

**THE LIBERAL SOCIAL CONTRACT**  
**(Theory and Practice of Liberalism)**

***LE CONTRAT SOCIAL LIBERAL***  
***(Théorie et pratique du libéralisme)***

**1985, 405 pages, Presses Universitaires de France, Paris**

**Social liberty**

This volume shows the complete theory of *social liberty* – freedom from forceful interference (see below). Social liberty is the fundamental social ethics of the modern world – it has been for the last two centuries. In particular, it is the basis of our Constitutions (as basic rights) and of our law. Therefore, it is surprising that its very numerous but always partial presentations were so wanting in rigor and scope. This applies to the theory of social liberty in the strict sense, but also to its natural extensions. As a result, this complete analysis concludes that the implication of social liberty as regards issues such that the scope of the public sector and the distribution of income and welfare are very different from what it is usually said they are. It shows what the actions of the public sector and the distribution should be from this basic principle.

In these studies, “liberal” means “liberty-based” in the sense of based on the principle of full social liberty rationally understood and applied. One can thus derive, notably, the liberal distributive justice in general and the liberal social justice (at the macro level), the liberal public economics, the liberal public services, taxes, and State, and so on.

In particular, the liberally just distribution results from the following facts. (1) The effects of free actions, exchanges, and agreements. (2) The distribution of the value of the given resources (including people’s capacities). (3) Gifts for alleviating need and poverty, which is a non-excludable public good for the givers, with the result that the realization should largely be through public transfers and taxes. (4) The consideration that bequest, triggered by death, is not a gift like others. (5) Corrections of past violations of social freedom or of its implications.

**Liberal social contracts**

Social liberty implies free action, exchange, or broader agreement, that do not forcefully interfere with other people's acts or state. Yet, these achievements are sometimes prevented or distorted by "failure" (like "market failures") due to cost or impossibility of information, constraints, exclusion, contact, contract, "transaction," etc. Then, the moral worth of social liberty implies a priori that what its application would have resulted in, were it not so impeded, should be implemented as well as possible, if there is another way to do it. This is a duty to which any agent can contribute. In particular, this realization can be a duty for the public sector, which will do it in the form of taxes, transfers, public expenditures, or regulations. This constitutes the liberal ethic of these public actions. Each instance of this ethic, duty, and role of the public sector and of the State is a *liberal social contract*, and the set of all of them in the society constitute the *Liberal Social Contract*.

A social contract in general is a social ethic, and notably a role and duty for the State's actions using coercion, that consists in implementing a hypothetical general agreement among individuals. The Liberal Social contract is a case of it, yet very different from the other proposed ones. Each liberal social contract is a hypothetical or putative unanimous agreement, but only among the persons directly concerned by the corresponding issue (e.g. a non-excludable public good, an externality, etc.). For the other people, it suffices that their liberal rights are not violated (no forceful interference). This social contract is among existing and living people. Liberal social contracts happen all the time and not once for all. Each is a latent free agreement.

### **The basic liberal theory**

However, even the classical simple liberal theory, although the most common and influential social ethics, scandalously lacked rigor and rational analytical presentation. This volume proposes this presentation. Social liberty is the absence of forceful interference from others individually, in groups, or in institutions. Voluntary exchange and agreement are of course allowed and are important. The respect of others extends to the effects and consequences of free and respectful acts, for instance of rights created by such actions, exchanges or agreements. Social liberty implies that people are only forced not to impose force on others (safety constraints for palliating people's lack of information are justified by the theory of the liberal social contract which indicates that they should be what the person would have chosen if she were sufficiently informed). The theory of the liberally legitimate rights and of their development in time is presented.

### **Liberal public economics**

The general or complete liberal theory, including the Liberal Social Contract, implies a much larger role for the public sector or the State than the classical simple liberal theory where this role is restricted to the protection of the liberal rights. All the “failures” or imperfections of exchanges or broader voluntary agreements create such a public function. These public sector’s actions take the form of regulations, public expenditures and taxes. The determination of their liberal form by the application of the theory of the liberal social contract constitutes liberal or liberty-based public economics. This applies notably to non-excludable public goods or joint externalities affecting sufficiently many people. This also affects essential aspects of the distribution of income or welfare.

Hence, the basis of liberal public economics consists of determining what would have been the outcome of exchanges or agreements in the absence of the obstacles that prevent or distort their spontaneous realization. It relies on the explanations of outcomes of exchanges or agreements which constitute most of economics. This includes the various theories of exchange, bargaining, the core, and so on. In general, this outcome does not result from the maximization of a “social welfare function.” The a priori choice of such a function is irrelevant for liberal public economics. The difficulty or impossibility of choosing such a function is not a problem here. The general liberal theory solves the general problem which the unsuccessful attempts to find a good social welfare function intended to solve.

