

Introduction

With a linguistic history reaching back to ancient Hebrew writings, Roman law, and medieval jurisprudence, the concept of covenant has shaped Western notions of law and justice like few others. In its barest sense, it is a contract or agreement between parties. It establishes or recognizes the terms by which a relationship among persons is preserved or set right, and is often ratified by some ritual or sacrifice. It promises rewards for the fulfillment of obligations, and punitive consequences for the breach thereof. It involves the exchange of goods, rights, or services, according to some specified norm. In a fuller sense, a covenant is the founding or recognition of a common project, or fellowship, by which individuals pursue goods that they could not in isolation.

Christian theologians, from Augustine of Hippo (354–430) to John Calvin (1509–1564) to Karl Barth (1886–1968), have made great use of this concept to describe the relations both between God and humanity, and among human persons. Political theorists have also recognized the usefulness of covenantal language to explain the ways that individuals come together in voluntary forms of political association. This is notably true of modern political theory. During the early modern era, there are few political thinkers who did *not* employ some conception of covenant. The writings of Hugo Grotius (1583–1645), Thomas Hobbes (1588–1679), John Milton (1608–1674), Samuel Pufendorf (1632–1694), John Locke (1632–1704), Christian Thomasius (1655–1728), and Jean-Jacques Rousseau (1712–1778) are just the most prominent examples.

Many works of scholarship have told some story about the significance of covenantal language during the early modern period. Many works of scholarship have pointed out that the concept of covenant was marshaled for projects of political resistance around the turn of the seventeenth century, in particular. But few works of scholarship have intentionally accounted for the political *and* the theological valence of the concept in its traditional form. Further, much of contemporary Anglophone scholarship has focused on the alleged

secularizing aspects of covenantal thought – since it is bound up with voluntary contracts and agreements as the normative foundations for political life and authority. These ostensibly secular elements are often abstracted from the medieval and early modern theological context that gave them their original expression.

Secularist narratives of this sort elide the theological out of the genesis of modernity. It is this elision that I will expose and correct in subsequent chapters. In one respect, this book asks a single question: How would we understand the early modern context – and the development of early modern theories of resistance – differently if we accounted for both the theological and political valence of covenantal thought? By attending to the theological sources and taking their biblical, doctrinal, and ethical commitments seriously, I will argue that we have a deeper, richer, less blinkered view of early modern political thought.

My approach to these topics builds on the insights of scholars such as Eric Nelson,¹ Oliver O'Donovan,² and – in a more oblique manner – Giorgio Agamben.³ In their own very distinctive ways, each of these scholars has criticized secularist narratives of early modern politics. Nelson argues that the transformation of early modern European political theory was not the result of secularization, but rather the opposite, as political thinkers increasingly turned to the Hebrew Bible to find new and better models of political order. Likewise, O'Donovan makes the case that modern – ostensibly secular – political theory has failed to recognize its own origins and its own delimited theological charter. In fact, he argues, the rise of early modern constitutionalism was the logical culmination of the project of premodern Christendom. Agamben, working within a genre of his own making, has spent the past several decades performing theological excavations of some of the central concepts of modern political life and thought. Recently, he went so far as to suggest, “it is certain that the political philosophy of modernity will not be able to free itself of its contradictions if it does not become aware of its theological roots.”⁴

¹ Eric Nelson, *The Hebrew Republic: Jewish Sources and the Transformation of European Political Thought* (Cambridge, MA: Harvard University Press, 2010).

² Oliver O'Donovan, *The Desire of the Nations: Rediscovering the Roots of Political Theology* (Cambridge: Cambridge University Press, 1996); *The Ways of Judgment* (Grand Rapids, MI: Eerdmans, 2006).

³ Agamben's recent forays into this field include *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government*, trans. Lorenzo Chiesa (Stanford, CA: Stanford University Press, 2011) and *Leviathans Rätsel*, trans. Paul Silas Peterson (Tübingen: Mohr Siebeck, 2014).

⁴ Agamben, *Leviathans Rätsel*, 60.

My work does not rely explicitly on any of these particular, and sometimes controversial, interpretations of early modern politics. However, it does bear a formal similarity, insofar as my historical work argues for the centrality of theological commitments within early modern political thought. Like Nelson, O'Donovan, and Agamben, I will argue in subsequent chapters that theological sources and commitments cannot be rewritten out of the genesis of political modernity without doing injustice to the history. Unlike these fellow skeptics of secularization, however, my work focuses on what may seem a surprising set of figures: radical French, Dutch, and German Protestant theorists of resistance. It is here, at the turn of the seventeenth century, among the zealous, theologically trained, king-killing Calvinists of northwestern Europe that we encounter a strain of political thought that is both profoundly traditional and theological in its sources and shape, and yet distinctively modern in its practical implications.

