

What do we owe each other? My reflections on 'new' and 'old' social contracts
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The global post-Covid moment has seen a mushrooming of discursive turns with new concepts and propositions for rethinking old ways jostling for attention. The 'new social contract' is one of such rethinks that have captured the attention of many, which is evident in the burgeoning write-ups and dialogues on the subject. From the business community at the World Economic Forum to the World Bank and International Monetary Fund, US President Joe Biden and UN Secretary-General António *Guterres*, to mention but a few, all are pushing a new social contract as the next global ideological and social remit.

A few months ago, I was invited to join a virtual discussion entitled '*A New Feminist Social Contract*'. Curious about this growing concept, I listened to make sense of the various contributions. Those familiar with me know that everyday experiences shape my work as an indigenous social justice and environmental activist, a woman, a pan-Africanist and a pastoralist. You'd not be surprised if I approached these new contractual conversations through the lens of my worldview. Following the virtual discussion on a New Feminist Social Contract, I found myself mulling over how everyday pastoralists in my home county, Turkana (Kenya), experience and view social contracts and whether it is even a term that applies locally. What tools are deployed to enforce accountable engagement in the world? Are citizens of the Turkana nation aware they can hold anyone responsible, and for what?

At another roundtable I was invited to on the same subject, a participant intuitively asked, 'what happened to the old social contract?' The question further deepened my thoughts about what we know, the assumption of social contracts, and whether communities and citizens have a single story on social contracts. We're bordering on epistemic territory now, but how do we know what we know? How do ideas become dominant and pervasive when the ideas do not account for a universal reality? Of course, this would take us as far back as philosophers such as Thomas Hobbes, John Locke and Jean-Jacques Rousseau who first generated ideas around the social contract. However, they focused on the citizen–state dynamic and no less on a specific regional context. Their context assumes that communities do not have social contracts with themselves.

However, based on my lived experience, social contracts do exist within communities. The lived experiences, tensions and negotiations are realities of social contracts in the everyday lives of community members, lived out through a wide range of mutual obligations. As I grew up and became a taxpayer, I believed that paying taxes to the government was important to ensure I received services from the state. Sometimes I benefitted from public services through the social contract that supports and binds us as a society, but mostly I even forgot about the presence of the state. The basic tenets that have been a guide to how people relate, share, live together and share responsibilities seem to have been disrupted, fragmented by the climate crisis, competition for resources, and appropriation of resources where profit seeks to acquire more at the expense of citizens. In Turkana, the oil rush and all that comes with it continuously reconfigures social contracts within and across society.

Changing allegiances and contracts in Turkana

Looking back at life in Turkana before devolution, the social contract between the state and pastoralists was simply a fantasy or wishful thinking, and only since devolution has there been some exchange of promises highlighting what citizens and governments owe each other. When I think about this concept within Turkana, a social contract depends on who takes the role of the state in that particular time and space. History has shown us how these social contracts have not been linear and have been made at different times and in different contexts with the Catholic Church, Norwegian Agency for Development Cooperation (NORAD), Oxfam and, most recently, Tullow Oil. Of course, the advent of a devolved system of governance has increased citizens' frameworks of holding their government to account. Even then, the discourse on social contracts ignores that they do exist in communities, and in various forms. How social contracts relate to one another may or may not be defined as that.

Let's put this in context. The state marginalised Turkana, so we turned to another institution, the Catholic Church, and, at that point, a social contract was formed between the church and the community. The 1980s introduced a new player: NORAD. With NORAD's increased support and presence, its relationship with the community reconfigured the social contract. This contract

was broken when President Moi, the then President of Kenya, gave Norway and all its interests 48 hours to exit the country. This came after the Government of Kenya commenced a crackdown on alternative voices providing platforms for local communities to air their plight during droughts when the state declared there was no humanitarian crisis, or using the diplomatic mission to support the call for democracy, transparency and accountability. At the turn of the millennium, a new social contract was forged between the humanitarian NGO Oxfam and the Turkana people, as Oxfam provided food relief, water projects and other forms of humanitarian support.