Yet, the outcomes have to be efficient (Pareto efficient) since the lack of Pareto efficiency is a syndrome of the failures of exchanges or agreements that liberal social contracts intend to remedy. However, when all the conditions of an exchange or agreement are sufficiently specified, including the various personal characteristics of the participants, the outcome is fully specified, including the sharing of the “surplus.” Hence, the liberal social contact also determines this distribution. According to the basic liberal principle, this final distribution is liberally just if the initial distribution is – liberal distributive justice is defined recursively.

This determines in particular the optimum amount and financing of each public expenditure. The putative unanimous agreement among the beneficiaries implies a financing following a principle of *benefit taxation*. Each individual contributes to the cost by the value of the service for her, possibly minus a share of the surplus. If these contributions for the various public expenditures are aggregated for each person, and reported as function of income, the result tends to be a progressive income tax because the benefits received from a number of public services begin only with a sufficient level of complementary private goods, which creates a structure of convexity (examples: roads and cars, children in higher education, protection of various types of property, etc.).

## Joint giving for the relief of poverty

The unilateral transfers of income, wealth, goods or services that respect social liberty are gifts. Outside of families, this makes a relatively small global amount, although by no means a negligible one in some places (for instance 5% of GNP are given in charity in the US). Everybody wants the suffering poor to have more, but many people are ready to give only less – perhaps much less – than one dollar for a poor to have one dollar more. Yet, there are many such people and their willingness to pay for the poor to have one dollar more may exceed this dollar. Then, however, each gives only under the condition that sufficiently many others give. But these people are numerous and dispersed. And no one can be excluded from enjoying the fact that others give, for demanding her contribution. That is, the suffering poor’s situation is a universal non-excludable public good. The liberal social contract then demands that the public sector implements the missing spontaneous agreement, by taxes for aid.

However, an efficient such provision should “crowd out” private gifts (even more so than for contributions to ordinary public goods where there can remain one private giver). The same result is shown to hold if people care about their own specific *contribution*, through both direct gift and this tax. If they happen to care specifically about their own direct free gift only, the same result again holds *in a large society*, since a private gift can exist with efficiency only if average concern for the needy vanishes in the society, which is not the case actually.

Hence, only other kinds of individual motivations and reasoning can explain private giving in an efficient society such as the puzzling non-altruistic norms of giving, “popular Kantianism,” or “putative reciprocity.”

## Theory of the allocation of natural resources

The distributional variable in the classical simple liberal theory is the allocation of the resources given to society, that is, the classical “natural resources.” This volume presents an exhaustive analysis of the possible principles of this allocation and of their properties (Chapter 10). The general liberal theory and the Liberal Social Contract intervene only because a general unanimous agreement for deciding this allocation is a possible solution (this agreement has to be putative: everybody “participates,” perhaps even people not living at the same time). The classical, historical and other possible solutions, and their variants, are analyzed on economic, logical, and ethical grounds. This includes first occupancy, equal sharing, compensations for equally sharing the value, auction sale with various uses of the product, and socialization (nationalization). It also includes the maximization of a social maximand *under the constraint of social liberty*, such as the

highest total income, maximin in income, another inequality-averse function of incomes, a classical social welfare function, maximin in comparable utility (“practical justice”), or utilitarianism. The various ways of associating several criteria, and the distinction of the newly created natural scarcities, are considered.

Besides this allocation of the non-human natural resources is that of the human ones, a basic topic on both economic and philosophical grounds. The specifics of this issue are only mentioned in this volume. This will be the main topic of the volume *Macrojustice* (2004).

Other, more specific important applications of the liberal theory are presented and analyzed.

### **Fundamental insurance**

A number of risks are not insured by private insurance and the insurance market. The general liberal theory then proposes that this insurance be realized by the public sector in application of a liberal social contract (public guarantees for private insurance sometimes suffices). Moreover, differences in people’s given situation are sometimes called good or bad “luck.” This applies for instance to natural capacities or to capacities resulting from the influence of the family in childhood. The person could not have actually taken a corresponding insurance. The lack of this insurance is not a market failure in the ordinary sense of the term. However, considering a hypothetical insurance in this respect provides a theory of more or less compensating these differences. There are transfers from the “lucky” to the “unlucky” persons in this respect. These transfers are publicly implemented, and this constitutes a theory in compensatory egalitarian justice. This principle is called a *fundamental insurance*. The outcome, however, depends on people’s risk aversion. And, a priori, interpersonal justice is not properly mimicked by an individual self-interested choice in uncertainty. Yet, if a population accepts the reasoning of the fundamental insurance as fair, then this gives a reason for accepting it. And this is sometimes the case. For example, the basic reason for Europeans’ preference for public health insurance over private one is that the present public health insurance also insures about the given propensity to be sick, which private insurance would not do (the objection is “it is already too bad that some people have a poor basic health, and they would have to pay a higher insurance premium in addition”).