SITUATING THE PROJECT

If you were to look at many historical surveys of modern political thought, you would likely find a narrative that begins either with sixteenth-century reformation theologians like John Calvin and Martin Luther (1483–1546), or with ostensibly secular mid-seventeenth-century theorists like Grotius and Hobbes. Few pay much attention to the decades in between. However, between the years 1574 and 1614, the idea of covenant began to emerge as a significant and almost ubiquitous concept in both theological and radical political writings.

My work addresses the ways that prominent Protestant thinkers during this transitional period used conceptions of the covenant to articulate uniquely theological views of political life, law, and the common good. In particular, I analyze the ways in which Reformed theologians and lawyers marshaled theological conceptions of covenant and law in order to justify political resistance to systemic injustice.

Set up on these terms, my project necessarily engages with two communities of historical scholarship that rarely interact: intellectual historians of political thought and historical theologians. Each community has an interest in early modern conceptions of covenant, but commonly under different terms and with respect to different figures and texts. The first of the scholarly communities attends to the way that covenantal and contractual language was developed by early modern political theorists. The second confines itself to the development of covenant theology in late-sixteenth- and seventeenth-century Reformed dogmatics. With few exceptions, the respective fields of study have remained separate. The historical theologians limit their analysis to early

modern theological treatises on topics such as law and gospel, natural law, and intra-Protestant debates over the sacrament of baptism. The political historians skirt around these texts and focus instead on the political treatises of Protestant resistance theorists, or later thinkers such as Grotius, Hobbes, and Locke.

Unfortunately, this division of labor between the scholarly communities has produced narrow readings of the early modern context – both politically and theologically. My project aims, of historical necessity, to reintegrate the two fields of study. For the early modern Protestants I examine in subsequent chapters, the fields of politics and theology might be distinguished, but they could never be isolated. Most fundamentally, they were united because they were each ordered to the end of human happiness, whether in this life or the next. As a result, the overlap in normative sources for theology and politics was extensive. Therefore, while it is entirely appropriate to speak of distinct early modern genres of theology and politics – each pertaining to certain interests and ends – it would be erroneous to think they operated independently of each other. It would be even more problematic to assume that theology and political theory comprised two entirely different ways of conceiving of human existence – one “religious” and one not.

It is in fact the *contemporary* reader of these early moderns who may be tempted to treat the fields of theology, law, and politics in isolation from each other. This, at least, is a possibility that I will pursue with particular focus in chapters two, three, and five. I will look at readings of early modern covenant and law offered by historians such as Quentin Skinner, Anthony Black, Daniel Lee, and Brad Gregory. I will also examine the assumptions made by historical theologians and theological ethicists about the nature and ends of covenants and covenantal laws.

In situating my project against these particular works, it is useful to identify three influential interpretative strains in contemporary scholarship: The first strain emphasizes the disciplinarian function of early modern covenants and laws, the second their secularizing aspects, and the third their artificiality. Each of these interpretive strains claims to identify a distinct feature of early modern covenantal thought. These strains are not mutually exclusive. In fact, they are often complementary to each other, and it is common to find them woven together within a single historiographical account.

The *disciplinarian* reading takes the emergence of Protestant covenantal thought to be emblematic of an early modern rejection of a traditional or “teleological” social ethic oriented toward the common good. Brad Gregory offers perhaps the most forceful version of this interpretation in his polarizing book *The Unintended Reformation*. According to Gregory’s narrative,

“Protestant rulers oversaw ethical regimes that were dominated not by habituation in Christian virtues but by the following of moral rules.” These strict rules, expressly revealed in divine law, were practically impossible for the majority of citizens and congregants to keep. As a result, “conscientious authorities needed a clear-eyed strategy to maintain order commensurate with the depravity of human nature . . . Hence the centrality of covenant theology in Reformed Protestantism.” For the Reformed tradition, “public morality simply *was* following the rules stipulated by the restored church’s leaders working with the political authorities established by God.” On these terms:

The most important social virtue among early Lutheran and Reformed Protestants, at every social level from disciplined individuals through patriarchal households to well-ordered regimes as a whole, was therefore not *caritas* but obedience—newly important given the sobering truth about human nature and the reality of a divided Christendom.⁵

While Gregory’s account is polemically charged, he is not alone in emphasizing the disciplinarian features of early Reformed moral and political thought. We can trace similar views of early modern covenant and law back to many works of mid-twentieth-century historical theology. J. B. Torrance, under the influence of Anglophone scholarship on Puritanism and Karl Barth’s theological critique of Protestant scholasticism, argued that mature covenant theology effectively turned the gospel of grace into a legal contract.⁶ While the first generations of Protestants emphasized God’s unconditional love for his people, Torrance argued, later Reformed theologians and jurists detached the concept of covenant from this gracious relationship. Alienated from this fellowship with God, covenants became contractual burdens, placing moral obligations on members of the Christian community that no one could ever fulfill.⁷ For the greater part of the twentieth century, many

⁵ Brad Gregory, *The Unintended Reformation: How a Religious Revolution Secularized Society* (Cambridge, MA: Harvard University Press, 2012), 209.