In 2010, quiet villages in Turkana such as Nakukulas, Lochwaa and Lomokamar became sites of exploration, advocacy and community engagement, following the discovery of oil. The buzz was palpable. From negotiation meetings with the oil companies to NGOs engaging communities in capacity building, sometimes they involved whole communities and at other times they excluded most of the community and only engaged some community representatives. Not to mention politicians rallying the crowd with positions that sometimes pushed their agenda and sometimes spoke to the demands of the community. The once Turkana commons, where collective voices were once given, seemed under attack by a capitalist development that survives by destroying communal properties and relations. Women were not spared either. Nobody paid attention to the exclusion of women, which further reinforced historical practices of their exclusion. As such, a reconfiguration of social contracts in Turkana (if we are sticking with the term) was taking up a new contractual order that cared little about integrating a broad range of voices from below.

With the helter-skelter going on in Turkana, what is oddly absent is the state. The oil companies have assumed the position of a quasi-government, the highest employer, the biggest contractor of businesses, local and national, the driver of the aviation industry, and the provider of social services, water, health and education. If a social contract is between the state and its citizens, was the long-running dance between the Government of Kenya and the citizens of Turkana, who lived in harmony with their rangelands, or had the oil company taken the abandoned role of the state and the state-citizen partnership fallen dangerously out of sync?

When I think about the social contract even further, I look beyond the relationship between the state and citizens towards conceptions of social contracts as basic tenets of how one or many people relate to one another, to family, neighbourhoods, schools, organisations and communities. It is the everyday level of engagement within or outside our framework of organising. As a child, we had a basic tenet: unwritten rules that guided how we related to our neighbours, schoolmates, communities and each other. I can't say that oil extraction broke this tenet. Still, I witnessed how the entrance of oil and the role of capitalism into the commons resulted in the financialisation of social relations. How people engage and negotiate has all become a transaction. What was an already strained social contract now appears fragmented – another reconfiguration of the social contract as I knew it.

Social contracts in the 20th Century: core and community based

'Social contracts' can loosely be interpreted as existing in the form of the normative order of obligations, responsibilities and rights that prevail in any given social order. But their real significance and relevance today lies in their role and function as a phenomenon of modern society, that is, of capitalism, wherein all are normatively supposed to have full equality, especially as individuals. The social contract, in that sense, has limited or no applicability for specific individuals in, say, patriarchal societies or slave societies. The 'social order' is founded, in the first place, on the norms between patriarchs and enslavers. Then appendage or second-order rights may come into play on that basis both between and within social polities and communities. The historical uniqueness of capitalism and social contracts in contemporary society is different. The underlying claim and nominal premise of equality of persons is what gives the social order under capitalism its distinctive character and 'social norm'. But that nominal and normative equality upheld as the universal norm all must aspire to, and the claim is fundamentally unrealisable by capitalism's very functioning and essence. Paradoxically, that makes social contracts more necessary both as stabilisers/legitimation of the existing order and as contestation/delegitimation/critique/social cause and change drivers.

Because of the nominal yet non-existent equality, social contracts have become on their own as advancing equality, expanding the rights of vulnerable people, or enshrining the newly won freedoms of subordinated/subaltern citizens, etc. There is a redistributive justice element wherein the exploited, oppressed, marginal or newly liberated gain the most in this new settlement. Social contracts are also associated with socioeconomic paradigms (within capitalism, of course). For example, after the working class's sacrifices in the Second World War in the Global North or the subalterns' in the overthrow of colonialism in the Global South – free education became a universal right. This was inextricably associated with, parallel to, in the context of, and necessary for a particular paradigm of the economy – industrialisation and rural development in the Global South. Meanwhile, in the Global North came full employment, full participation of women in the paid labour force on an equal-work-equal-pay basis, the massive expansion of higher education, student and youth rights, sexual liberation and, universally, an upsurge in anti-racism and anti-imperialism and sovereignty. None of this touched every corner equally or evenly. We can measure and understand 'marginalisation' (of communities and social groups) as the distance from or structural non-involvement/exclusion from the core processes and arenas of new industry-agriculture-trade-services configurations that constitute the core nexus of these new orders. Yes, the marginal may have been unaware of core social contracts and conducted their daily life and immediacy of relations according to diverse, smaller, localised, less systemically decisive and relevant sub-social contracts. But that doesn't mean they were not subject to and hugely impacted and shaped by the prevailing core social contract. For as long as the foundational economic framework was growing and expanding (through its hiccups, exclusions and so on), the coexistence of social contract and particularistic social order of communities didn't, by and large, involve any irreconcilable tensions. The former was a more significant and 'higher' superstructure than the latter.

