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Chapter 1.

Social Contract Theory

This Profession Called “Nursing,” and its Rights, Privileges, and Obligations

Nursing’s Social Policy Statement and Nursing’s Social Contract

Nursing’s Social Policy Statement (NSPS) is a document that articulates the parameters of the relationship between the profession of nursing and society.¹ It forms and frames both the basis for nursing’s involvement with caring practices and the shape of society vis-à-vis health and health policy. It is not about the nurse–patient relationship, but instead about nursing as an entity within society, and how that relationship is to be understood, developed, and lived out by the profession as a whole.

While *Nursing’s Social Policy Statement* is not about individual nurses, it is individual nurses who compose the profession, and thus all nurses are participants. It fundamentally roots the nursing–society relationship in social contract. Society recognizes a specific and specialized need—health—so it authorizes a group of workers to form an occupational group (called *nursing*) to address that need. Nursing, which has evolved from an occupational group into a profession, operates as a profession within the social contract.

Guide to Nursing’s Social Policy Statement does not move section by section through the NSPS. Instead, this guide intends to explore the foundational concepts that underlie nursing’s social contract, the central nervous system of the NSPS, so that its breadth, depth, and importance might be better understood. These concepts include social contract (Chapter 1); occupation, vocation, and profession (Chapter 2); citizenship, civic engagement, and civic professionalism (Chapter 3); and nursing’s global health involvement through cosmopolite professionalism, nursing’s social ethics, and social covenant (Chapter 4). *Nursing’s Social Policy Statement* is inextricably tied to both *Nursing: Scope and Standards of Practice* (NSSP) and *Code of Ethics for Nurses with Interpretive Statements* (“the Code”).^{2,3,4} The NSSP and the Code are two of the sixteen elements of nursing’s social contract. It is part of the task of this chapter to elucidate the ties that bind the three documents as foundational to nursing. To do so will require a brief consideration of the key findings of those philosophers who have most influenced our understanding of the social contract.

A Short History of Social Contract Theory: Understanding the Unwritten Social Arrangement It Creates

Any number of articles in medicine and nursing invoke the notion of social contract and presume an understanding of what that means. The writings then proceed with little or no substantive discussion of the origins, nature, or reciprocal obligations of a social contract. The concept of a social contract was developed in the fields of philosophy and political science, and as those discussions do not customarily make their way into nursing curricula, nursing students and nurses are left with little exposure to what a social contract is or how it functions. The general idea of a contract is that it is an enforceable agreement of mutual benefit made between two parties. Contracts may be written, as in suzerainty agreements of very ancient times between lords and vassals or vassal states, but more often today, social contracts are unwritten bilateral arrangements that contain conditions for both sides, and are subject to enforcement. Certain elements of social contracts may be written, such as the laws governing practice or the profession's code of ethics, but the social contract itself is an unwritten understanding. These contracts are always two sided and have expectations for each party of the contract, so in that sense, a social contract is no different from a written one. More specifically, a social contract is an abstract construct that comes out of philosophy, ethics, and political theory. That is to say that a social contract is a metaphor or heuristic device that is used for analysis, reflection, and argument; there is no formal legal contract involved.

Social contract has two formal components. The first explains how it is that *society* comes into being, and the second explains society then produces a state (or a *government*) and *a people* (as in “we the people” of the United States Constitution) that interact for mutual benefit. The first component has profound though more theoretical or less tangible implications for nursing. It is the second component that is more relevant for the discussion of nursing's relationship to and with society, as it delves into the discussion of what society needs from nursing and what nursing needs from society.

Theories of social contract reach back to antiquity though its strongest development occurs in the Enlightenment of the mid-1600s to mid-1700s. It threads its way through philosophy, religion, and politics. Early formulations are found in Plato's *Crito*^{5,6} and *Republic*, Book II,⁷ and in Epicurus's *Principle Doctrines*.^{8,9} However, modern social contract theory owes its development to Thomas Hobbes, John Locke, Jean-Jacques Rousseau, and more recently, to John Rawls, who relies in part upon Immanuel Kant, and David Gauthier, who modifies Hobbes's theory. A very brief overview of the works of these theorists is given here, not to fully develop social contract theory, but to provide foundational information that can be used to situate nursing within the context of social contract theory. Social contract theory has also been subject to critique

both by feminist theorists and critical race theorists. We will look at these critiques because they are important as critiques, but also because they intersect with nursing's concern for persons who are disadvantaged in society. We turn now to the theories of social contract and their successive formulations.

Hobbes: Overcoming a Life That is “solitary, poore, nasty, brutish, and short”

Thomas Hobbes (1588–1679), in his work *Leviathan* (1651), sets forth his political theory in two parts.¹⁰ The first part argues that prior to the formation of society, individuals are in a *State of Nature*. In this state, persons are universally, necessarily, and exclusively self-interested, which causes them at all points to seek their own best interests. The State of Nature is a picture of rampant and exclusive self-interest wherein individuals are driven not only to satisfy their own desires and needs, but to avoid that which does not further the realization of their own desires. The State of Nature is a terrible place, as it is a state of brutality, fear, distrust, and danger, or, in Hobbes's own words, “continually feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short.”¹¹ It is a state of unavoidable and perpetual warfare, as one seeks one's own best interests, even at the expense of another. But, Hobbes maintains that humans are also reasonable.

Because humans can be rational and reasonable, there is a way out by creating, with mutual agreement, a *commonwealth*—that is, *civil society*. It functions as a common-wealth because it serves the needs of all. However, for the commonwealth to function, and to keep rampant self-interest and warfare at bay, two things are necessary: enforceability of the “mutual covenants” or laws that govern a society, and a sovereign with the absolute authority to enforce the law. Hobbes argues that the only way people will fulfill their part of the covenant is through “the terror of some punishment greater than the benefit they expect by the breach of their covenant.”¹² According to Hobbes, the establishment of the commonwealth is the only way to create this motivating fear: “Where there is no coercive power erected [created], that is, where there is no Commonwealth, there is no propriety [moral conformity], all men having right to all things. ... The validity of covenants begins... with the constitution of a civil power sufficient to compel men to keep them.”¹³ The commonwealth

THINKING ABOUT THE COMMON-WEALTH...

Four states (Kentucky, Massachusetts, Pennsylvania, and Virginia) use the term commonwealth in their name, as in the Commonwealth of Virginia. The term has no actual legal meaning. Here it means both that the state was created by agreement of the people (not by the command of King George III), and that it serves the welfare and general good of all of its people. Sometimes commonwealth is written common-wealth, or even common wealth. It refers to the welfare, not the material wealth, of the people.

that is created is one in which “justice is the constant will of giving to every man his own.”¹⁴

He argues that the sovereign (in his day, a monarch) has the absolute authority to enforce the laws generated under the social contract, and must be obeyed, even if he (rarely she) rules badly. The alternative is to return to the intolerable State of Nature, which no reasonable person would want. What one gives up by entering into the social contract is the right to do anything one desires and to seek one’s own needs or desires at the expense of others. In addition, individuals become subject to punishment if they do so. Under the social contract, lives are protected, mutual benefit is secured, social cooperation is assured, agreements are kept, and laws are enforced. So, under the social contract, the brutal freedoms of the State of Nature are lost in exchange for socially secured goods such as a life that can be lived without fear, distrust, or warfare. It is not the State of Nature that is of greatest interest to nursing, but rather the second aspect of social contract, the concepts of government, civil society, rights, and mutuality, for it is from this portion of social contract theory that the rights and responsibilities of nursing arise.