### **The liberal public debt and retrotransfers**

The public debt is justified by the general liberal theory for implementing liberal social contracts involving transfers at some time to an earlier date, that is, *retrotransfers*. A retrotransfer can be a *retropayment*, notably for financing an investment whose benefits will come later in the form of a

non-excludable public good. Environment policy shows many instances of this case. A deficit-financed reflationary policy also belongs to this category. Yet, a retrotransfer can also be a *retrogift*. For instance, people's desire to help the poor is not restricted to the contemporaneous poor; it also applies to poor living in the future, and also to poor living in the past if this is possible. Gifts to the future are performed by accumulation. Similarly, gifts to the past are performed as retrogifts by the public debt. That is, if the government in the past foresees this benevolence of people in the future, it provides transfers paid by public borrowing, and this debt is later redeemed by taxes on the people who want to have aided. Since the aid has already been provided, these people may prefer not to pay this tax, but the point is that they prefer the whole operation to its absence. Whether for exchange or for giving, the impediment which creates these intertemporal liberal social contacts is the irreversibility of the "arrow of time."

### **Bequest, a half-gift**

Giving respects social liberty and is liberally legitimate. The inequality it may create between receivers and other people is irrelevant for the liberal theory. Bequest is a type of giving, and it has a very large importance. It is in particular the source of the largest inequalities in many societies. However, bequest is a particular type of gift. It is a gift conditional on the vanishing of the giver. If the person really wanted to give to his heir, why did he not give the bequest before? Would he have really given it if his life were prolonged? The bequest is the joint consequence of two events: a benevolence of the person towards her heir, and the death of this person. One is voluntary, a free choice, whereas the other is involuntary. A standard, full, gift is all voluntary. In such a gift, moreover, the giver prefers that the receiver has the given item rather than herself. The second alternative is lost in bequest. Standard giving involves a sacrifice. This is not the case for bequest. The person only prefers that her heir has the items rather than any other living people. And even this preference exists only before the death, when the person prefers that she keeps the items. After the death, when the preference among the possible beneficiaries can become effective, it does not exist any longer (could we believe that a person's preferences exist when this person does not exist any longer, as the soul for some religions? Then, however, we should have a way to know what these preferences are now). If the desires of the late person are not obeyed, she will not complain. Various other facts can intervene. Some property, though nominally private, may morally belong to the family, or to the lignage. And some people, who otherwise strongly support social liberty, object from the receiving point of view, not because of the created inequality as some other people do, but because this benefit is a priori not earned, deserved, or merited. These remarks provide the basis of the determination of the optimum taxation of bequest.

## **Liberal taxes, the liberal public sector**

The basic simple and general liberal theories and their main applications have implications for the general policies and structure of the public sector. There are seven types of liberally legitimate taxes: taxes financing public goods, joint giving, implicit insurance, internalizing externalities, repairing past violations of social liberty, and taxes related to the allocation of natural resources and to bequest. Some are contractarian (application of the liberal social contract) and others are not. Each has a particular intensity of progressivity. They have various statuses with regard to the presence of a corresponding assigned expenditure. The liberal transfers are either gifts or insurance (actual or implicit). Benefit taxation implies that each public service can be performed by a financially autonomous organization, which permits administrative decentralization favourable to efficiency and democracy. The estimation of the value of these goods for the individuals is used, at any rate, for the cost-benefit analysis which determines the amount to be produced. It can use many sources. This is analyzed in a number of contributions that accompanied this volume (see list of publications). Moreover, a main role of the political system is to contribute to revealing this information. This implies various properties and structures of this system and of its working.

## **Comparison with other philosophies**

This volume also presents the other political and economic philosophies related to simple and general liberalism. One category consists of the family of views relying on social liberty and its various applications. Since classical liberalism equated social liberty with full self-ownership, it shared this basis with the core of Marx's conception and criticism, his theory of exploitation. The variety of theories of the social contract are compared with the Liberal Social Contract. Rawls's basic liberties, which he advocates with priority, are the classical "basic rights" which mean social liberty but are not the adequate way of presenting it (this presentation leaves undefined the amount of material means which render "real" these "formal" rights – Marx's terms –; in fact, these means can result from the individuals' use of their share in the general distribution which is added to their social liberty; these social liberties in themselves are non-rival since oppositions between individuals are due to the means they use, and hence each has hers fully and uses it at satiety).

## **Presentations of the principle**

The principle of the liberal social contract were also presented in two papers in English:

**Public Economics** in *New Palgrave Dictionary of Economics*, edited by D. Eatwell, Macmillan, London, 1987, 1047-1055.

**The Freedom and Consensus Normative Theory of the State: The Liberal Social Contract**, in *Individual Liberty and Democratic Decision-Making (The Ethics, Economics and Politics of Democracy)*, ed. by Peter Koslowski, J.C.B. Mohr (Paul Siebeck), Tübingen, 1987, 74, 195-216.

### **Cores for non-excludable public goods**

The determination of the optimum contributions to public goods according to the liberal social contract led to the theory of the core for non-excludable public goods where the public good produced by a “coalition” also benefits other people, and, more generally, to the theory of the core with interdependent coalitions (see *Publications, 2. Public economics*, studies of 1987, 1992).