Moreover, they could coexist, feed off and into each other, on the common currency of each being hierarchical. The latter – the sub-social contracts of communities – provided necessary ideological justification and traditional limitations on why the rights of youth, women, workers and so on in the post-independence Global South should go only so far or not at all. The other bridge for this coexistence was the tendency towards growing national sovereignty and degrees of autonomous domestic economic activity and sectors enabling selective and real but non-

transformative social/economic appeasement to various ‘leaderships’ and leaving their traditional authority intact. On the other hand, the global economy continued to grow in a manner where the ‘rising tide lifted all boats of all sizes’. Under those conditions, distorted, bastardised, hollowed and limited in its forms, the social contract offered a modicum of general stability and progress for growing incrementally wider layers of people. The terminal crisis of that economic state-led development/welfarist regime by the end of the 1970s dealt a death blow. The onset of neoliberalism in the 1980s killed it, eliminating even the meaningful theoretical possibility. This is where we are now. So, any talk now of social contracts necessarily has a different context, and different meanings and purposes.

The crucial question of alternatives

The context is one of the ‘sweeping anti-social contract growth model of neoliberalism and its extension everywhere’ as is seen with the discovery of oil in Turkana. This has generated levels of inequality and multiple crises – economic, environmental, political, social and more – that are now a threat to the capacity of the system to stabilise itself. Some new stabiliser is required. Hence the talk of a new social contract from those quarters. But stability for them is that everyone sacrifices more without changing the fundamental relations that govern and structure the winners and losers, for example. Hence the message that we are all in it together is false and extremely dangerous (that is, the battle over narratives of what is, how we got here, what should now be and who should pay the price to get ‘there’). But as much as it indicates a willingness to accommodate, it sows the illusion of the possibility of meaningful reforms, hence the second and additional danger, disarming anti-systemic and encouraging partial changes. This represents a contradiction – because the understanding of, engagement with and clear resolution of it as crucial now as is the question of alternatives themselves (and a crucial part of the transition to and anticipation of). It is one of the leading tasks of the day.

So what should be the counter social contract with which we begin our critical thinking and activist resistance? One that emphasises anti- or, rather, non-capitalist possibilities in ‘community’ that might be extricated, elevated and refurbished in context (and across inter-related frameworks) of the unifying social agendas of the subordinated. Equally crucial is the

position of fighting for those possibilities that are inescapable because real and pervasive power and relations that constitute systemic mainstay are at the core and all across other levels. How the 'community' itself can and must be transformed as a pillar and bedrock of resistance, alternatives, narratives and empowerment, thereby yielding transformative social contracts is the core of the matter.

Whatever the label, it's the 'common good' that matters

I do not pretend to speak for the community, nor do I have any answers to the debate on social contracts or to questions on the old social contract, was it one or were there many? What I know is that at the heart of any radical changes is an inclusive negotiation process that appreciates the tensions to ensure everyone is on the negotiation table, whatever the table looks like. Yet again, that negotiation cannot ignore the powers of the state and the different interests that sometimes censor the voices of citizens and communities. Perhaps reorganising the bonds of community, family and the millions of creative, resourceful, intergenerational, feminist, determined, knowledgeable communities is required to build something new.

What do we call it? Is it a social contract, a feminist social contract? Whatever name or label it takes, does it matter? What matters is that we must collectively understand, internalise and implement the 'common good' through nuanced and more generative discussions that explore social contracts in their plurality – as what we all participate in every day, even though we rarely stop to think about it.

Looking back at the once busy villages, the sites of hustle and bustle, meetings and negotiations as oil drilling and tankers rove the dusty roads, have returned to their quiet days. It'll be interesting to see the community relations and the reconfigurations of basic tenets practised, negotiated and experienced among the community and within the commons. As the oil company plans its return, we may see another reconfiguration of social contracts. The fluidity of these basic tenets may reflect the lack of permanence among pastoralists within the commons.