Locke: Power to the People

Most social contract theorists employ some form of a State of Nature. However, John Locke (1632–1704) develops the notion of a social contract with a substantively different view of humankind than that held by Hobbes. The core of Locke’s social contract theory is contained in his 1689 work *Two Treatises on Government* (the full title of which is *Two Treatises on Government: In the Former, The False Principles, and Foundation of Sir Robert Filmer, and His Followers, Are Detected and Overthrown. The Latter Is an Essay Concerning The True Original, Extent, and End of Civil Government*).¹⁵ Hobbes holds that in the State of Nature there is neither justice nor injustice, that the State of Nature is amoral. For Hobbes, morality and law come into being with the creation of civil society. Locke is different in that he maintains that humankind is not engaged in a moral free-for-all in the State of Nature, that there are some limits even in the State of Nature. Morality exists in the State of Nature as humankind discerns and operates under a Law of Nature. In his understanding of the State of Nature, all persons are equal and are in a state of perfect freedom, free from interference by others. The Law of Nature creates a moral limit to that perfect freedom: Individuals may not exercise their freedom to pursue their own desires and needs at the expense of that same freedom for others. As Locke says, “how should I look to have any part of my desire herein satisfied, unless my self be careful to satisfy the like desire, which is undoubtedly in other Men, being of one and the same nature?”¹⁶ So, this means that I may only satisfy my own desires insofar as I permit like desires to be satisfied by others. This

pursuit of my own desires is governed by “rules and canons,” moral rules, that I and all persons alike can know by reason.

As the Law of Nature guides human behavior in the State of Nature, in contrast to Hobbes, this state is not amoral. For Locke, property (including one’s own body as property) and slavery are critical concepts: war ensues over issues of property or slavery, and once it begins, it is likely to continue. For Locke, “every Man has a Property in his own Person. This no Body has any Right to but himself.”¹⁷

Our bodies are our own property and no one has a right to them. For Locke, this includes slavery as the appropriation of the body or property of another; for nursing, this might potentially ground self-determination in health care as derivative of “property rights” rather than respect for autonomy.

Locke also identifies property as that which is created by the labor of one’s hands and combined with nature. The creation of private property—that is, real property (land)—and its acquisition removes it from that which is held in common. In the archaic language of Locke,

The Labour of his Body, and the Work of his Hands, we may say, are properly his. What-soever then he removes out of the State that Nature hath provided, and left it in, he hath mixed his Labour with, and joyned to it something that is his own, and thereby makes it his Property.¹⁸

In the State of Nature, there is no authority that enforces one’s property rights. The creation of civil society and government is therefore required in order to create laws that protect the life, health, liberty, and possessions of all, thereby in theory preventing war over theft of land or possessions, or enslavement.¹⁹

Locke also differs dramatically from Hobbes in how he views the relationship between society and government. For Hobbes, the sovereign is absolute ruler who must be obeyed even when he rules badly. Locke, however, sees the people as having a right, perhaps even an obligation, to overthrow the ruler or government when it becomes tyrannical or fails to serve the commonwealth. The people then have a right to put a new government in place. If Locke’s view sounds familiar—it is. It deeply influenced Thomas Jefferson and the leaders of the American Colonies in their decision to break away from the tyrannical King George III and to create a constitution that protects life, liberty, the pursuit of happiness, and property. It should also be noted that Locke viewed the land as the possession of those who worked it, that is, those who combined labor (plowing and planting) with the raw resources of nature (the soil). In his schema, one that is culturally bound to a European, agrarian understanding of

society, Native Americans never owned the land as their property because they did not till and plant it.²⁰ It belonged, instead, to those who farmed it. This too informed the early founders of the United States and was used as a justification for taking Native American lands without recompense or permission. One can see that social disparities, which would eventually create health disparities, are present even at the very beginnings of the creation of the United States from the British Colonies.

Rousseau: Social Contract Gone Wrong and the More Perfect Union

Jean-Jacques Rousseau (1712–1778) discusses social contract in two different ways. The first discussion lays out his description of the social contract gone wrong. This is found in his *Second Discourse*, also known as the *Discourse on the Origin and Foundation of Inequality Among Mankind* (1753).²¹ It was a radical and shocking critique of the ills of Western society in his day, particularly the economic disparities that created classes of the poor and the rich. He then follows this critique with a corrective, a normative or prescriptive version of the social contract, found in his treatise *The Social Contract* (1762).

Rousseau, too, employs the device of a State of Nature in which people are free, equal, and rational. However, Rousseau envisions them as independent, solitary persons, with simple needs, capable of meeting their own needs without relational ties. For Rousseau, it is a picture of humankind evolving into ever larger groups. As humankind evolves in this state of nature, the family develops into a “little society,”²² in which women are subordinated to patriarchy, solitariness disappears, language develops, enabling cooperation and the creation of communities, and cooperation begins, giving rise to leisure. These are all seen as good things by Rousseau.

As population increases, divisions of labor develop and people become less able to satisfy all of their own needs, becoming instead reliant upon others for the provision of specific needs. So the housewife needs the miller for flour, the farmer comes to the blacksmith for a plow, the blacksmith needs the miner

THINKING ABOUT THE STATE OF NATURE...

Is humankind intrinsically good, or intrinsically evil? This question sits underneath discussions of the State of Nature in the different social contract theories. Think back to William Golding’s famous novel *Lord of the Flies*, for which he was awarded the Nobel Prize in Literature. The novel contains many of the themes of State of Nature discussions in social contract theories, themes such as human nature, individual self-interest, and the common good. In *Lord of the Flies*, a group of preadolescent, well-educated, civilized British boys are marooned on an uninhabited, paradise-like island. The story starts out well enough as they set about establishing a form of order and governance that will help them survive and be rescued. The situation devolves disastrously into savagery before they are actually rescued. The novel is a good read, though a hard read, and useful for reflecting on social contract.

for ore, the miner needs both the beck (pick-axe maker) and the sawyer (lumber-maker); they all might need a bullard to write a letter...and so on. People grow less and less self-reliant and more interdependent upon the labor of others. The development of a concept of private property (my land, my plow, my pickaxe, etc.) follows, and with it the development of greed, competition, vanity, deceit, and a host of vices, in addition to inequality, social classes, and ultimately warfare; "...in short," Rousseau writes, "competition and rivalry on the one hand, opposition of interests on the other, and always the hidden desire to profit at the expense of someone else. All these ills are the first effect of property and the inseparable offshoot of incipient inequality."²³ It is private property that is pivotal in making civil society and government necessary. Those who have property want government to protect their property, to advantage them, and to cement inequality. In Rousseau's opinion, it is also private property for which "the vices that make social institutions necessary are the same ones that make their abuses inevitable."²⁴ This is the dysfunctional, dystopian social contract that he describes in the *Second Discourse*.

