re-examines the social contract and frames reform as an extension of, rather than as a departure from, the basic values that have always grounded our democracy. However, that discussion cannot occur without better civic literacy, defined as more—and more accurate—civic information and citizenship skills. When more Americans are familiar with

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the country's history, founding philosophy and institutions, we can invite John Locke back into the national discourse, not to defend barriers to progress, but to expand upon the elements of a social contract worthy of a great country.

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