⁶ James B. Torrance, “Covenant or Contract?” *Scottish Journal of Theology* 23:1 (February 1970): 51–76. German scholarship has also tended to emphasize the disciplinarian elements of Reformed thought, relating it to an entrenched thesis about early modern “confessionalization,” the increasing popularity of neo-Stoicism, or both. See Gerhard Oestreich, *Neostoicism and the Early Modern State*, trans. David McClintock (Cambridge: Cambridge University Press, 1982); Heinz Schilling, *Religion, Political Culture, and the Emergence of Early Modern Society* (Leiden: Brill, 1992), and *Civic Calvinism in Northwestern Germany and the Netherlands* (Kirkville, MO: Sixteenth Century Journal Publishers, 1991); and Christoph Strohm, *Calvinismus und Recht* (Tubingen: Mohr Siebeck, 2008).

⁷ Torrance writes that late-sixteenth and seventeenth-century Reformed theologians held that “imperatives of law and human obligations” exist prior to the recognition of any relationship.

theologians and historians of Christian doctrine shared this disciplinarian or legalistic reading of the early modern relationship between covenant and law.⁸

In one respect, the disciplinarian reading simply makes the concepts of covenant and law identical to each other: The covenant simply *is* the laws that obligate its members. Covenantal law exists independently of any antecedent relationship or moral order. On this view, covenants are the means by which individuals in positions of power issue commands to the community. In political terms, these powerful persons issue commands for the sake of maintaining social order. This social order is best maintained when individuals are prevented, under threat of force, from acting in accordance with their sinful nature. And in theological terms, God's covenants are reducible to a set of legal prescriptions – or positive laws – that individuals must obey in order to obtain divine favor. Failure to abide by these covenantal norms results in punitive consequences, either in this life (exile or excommunication) or, worse, the next.

The second reading of covenantal thought involves a distinction between religious covenants and secular contracts. What I will call the *secular republican* interpretation is particularly influential among historians of political thought. I will address two prominent representatives of this view, although subsequent chapters will delve deeper into some of the issues raised here.

Quentin Skinner and several political historians associated with the Cambridge school of historiography have argued that the concept of covenant underwent a process of secularization in the early modern era. In the conclusion of his classic two-volume work, *The Foundations of Modern Political*

As a result, they tried – problematically – “to articulate moral obligation in contractual terms,” “Covenant or Contract?,” 56.

⁸ For important and representative accounts, see Karl Barth, *Church Dogmatics* IV/1 (Edinburgh: T&T Clark, 1956), esp. IV/1, 59–66. Perry Miller, *The New England Mind* (Cambridge, MA: Harvard University Press, 1982 [1939]); Holmes Rolston, “John Calvin Versus the Westminster Confession,” *Scottish Journal of Theology* 23 (1970): 129–56; R. T. Kendall, *Calvin and English Calvinism to 1649* (Oxford: Oxford University Press, 1979); and David Weir, *The Origins of Federal Theology in Sixteenth-Century Reformation Thought* (Oxford: Oxford University Press, 1990). Over the past thirty years or so, scholars such as Richard Muller, Robert Letham, Andrew Woolsey, Jordan Ballor, Peter Wallace, Mark Beach, and others have argued that aspects of this mid-twentieth-century scholarship were built on faulty assumptions – persuasively, to my mind. The exemplary works on this topic are Muller’s “The Covenant of Words and the Stability of Divine Law in Seventeenth-Century Reformed Orthodoxy,” *Calvin Theological Journal* 29 (1994): 75–101, and Andrew Woolsey’s comprehensive *Unity and Continuity in Covenantal Thought* (Grand Rapids, MI: Reformation Heritage Books, 2012). I will not retread Woolsey’s extensive evaluation of the earlier scholarship here, but only note that any stringent juxtaposition of law and gospel, nature and grace, or covenant and contract ought to be viewed with suspicion in light of what recent theological scholarship has shown.

Thought, Skinner relates the concept to the very genesis of modern political theory. Through its emphasis on consent and mutual obligation, the idea of a political covenant was used by theorists such as Johannes Althusius (1563–1638) to “emancipate the study of ‘politics’ from the confines of theology and jurisprudence.”⁹ According to Skinner and several of his students, this emancipation provided an opening for thinking about political association and authority in a more republican manner. For Skinner, it is important to note, republicanism is itself a secularizing form of political life.