As a corrective, Rousseau envisions a different kind of social contract (sometimes called a *social compact*). In his normative reenvisioning of the social contract, communities come together to form a society and everyone places "his person and all his power in common under the supreme direction of the general will; and as one, we receive each member as an indivisible part of the whole."²⁵ One people, a people is formed to become one society, uniting individual wills to create one general will, enabling all to live together. It is the general will that decides and directs the actions of the society. For Rousseau, this act "whereby a people is a people...is the true foundation of society."²⁶ In becoming a (one) people, individuals give up the liberties of the State of Nature, instead, transferring their freedoms to the people as a collective body. This collective body becomes sovereign, creating a collective or general will that seeks to work for the good and benefit of all those who compose the people. So, as one people, the individual will becomes a general will that both defines and seeks the common good. The people are sovereign and through a democratic process form a government that executes the general will of the people. That general will is always to be determined through a democratic process. Ideally, in Rousseau's democracy, each and every citizen participates in deciding the laws that will govern the people.

And yet, not everyone participates in shaping the general will. Low voter turnout in elections indicates a failure of the one people to participate in shaping the general will. In addition, it should be noted that in the 1700s, democracy in the American Colonies and early United States was somewhat less than "democratic." While considered citizens, white women could not vote until 1920, some 144 years later. African American women still faced difficulties voting through the 1960s (particularly in the South, where state laws

essentially prohibited most from voting).²⁷ In fact, women, those under the age of majority, white men who did not own land (real property), indentured servants, slaves, and Native Americans could not vote in colonial America. Only freemen could vote. Historically, a freeman was: (a) not a slave, (b) a member of a municipal corporation (a city or a borough) who possessed full civic rights, especially the right to vote, and (c) a freeholder (landowner).²⁸ Until relatively recently, these were the only people allowed to decide what constituted the general will and thus the common good.

This Lockean sense of a social contract and Rousseau's notion of the people deeply informs the U.S. Constitution. The Preamble to the *Constitution of the United States* (1789) states:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.²⁹

In only 52 words, the concepts of the one people, the common good (“general welfare”), the absence of the strife of the State of Nature (domestic tranquility), liberty and justice as part of the common good, and more, are present in the Preamble. These concepts are then expanded in the Constitution itself. While social contract is a philosophical and political concept, it finds real life expression in the way in which the United States was envisioned and conducts its life today. More importantly, as will be seen shortly in the critiques of social contract, who does or does not participate in constituting the general will, and thus determining the common good, has profound implications for the structure of the healthcare system, healthcare delivery, and health disparities.

Rawls: The Two Principle Prenuptial Agreement to the Social Contract

Social contract theory had lain fallow until John Rawls broke new soil with the publication of *A Theory of Justice* in 1972.³⁰ Rawls employs Immanuel Kant's understanding of humankind as rational beings, able to reason from a universal point of view—that is, a point of view from which all (all = universal) rational persons can argue impartially. Rawls develops his own version of the State of Nature, a theoretical construct he terms the *Original Position*, that is characterized by a Veil of Ignorance. Under the Veil of Ignorance, I do not know who I am; I have no knowledge of my sex, age, race, socioeconomic status, education, or even what I might need or desire. Without this knowledge I am rational and disinterested (not influenced by my own self-interests) and can discover what justice requires and what is fair. Rawls maintains that everyone and anyone behind the Veil of Ignorance would choose the same rational, disinterested,

universal principles of justice, in agreement with all others arguing from the same original position. We would all choose fairly. In a sense, it is like dividing a pie. If you are slicing the pie and you don't know which piece will be yours, you will cut the pie in even pieces. Rawls maintains that his theory is one of justice defined as fairness.³¹ From this original position, persons can reason to what is just and fair. Justice then helps us decide what is needed in order to live together as a society.

Rawls describes the two principles of justice that would arise universally from the original position behind the Veil of Ignorance:

The first requires equality in the assignment of basic rights and duties, while the second holds that social and economic inequalities, for example inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society.³²

The first principle accords individuals maximum liberty compatible with like liberty for all.³³ We saw this similarly in Locke: maximum freedom compatible with like freedom for all. The second principle permits social and economic inequalities *only* if such inequalities also serve to better the situation of the least well off in society.³⁴ This is Rawls's *difference principle*.³⁵ Choosing in this way would mean that if, when the Veil of Ignorance lifts, I find myself among the least advantaged in society, even despite difference (inequality), my lot is still improved. His argument is not specifically about wealth, and not about a redistribution of wealth, though it is, in part, about sharing in wealth. For Rawls, there are primary social goods to which all are entitled, such as liberty, opportunity, justice, and so forth. The maximization of these goods is just and should be promoted. Rawls is concerned, in part, that the circumstances into which one is born are random and that some win and some lose in the birth lottery. Circumstances will dictate, for example, whether one is born to a wealthy, aristocratic family, or to a sharecropper family—think, feudal lord

THINKING ABOUT SOCIAL STARTING POINTS...

There is an old saying about being "born with a silver spoon in his mouth." References to silver spoons appear in the songs of the Gershwins though Creedence Clearwater Revival and the Beatles to Lily Allen. What these silver spoons have in common is a reference to persons who are born into inherited wealth, privilege, and a life of ease. Their starting point in life lacks the struggle that others acquire by virtue of their own perhaps plastic spoon starting point that these musicians sing about. John Rawls' theory is concerned about the lack of fairness of social starting points, the social position to which one is born. Rawls tries to soften the blow to persons born to disadvantaged positions by insisting that the least well off in society ought not suffer in circumstances where the rich get richer. He does not oppose the rich getting richer but insists that if the rich get richer, justice as fairness demands that the poor must become better off too.

versus serf. In addition, some will be born who can run faster and jump higher, sing better, write better, or think more abstractly—think Kobe Bryant or Albert Einstein. The natural lottery determines not only the circumstances into which one is born but also the abilities that one is born with—randomly and arbitrarily. For Rawls, these natural assets and endowments are to be used in such a way that they benefit all. So those with better social circumstances or with stronger natural abilities may use their natural assets to improve their own lot, so long as in doing so it contributes to the good of the less well off in society. As Rawls states, “those who have been favored by nature, whoever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out.”³⁶

Rawls’s highly abstract theory of justice addresses the conditions that must exist prior to establishing a social contract, for only these conditions will in the end make for a social contract that is just and fair. These conditions would prevent the creation of Rousseau’s first description of the social contract gone wrong by placing limits on political and social organization that are necessary to create a just society. Rawls’s concept of justice as fairness, as well as Kant’s perspective on autonomy as rational self-legislation, receive considerable attention in the bioethics literature as well as the nursing ethics literature, specifically in considerations of respect for patient autonomy (patient self-determination), access to health care, and the structure of healthcare systems.

Feminists, Critical Race Theorists, and Social Outliers: In-Groups and Out-Groups

The focus of this chapter is on the rights, privileges and obligations of nursing that are generated by its social contract rather than on critiquing social contract. Even so, it would be unwise to bypass some of the substantive critique that has been lodged against it, particularly because it has implications for those who are socially disadvantaged, and ultimately affects ways in which one may think about health disparities.

Social contract theory has not escaped critique by feminist and critical race theorists or those who work in the domain of intersectionality. Critical theories, as a category, engage in social criticism to the end of social change. They go beyond being descriptive or explanatory to actually seeking change. Critical race theory, a subtype of critical theory, specifically examines society at the intersections of race, law, culture, and power. Intersectionality is often used by critical theorists to examine the interconnections of socially constructed categories (such as race, ethnicity, class, gender) and socially constructed prejudices (such as racism, sexism, ageism, homophobia, handicapism, xenophobia, classism, and the like) and how they create social-structural systems of oppression, domination, discrimination, and disadvantage. That is, they look at how social constructs intersect and are used to create or perpetuate structural injustices.^{37, 38}

Feminist theorists have provided a range of potent critiques of the contract theories of Hobbes, Locke, Rousseau, and Rawls, and of Kant and others as well. Carole Pateman,³⁹ Eva Kittay,⁴⁰ Annette Baier,⁴¹ Jean Hampton,⁴² Jean Elshtain,⁴³ Virginia Held,⁴⁴ Joan Tronto, and Susan Okin⁴⁵ are prominent among the many feminist theorists who have critiqued social contract theory.⁴⁶ Their critiques have been of sufficient substance that they are now taken into account by contemporary “contractarians” (whose roots are in Hobbes) and “contractualists” (whose roots are in Rousseau), both of whom advocate contract theory. While there are several somewhat differing critiques, they do intersect, working together to provide a holistic critique.

Pateman is a leading critic of social contract theory. Her critique is extensive, nuanced, and complex. For our purposes here the thrust of her argument is that “the classic theorists had left a legacy of problems about women’s incorporation into, and obligation within, civil society that contemporary arguments failed to acknowledge.” She argues that “the social contract presupposed the sexual contract, and that civil freedom presupposed patriarchal right.”⁴⁷ Her essential point is that “contract is seen as the paradigm of free agreement. But women are not born free; women have no natural freedom. ...Sexual difference is political difference; sexual difference is the difference between freedom and subordination.”⁴⁸

The first part of her argument is that the original contract was made by men and constructed in such a way as to privilege men and to grant men freedom. It was at the same time a contract that brought women under the domination of men as a contractual norm that reflected the social norms of the day. She proceeds to discuss a variety of ways in which women are made unequal and denied voice by the social contract:

The original pact is a sexual as well as a social contract: it is sexual in the sense of patriarchal—that is, the contract establishes men’s political right over women—and also sexual in the sense of establishing an orderly access by men to women’s bodies [through the

THINKING ABOUT CRITICAL THEORY...

Critical theories, as a family of theories, engage in a reflective assessment and critique of society and culture. The tools of critical theories are composed of a wide range of both social sciences and humanities. A theory is a critical theory to the extent that it seeks “emancipation from slavery,” acts as a “liberating...influence,” and “is not just a research hypothesis which shows its value in the ongoing business of men; it is an essential element in the historical effort to create a world which satisfies the needs and powers of human beings.”⁷¹ Critical theory is not simply analysis and critique. It is also possessed of a reformist bias, often with a social justice concern at its heart. Critical theory, whether feminist-, race- or abilities-focused (see also pg. 94), has an agenda: the critique of society and culture in order to change the world to move it toward meeting the needs of *all* humankind.

marriage contract]. ...Contract is far from being opposed to patriarchy; contract is the means through which patriarchy is constituted.⁴⁹

Thus women are denied freedom from the start of the social contract. But she goes further:

Patriarchal civil society is divided into two spheres, but attention is directed to one sphere only. The story of the social contract is treated as an account of the creation of the public sphere of civil freedom. The other, private, sphere is not seen as politically relevant. Marriage and the marriage contract are, therefore, also deemed politically irrelevant.⁵⁰

She and other feminists note that social contract consigns women and women's work—caring—to the private sphere, the sphere of “dependency care”⁵¹ or “intimate labor” that is hidden from view and poorly compensated or not compensated at all.⁵² Tronto observes that women in the 18th century sought new public roles that “had to be contained and were contained by arguing that women naturally belonged within the household. Another side of this picture is also important: the locating of moral sentiments within the household.”⁵³ She asserts that women's desire to act in the social sphere, coupled with their capacity to reason, could not be contained and so threatened the status quo. By framing a social construct of differing spheres and types of activity for men and women, women were able to be contained: “Women were creatures of sentiment, best exercising their virtue in the context of the household. ...As women became increasingly identified with feeling, men were increasingly left free to be identified with reason. It was a small leap, then, for Kant to exclude women and to ensconce men within the possibility of fully and true moral life.”⁵⁴ From here it is easy to imagine where this went in terms of the place of nurses and nursing in society.

Women are subordinated in the original male-constructed social contract, relegated to the hidden sphere in society, and their labors are devalued. In addition, as the purveyors of care and caring work, women fall outside of the rationalistic Kantian configurations of the moral life. For Kant, autonomy consists in rational self-legislation. Women, socially identified with sentiment, not reason, did not fulfill the Eurocentric “perspective of masculinity” that philosophers of the 18th and 19th centuries were promulgating. Christine DiStefano, in her 1991 book *Configurations of Masculinity*, demonstrates that a number of important modern moral philosophers developed their theories with a normative understanding of “mankind” that contained a normative understanding of masculinity.

Taking a somewhat different approach, Tronto, Held, Baier and other feminist theorists working in “care ethics” maintain that the disinterested, dispassionate, disembodied, universal person of Rawls, Kant, and others does not provide an adequate account of our moral, social or political obligations and that the State of Nature of contract theories does not give an adequate account of humanity. For example, for Hobbes, persons in the state of nature are radically individual without affiliative–affectional ties, and driven by fear. Even as a logical and fictional construct, it is an inadequate view that leaves out affectional bonds, caring for one another, dependency, and more. Held maintains that “various philosophers claim that even morality itself is best understood in contractual terms” but that

As expressions of normative concern...contractual theories hold out an impoverished view of human aspiration. To see contractual relations between self-interested or mutually disinterested individuals as constitution the paradigm of human relations is to take a certain historically specific conception...as representative of humanity. And it is, many feminists are beginning to agree, to overlook or to discount in very fundamental ways the experience of women.⁵⁵

While social contract does not specify a system of ethics or duties, it nonetheless contains normative elements that impinge upon prevailing theories of ethics and their relationship to nursing, as well as the way that nursing conceives its moral concepts, values, ideals and obligations. For example, nursing ethics necessitates a view of the person—one that is not adequately explained by the social contract theories. That is, a central moral claim of nursing is that the patient is a person of worth and dignity, deserving of care and compassion,

THINKING ABOUT DISADVANTAGED GROUPS...

Social concern for the ways in which society’s social structures advantage some and disadvantage others is a matter of dawning awareness. In the 1800s, issues of the position of African-Americans and women surfaced—and persist. Society did not, then, have an awareness of the ways in which older adults, persons with disabilities, some immigrants were disadvantaged by the status quo. That awareness would not dawn until some decades later. The critique of social contract theory is that it either omits some minority groups from the contract or it fixes some groups in a subordinate position within the social contract. Pateman, Kittay, Baier, Hampton, Elshtain, Held, Tronto, Okin and others (see that discussion starting on page 11) have all critiqued social contract theory for its subordination of women within the contract. Mills extends the feminist critique to include the ways in which the social contract disadvantages racial minorities. Silvers and Francis extend the critique even farther to explore ways in which social contract disadvantages persons with disabilities, “outliers in society.” Women, racial and ethnic minorities, persons with disabilities—these are social minorities. They are not necessarily numeric minorities; however social minorities they are differentiated, defined, and in both covert and overt ways, disadvantaged by the social contract. Perhaps one day the light of awareness will next dawn for the nation’s largest minority: minors.

without regard for personal attributes or socioeconomic status. The social contract theories look to avoid strife, protect property, etc., and contain a descriptive and restricted view of human desires or interactions, but not a full descriptive view of persons per se. That is, they only describe one aspect of the person (e.g., self-interest, fear, envy, etc.) and do not give a full account of humanity individually or collectively. Tronto's work is of particular note in that it attempts to make a political argument for an ethic of care, in effect to modify if not radically change the boundaries between politics, morality, and caring practices, in effect to change the social contract.⁵⁶

Charles Mills, inspired by Carole Pateman's *Sexual Contract*, extends a similar critique based on race, that he terms the *Racial Contract*:

But the peculiar contract to which I am referring, though based on the social contract tradition that has been central to Western political theory, is not a contract between everybody ("we the people"), but between just the people who count, the people who really are people ("we the white people"). So it is a Racial Contract.⁵⁷

As feminist theorists note the exclusion of women from the social contract (though some beginning changes in that contract have been acknowledged), so too, Mills notes the exclusion of a number of people groups and issues from the social contract:

The "Racial Contract," then, is intended as a conceptual bridge between two areas now largely segregated from each other: on the one hand, the world of mainstream (i.e., white) ethics and political philosophy, preoccupied with discussions of justice and rights in the abstract, on the other hand, the world of Native American, African American, and Third and Fourth World political thought, historically focused on issues of conquest, imperialism, colonialism, white settlement, land rights, race and racism, slavery, jim crow, reparations, apartheid, cultural authenticity, national identity, indigenismo, Afrocentrism, etc. These issues hardly appear in mainstream political philosophy, but they have been central to the political struggles of the majority of the world's population. Their absence from what is considered serious philosophy is a reflection not of their lack of seriousness but of the color of the vast majority of Western academic philosophers.⁵⁸

Using Pateman and Mills as a foundation, Silvers and Francis posit that persons with disabilities also become outliers in social contract theory:

Commentators concerned about justice for women and racial minorities have argued that social contract theory is inherently flawed. Far from offering a firm foundation on which to build comprehensive concurrence about justice, these critics contend, the contract model enables mutual agreement only within the boundaries of an “in-group/out-group” frame. Pateman, for example, has argued that the contract model reaches only a restrictive mutuality that privileges men and denies recognition to women. Mills has similarly claimed that contract theory positions African Americans at a disadvantage where justice is concerned. These authors contend that the social contract model places “outliers,” either individually or collectively, in “out-groups” beyond the reach of equal justice. More recent versions of the “outlier problem” charge that social contract theory stands between people with disabilities and justice.⁵⁹

Kittay, Jennings, and Wasunna emphasize the failure of social contract theory to take account of dependency. Their particular concern is for long-term care, especially long-term care of frail elderly persons; they question the adequacy of social contract to support dependency care in general and the needs of the frail elderly specifically:

As a result of feminist scholarship, we have come to understand that the invisibility of human dependency and dependency care is in part a product of a private–public distinction that places a premium on the public and relegates issues of dependency to the private domain. But we can ask if the private/public distinction is itself a product of our deep denial of the inevitability of human dependency. Within the theoretical literature and political life of the Western industrialized nations, at least, we are captives of the myth of the independent, unembodied subject—not born, not developing, not ill, not disabled and never growing old—that dominates our thinking about matters of justice and questions of policy.⁶⁰

THINKING ABOUT INTERSECTIONALITY...

The world’s most perfect, amazing, and useful mobile phone with the world’s most perfect, amazing, and useful apps is of little use to real people if the engineers do not take into account the fact that humans drop things, that winters are cold, summers are hot, and children throw things down the toilet. The most perfect electronics have to be able to withstand the use and abuse of real humans in a real environment. Their development for humans cannot ignore human reality. Intersectionality and intersectional theories try to take account of real humans and human reality by looking at factors that intersect and influence one another—like race, class and gender. Any study of social contract and nursing must consider real nurses and the real world of nursing—particularly its intersections with gender, culture, and power.

Thus, the discourse continues from successive formulations and reformulations of social contract theory to its critique by feminists, critical race theorists, and intersectionalists concerned about persons with disabilities or the frail elderly—and nurses. What begins as an abstraction, a fiction with no direct application, in the end has implications for the real-life professional concerns of nurses.

Social Contract and Health Care: Medicine Is Not Nursing

A social contract applies to the whole of society and its members. However, there seem to be levels of social contract. As examples of the appropriation of social contract to a global health setting, Kittay, Jennings and Wasunna, as noted above, address long-term care of the frail elderly as a global contractual issue, and Ooms and colleagues, write about “a global social contract to reduce maternal mortality.”⁶¹ In general social contract is applied to one nation and its people. And yet, as we note in Pateman and Mills, there is a range of large, unwritten social contracts for segments of society, including the marriage contract, the sexual contract, the racial contract—and somewhat more circumscribed social contracts contract between society and professions. In the realm of economics and finance, Donaldson and Dunfee make a distinction between macro- and microcontracts, but the microcontracts refer to smaller economic communities, not to professions.⁶² There is no clear discussion of the movement from a social contract with the whole of society to these smaller contracts with specific groups within society in the healthcare literature. Despite the lack of theoretical justification in the literature for that development, both medicine and nursing have long laid claim to a social contract with society.

Medicine in the United States began to form as a modern profession earlier than nursing. Until such time as a guild is formed, an occupational group cannot speak of a social contract. For medicine, this occurred in the mid-1800s; modern nursing in the United States began to coalesce as an occupational group in the later 1800s and more especially after the formation of the American Nurses Association (ANA) in 1900 and the establishment of its offices in the 1920s. There is, in the first code of ethics of the American Medical Association (AMA), founded in 1847, an implicit understanding that a social contract exists

THINKING CONTRACTUALLY...

Both medicine and nursing talk about having a social contract; meaning a contract with society. *Social contract* is a also metaphor for a general social arrangement. Social contract does not have provisions; it is not specific in the sense of, say, sales or rentals or service contracts. However, like any everyday contract, there are two parties involved (nursing and society) and both parties have to do something to meet their contractual obligations. Here, society contracts with “nursing” to provide health care, and nursing contracts with society to set its own standards of practice and education.

between medicine and society. Chapter III, article 1, section 1 of the AMA *Code of Medical Ethics* (1847) states:

As good citizens, it is the duty of physicians to be ever vigilant for the welfare of the community, and to bear their part in sustaining its institutions and burdens: they should also be ever ready to give counsel to the public in relation to matters especially appertaining to their profession, as on subjects of medical police, public hygiene, and legal medicine. It is their province to enlighten the public in regard to quarantine regulations, the location, arrangement, and dietaries of hospitals, asylums, schools, prisons, and similar institutions, - in relation to the medical police of towns, as drainage, ventilation, &c., - and in regard to measures for the prevention of epidemic and contagious diseases; and when pestilence prevails, it is their duty to face the danger, and to continue their labours for the alleviation of the suffering, even at the jeopardy of their own lives.⁶³

This section of the 1847 *Code of Medical Ethics* indicates the physician's wider responsibilities beyond those owed to an individual patient. Other elements commonly associated with a social contract are found elsewhere in that AMA *Code of Medical Ethics*. However, medicine, elsewhere, has explicitly adopted social contract as the model of physician–society relationship. Wynia asserts that social contract had a particular appeal to American medicine:

It was the American medical profession that, in the mid-19th century, created the first national set of ethical and practice standards. Eventually, similar standards were almost universally accepted, thereby creating the modern concept of the medical profession. American physicians were primed for the task of creating a full-fledged profession for several reasons. Perhaps most important was the Americans' attraction to the notion of a social contract—a notion conceived by French, English, and Scottish Enlightenment thinkers, but implemented most fully in the young American republic, created by rebels against inegalitarian classism. In the United States, people were to relate as equals. Social relations were to be built upon more-or-less explicit contracts between willing parties, not such nebulous notions as noblesse oblige or gentlemanly honor. This way of thinking led to the desire to specify the terms of social relations. In medicine, this specification would take the form of a written code of ethics.⁶⁴

Cruess and Cruess, who have written extensively on social contract in medicine, have identified three sets of expectations based on “three interlocking societal components...patients and patient groups as well as the ‘public’...health-care

managers, the state, government...departments...and the...medical profession and 'professional bodies.'"⁶⁵ They develop a list of societal expectations of medicine as well as medicine's expectations of society, deriving the list from their definition of a profession. Government's expectations of medicine are:

- Assured competence of physicians
- Morality, integrity, honesty
- Compliance with healthcare system—laws and regulations
- Accountability: performance, productivity, cost-effectiveness
- Transparency in decision-making and administration
- Participation in team health care
- Source of objective advice
- Promotion of the public good

Medicine's expectations of government are:

- Trust sufficient to meet patient's needs
- Autonomy sufficient to exercise judgment and self-regulation
- Healthcare system: value-laden, equitable, adequately funded and staffed, reasonable freedom within system
- Role in developing health policy
- Monopoly through licensing laws
- Rewards: nonfinancial (respect, status), financial⁶⁶

THINKING ABOUT PROFESSIONAL SELF-REGULATION...

One attribute of professions is that they are self-policing to ensure that those who avail themselves of the professional's service will be getting competent service and will not be harmed. Self-policing, however, has been failing abysmally. The bioethical emphases on respect for patient self-determination, informed consent, and patient voluntariness arose as a response to the Nazi medical atrocities of World War II. These were brought to light in 1947, at the trial of 27 Nazi physicians (Annas and Grodin, 1992). Horrific, radically evil, and often lethal experiments were conducted on non-consenting human prisoners. Nurses participated in the conduct of unconscionable medical experimentation on unwilling prisoners, and were complicit in the medical killings in Nazi Germany (Froth, 2013a; 2013b). In 1966, Henry Beecher published his landmark paper on ethics in human research in the United States (Beecher, 1966). He identifies twenty-two medical research projects that were conducted from prestigious universities and published in respected medical journals, that were deeply, even frighteningly, ethically questionable. Nurses were directly and indirectly involved in a number of these experiments as well. Self-policing remains an ideal.

As would be true of nursing as well, the terms of these expectations are articulated in the profession's code of ethics and practice/education standards. Social contract, a profession's ethics, and its standards of education and practice are interrelated but far from coextensive.

Nursing too employs the device of a social contract to explicate its relationship with society, including the expectations of nursing by society and those that nursing has for society. A set of reciprocal expectations for nursing and society can be drawn from *Nursing's Social Policy Statement*, the *Code of Ethics for Nurses with Interpretive Statements*, the definition of nursing, the metaparadigm concepts of nursing, and the nursing literature on nursing as a profession, ethics, and caring. Medicine and nursing differ in a wide range of professional, philosophical, ethical, social, and political respects, yet, because they both interact with health and illness (and each other), there is both overlap and difference between the lists. The difficulty of extrapolating expectations from a definition of *profession*, as Cruess and Cruess have done, is that such definitions have been critiqued as being descriptive, rather than normative, in which case the list that is generated is tautological. We shall look at the concept of profession in the next chapter, but for now we turn to the reciprocating expectations between society and nursing.

The 16 Elements of the Social Contract: Reciprocal Expectations Between Nursing and Society

Nursing's social contract can be expressed in terms of 16 elements of reciprocal expectations: nine compose professional societal expectations of nursing, seven nursing's of society. Together, these elements constitute the social contract between nursing and society.

Society's Expectations of Nursing within the Social Contract

Within the social contract, society has expectations or for the obligations that nursing must meet as a profession. Much of society's faith in nursing rests upon its perceived and real faithfulness in meeting these obligations. Insofar as nursing meets these expectations, social trust is built. Were nursing to fail to meet these expectations, society would have several avenues of action to pursue, such as rescinding some of nursing's privileges, increasing the regulation and oversight of the profession, or taking control of portions of professional activity previously under the autonomous control of the profession. Nursing, however, gives evidence both of meeting these expectations and of a high level of social trust: "For the past 13 years, the public has voted nurses as the most honest and ethical profession in America in the Gallup poll. This year [12/2014], 80 percent of Americans rated nurses' honesty and ethical standards as 'very high' or 'high,' 15 percentage points above any other profession."⁶⁷

That trust has been hard won. While it relies upon the belief that nurses are honest and uphold ethical standards, that reliance is meaningless unless the public also believes that nurses know what they are doing and that they exercise competence and skill. Honesty, ethical standards, and competence are a part of the societal expectations of nursing. More specifically, those expectations include the following general expectations.

1. **Caring Service:** That nursing care will be given with compassion and will preserve the dignity and recognize the worth of patients without prejudice. From this flows an expectation of patient participation in care decisions and self-determination. Caring will extend to all who need nursing, for the “protection, promotion, and optimization of health and abilities, prevention of illness and injury, alleviation of suffering through the diagnosis and treatment of human response, and advocacy in the care of individuals, families, communities, and populations.”⁶⁸

2. **Primacy of the Patient:** That the patient’s needs and interests supersede those of the institution or the nurse. Conflicts of interest are to be resolved in favor of the patient. The trustworthiness of the nursing profession and its individual members rests upon the primacy of the patient’s care, needs, and interests. Professional organizations may seek to benefit nurses but are expected to hold societal and nursing, or patient and nurse, interests in balance: nursing may not gain at the expense of the patient or society.

3. **Knowledge, Skill, and Competence:** That the profession will ensure the knowledge, skill, and competence of those newly entering practice and those in practice, at every level and in every role. This requires that the profession establish standards for education and practice, oversee education through accreditation, and address error, incompetence, unethical, unprofessional, or impaired practice.

4. **Hazardous Service:** That members of the profession will provide nursing care under conditions not customarily expected of those outside the profession. This includes exposure to pathogens, contagion, infectious and communicable disease, perseverance under difficult conditions such as weather emergencies and powergrid failures, and caring for patients who are combative or violent.

5. **Responsibility and Accountability:** That nursing and nurses will be accountable and responsible for practice, transparent when lapses occur, engage in self-regulation and peer-review, and establish and oversee policies for the profession.

6. **Progress and Development:** That the profession will incorporate knowledge development from the humanities and scientific advances; expand the knowledge base of the profession through theory development, research, scholarship, and innovation; and contribute to the larger sphere of scientific knowledge beyond nursing.

7. **Ethical Practice:** That the profession will promulgate, affirm, and uphold a code of ethics, to which individual nurses are expected to adhere. That code of ethics will set forth the moral obligations, values, virtues, and ideals of the profession that inform and guide and are incumbent upon the nurse and nursing organizations.

8. **Collaboration:** That nursing will contribute its distinctive perspective and voice to the wider healthcare conversation, collaborating with other health professions and disciplines to address the health needs of society.

9. **Promotion of the Health of the Public:** It is expected that nurses will address the problems faced by individual patients including issues of health disparities and that nursing will be involved with and lead in health-related issues important to society. In some instances nursing will be in the vanguard of emerging health-related issues. Nursing will participate in the promulgation of healthcare policy at regional, state, national, and global levels. Protection of the public through advocacy also includes whistleblowing.

Nursing's Expectations of Society within the Social Contract

Contracts are agreements between two parties, thus there are reciprocal obligations or expectations. Just as society has expectations of nursing within the social contract, nursing has expectations of society within that same social contract. Those expectations include the following.

10. **Autonomy of Practice:** That society will authorize nursing to practice within its scope and standards in identifying and addressing the health needs of the patient, whether individual, family, community, or the nation. This also includes the autonomy to educate its practitioners. Social trust is an aspect of autonomy of practice; nursing expects social trust.

11. **Self-governance:** That society will extend the authority to professional self-regulation of practice in accord with state nurse practice acts (NPs). This includes setting the nursing profession's priorities for the health of the nation; establishing scope, standards, and certification processes; interacting with international health-related bodies; and accrediting nursing schools and programs.

12. **Title and Practice Protection:** That society will promulgate law that governs nursing including maintaining and administering licensing examinations, and granting licensure that is mandatory, not permissive. Society will also protect the title “Registered Nurse,” and prevent encroachment upon nursing practice.

13. **Respect and Just Remuneration:** That society will accord the nursing profession respect, support for the profession in research and education funding, and a voice at the table. Society will support claims to a just wage and humane work conditions for nurses.

14. **Freedom to Practice:** That nurses will have the authority and freedom to practice nursing to the full extent of their education and preparation, including expanded roles and innovative venues, consistent with state NPAs. That restraints upon nursing that restrict its legitimate practice will be removed.

15. **Workforce Sustainability:** That society will develop, implement, and support a strategic plan to address workforce shortages, workforce sustainability, and workforce capacity. This includes expanding access to nursing education and creating structures for upward educational mobility.

16. **Protection in Hazardous Service:** That society will provide legislative and other means to require organizations to minimize risk to nurses in the face of hazardous service. Nurses are expected to engage in service that carries risks to health above what is expected of the general public.

These 16 elements together constitute the social contract between nursing and society. These categories have some overlap, and could be reconfigured and titled differently, but this nonetheless remains the content of the social contract. An extended discussion of the social contract itself would necessitate taking each of these 16 elements and expanding them. We will not pause to do that here, but instead will continue to explore the essential conceptual building blocks that lay the foundation for understanding the relationship between nursing and society.

Nursing’s Social Policy Statement turns its attention to a number of these elements of the social contract. First, it identifies the functions of ANA as “the professional organization that performs an essential function in articulating, maintaining, and strengthening the social contract that exists between nursing and society, upon which the authority to practice nursing is based.”⁶⁹ Of the 16 elements of nursing’s social contract, *Nursing’s Social Policy Statement* very briefly addresses ethical practice, collaboration, the knowledge base of practice, and autonomy of practice. Its greatest attention is given to the scope of nursing

practice, standards of practice, and the regulation of professional nursing. It does not address all of the elements of nursing's social contract.

Society has a need for caring activity in health and illness; it authorizes a social group called *nursing* to meet that need. In doing so, it accords nursing specific privileges and expectations within the social contract. The broad obligations of nursing are articulated in ANA's definition of nursing as "the protection, promotion, and optimization of health and abilities, prevention of illness and injury, alleviation of suffering through the diagnosis and treatment of human response, and advocacy in the care of individuals, families, communities, and populations."⁷⁰

Nursing engages in an extraordinary range of activities to live out these defining attributes—and in doing so, to meet the needs of society.

Gedankenexperimente: Some Thought Experiments for Nurses about Social Contract Theory

The practical applicability of social contract theory is not immediately evident. As an abstract conceptualization, it is not directly applicable to nursing practice (or to other professional disciplinary practices other than, say, philosophy or the history of ideas); yet it has implications for nursing that are profound both for the ways in which we think about nursing, and for the practice of nursing in terms of its engagement with society. It has particular relevance to nursing's concern for the social causes of health disparities. Social contract theory raises a number of crucial philosophical, theoretical, and ethical questions for nursing that make useful thought experiments both for self-reflection and to clarify how larger conceptual schemata might interact with nursing theory or practice. For example:

- What is nursing's view of person (and human nature), health, society, and nursing (the metaparadigm concepts) versus the understanding of these concepts within social contract theory?
- Does one's view of human nature affect how one conceives of sickness, health, or suffering?
- Is social contract theory an adequate explanation of nursing's relationship to society?
- What dimensions of social contract theory might be troubling for nursing?
- As a discipline that engages in caring practices, does nursing socially devalue its own practices?

- Does social contract afford nursing, as a female-dominated profession, a place at the table?
- Is the social status or social location of nursing affected by social contractarianism?
- Of those whom nursing serves, who is left out of the social contract and how?
- Is the contractarian emphasis on individuality, rationality, self-determination, and the protection of property inimical to nursing's emphasis on caring?
- Is the Kantian autonomy and rationality ultimately compatible with nursing ethics?
- Following Tronto, how might the social contract/politics be changed to incorporate and value caring, an ethic of care, and caring practices?
- Is there a global social contract and, if so, what are its parameters, both in general and specifically for health professions, health professional education, and global health?
- Does social contract have the best fit as a description of nursing's relationship with society?
- Are there alternative theoretical structures for the social and political relationship of professions (nursing) to society that more fully incorporate nursing values?
- Given that social contracts evolve and differ both over time and across nations and cultures, is there an elemental or basic social contract that might include all nurses?

It is important to think about questions such as these in order to formulate a clear and thoughtful perspective on the place of nursing in society and any tensions that may exist between prevailing social contractual views of nursing and the values and ideals that nursing holds dear.

ENDNOTES

All URLs provided are accurate as of May 29, 2015.

- ¹ American Nurses Association (ANA), *Nursing's Social Policy Statement: The Essence of the Profession* (Silver Spring, MD: ANA, 2010).
- ² American Nurses Association (ANA), *Nursing: Scope and Standards of Practice* (Silver Spring, MD: ANA, 2010).
- ³ American Nurses Association (ANA), *Code of Ethics for Nurses with Interpretive Statements* (Silver Spring, MD: ANA, 2015).
- ⁴ Note that many of these ancient or early works are in the public domain and are readily available, gratis, in full-text online.
- ⁵ Plato *Crito*, Public Domain Book. <http://classics.mit.edu/Plato/crito.html>.
- ⁶ Richard Kraut, *Socrates and the State* (Princeton, New Jersey: Princeton University, 1984).
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- ⁹ *See also:* <http://classics.mit.edu/Epicurus/princdoc.html>.
- ¹⁰ Thomas Hobbes, *Leviathan*, ed. Richard Tuck, Cambridge Texts in the History of Political Thought (Cambridge, UK: Cambridge University Press, 1992). *See also:* Thomas Hobbes, *The Leviathan* (Corvallis, OR: Oregon State University, n.d.) <http://oregonstate.edu/instruct/phl302/texts/hobbes/leviathan-contents.html>.
- ¹¹ Hobbes, *Leviathan* (1990), 70. Spellings have been modernized.
- ¹² *Ibid.*
- ¹³ *Ibid.*, 80.
- ¹⁴ *Ibid.*
- ¹⁵ John Locke, *Two Treatises of Government*, ed. Peter Laslett, Cambridge Texts in the History of Political Thought (Cambridge, UK: Cambridge University Press, 1988).
- ¹⁶ *Ibid.*, 79.
- ¹⁷ *Ibid.*, 87.
- ¹⁸ *Ibid.*
- ¹⁹ *Ibid.*, 79.
- ²⁰ 20 *Ibid.*
- ²¹ Jean-Jacques Rousseau, *The Basic Political Writings*, ed. and trans. Donald A. Cress, 2nd ed. (Indianapolis: Hackett Publishing, 2011).
- ²² *Ibid.*, 72.
- ²³ *Ibid.*, 77.
- ²⁴ *Ibid.*, 87.
- ²⁵ *Ibid.*, 164.
- ²⁶ *Ibid.*, 163.

- ²⁷ J. Maxwell, personal correspondence with the author (May 26, 2015).
- ²⁸ Bryan Garner, ed., *Black's Law Dictionary*, 10th ed. (Eagan, MN: Thomson West, 2014) 736–37.
- ²⁹ United States Constitution, Preamble. Full U.S. Constitution available at http://www.archives.gov/exhibits/charters/constitution_transcript.html.
- ³⁰ John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard/Belknap Press, 1972).
- ³¹ *Ibid.*, 3.
- ³² *Ibid.*, 14–15.
- ³³ *Ibid.*, 123.
- ³⁴ *Ibid.*, 44, 78.
- ³⁵ *Ibid.*, 75.
- ³⁶ *Ibid.*, 87.
- ³⁷ Sheryl Reimer-Kirkham, “Nursing Research on Religion and Spirituality through a Social Justice Lens,” *Advances in Nursing Science* 37, no. 3 (2014): 249–57. See also: Jamie Rogers and Ursula Kelly, “Feminist Intersectionality: Bringing Social Justice to Health Disparities Research,” *Nursing Ethics* 18, no. 3 (2011): 397–407; and Kimberly van Herk, Dawn Smith, and Caroline Andrew, “Examining Our Privileges and Oppressions: Incorporating an Intersectionality Paradigm into Nursing,” *Nursing Inquiry* 18, no. 1 (2011): 29–39.
- ³⁸ Kimberlé Crenshaw, “Demarginalization of the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,” University of Chicago Legal Forum, 140 (1989). See also: 139–67; Crenshaw, “Intersectionality: The Double Bind of Race and Gender,” *Perspectives*, Spring 2004: 2; and Ashley Crossman, “Critical Theory: An Overview,” About.com, n.d., <http://sociology.about.com/od/Sociological-Theory/a/Critical-Theory.htm>.
- ³⁹ Carole Pateman, *The Sexual Contract* (Cambridge, UK: Polity Press, 1988). See also: Pateman, “God Hath Ordained to Man a Helper”: Hobbes, Patriarchy and Conjugal Rights,” *British Journal of Political Science* 19, no. 4 (October 1989): 445–63; Pateman, *The Problem of Political Obligation: A Critique of Liberal Theory* (Cambridge, UK: Polity Press, 1985); and Pateman, *Participation and Democratic Theory* (Cambridge, UK: Cambridge University Press, 1970).
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- ⁴² Jean Hampton, *Hobbes and the Social Contract Tradition* (Cambridge, UK: Cambridge University Press, 1988). See also: Hampton, “Two Faces of Contractarian Thought,” in *Contractarianism and Rational Choice: Essays on David Gauthier’s Morals by Agreement*, ed. Peter Vallentyne (Cambridge, UK: Cambridge University Press, 1991), 31–55; and Hampton, “Feminist Contractarianism,” in *A Mind of One’s Own: Feminist Essays on Reason and Objectivity*, ed. Louise M. Antony and Charlotte E. Witt, 2nd ed. (Boulder, CO: Westview, 2002), 337–68.
- ⁴³ Jean B. Elshtain, *Public Man, Private Woman* (Princeton, NJ: Princeton University Press, 1981).
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