More recently, Martin van Gelderen has modified Skinner’s original position. While acknowledging the role that covenant played in the early modern era, van Gelderen distinguishes among various species of early Protestant political thought. On one side, van Gelderen identifies Althusius and several of his colleagues not as forerunners of secular political theory, as Skinner does, but as covenantal theocrats. These “radical” covenantal theorists assumed that “the study of political institutions and constitutions was *intertwined* with religion and theology.”¹⁰ Althusius and the covenantal tradition looked to positive divine law – promulgated through God’s covenants with humanity and published in sacred scripture – for God’s directives concerning social order. Since the omnipotent divine sovereign issued the law of covenant, we are obligated to obey it. Covenantal law ought to serve as the basis for all human obligations – moral and political. While deviating from Skinner’s interpretation of Althusius and covenantal thought, van Gelderen follows Skinner’s general approach by distinguishing this *theological* conception of covenant and law from the *secular* republicanism of several of Althusius’ Aristotelian contemporaries, including Althusius’ student, Johann Heinrich Alsted (1588–1638).¹¹ According to van Gelderen, the secular Aristotelians

⁹ Quentin Skinner, *The Foundations of Modern Political Thought*, vol. 2 (Cambridge, Cambridge University Press, 1978), 341–42.

¹⁰ Martin van Gelderen, “Aristotelians, Monarchomachs and Republicans: Sovereignty and *respublica mixta* in Dutch and German Political Thought,” in *Republicanism: A Shared European Heritage*, vol. 1 (Cambridge: Cambridge University Press, 2002), 205 (emphasis added).

¹¹ van Gelderen also identifies Henning Arnisaeus (1570–1636) and Bartholomeus Keckermann (c. 1572–1609) as secular Aristotelians. The label is a strange one when applied to figures such as Alsted, Keckermann, and Arnisaeus. Alsted followed in the vein of Althusius’ consociational thought, an association that will become more significant in chapter five. Howard Hotson even places him as a direct intermediary between Althusius and Leibniz, in Howard Hotson and Maria Rosa Antognazza, *Alsted and Leibniz: On God, the Magistrate and the Millennium* (Wiesbaden: Harrassowitz, 1999). Keckermann similarly defies the theologians versus the Aristotelians dichotomy; cf. Richard Muller, “*Vera Philosophia cum sacra Theologia nusquam pugnat*: Keckermann on Philosophy, Theology, and the Problem of Double Truth,” *The Sixteenth Century Journal* 15:3 (Autumn 1984): 341–65. Even Arnisaeus cannot be described

rejected the “utopian dreams” of Althusius and instead believed that “the purpose of *politica* was to promote the *bonum commune*.” For these thinkers, the study of political life did not rely on scriptural or theological norms, but was a “practical and secular science, devoted to the practical wisdom of *utilitas reipublicae*.”¹²

While offering contradictory interpretations of Althusius (among others), Skinner and van Gelderen fundamentally agree that the difference between religious and secular conceptions of covenant has to do with law’s *origin* and *end*. In the religious conception, they suggest, the source for society’s law is the will of God expressed through divine positive law contained in scripture; for the secular conception, it is the mutual consent of the contracted individuals. With regard to law’s end, the theological conception prioritizes conformity to God’s providential rule as mediated by the established clerical and civil authorities. For the secular conception, law’s end is the common good of *human* society, pursued through the fulfillment of contracted obligations – most importantly, the mutual obligations that exist between the ruler and the ruled. For the secular republican reading, it is the tension between these rival conceptions of covenant and law that provides the context for the emergence of modern secular political theory.

Finally, what I will call the *contractarian* reading seeks to identify the artificial character of covenantal norms and relations. Here, the emphasis has less to do with specific moral directives (as in the disciplinarian reading) or the abandonment of theological sources and aims (as in the secular republican reading), and more to do with the fact that covenantal norms are said to be the product of contingent human volition, detached from any prior relationship or moral order. Aspects of this reading can be traced back to Perry Miller’s work on the Puritan tradition, Gerhard Oestreich’s analysis of the rise of the early modern nation-state, as well as Carl Schmitt’s work on Thomas Hobbes, among other sources.¹³ Schmitt’s description of the early modern covenant

as a secular republican according to van Gelderen’s definition since Arnisaeus employs his own theological account of political authority, even if it differs from that of Althusius. Compare my discussion of Arnisaeus in chapter four with van Gelderen, “Aristotelians,” 205. Horst Dreitzel adopts a view that is similar to van Gelderen’s, distinguishing between two rival forms of Protestant political thought: the traditional form that advocated for vast socio-political reforms on biblical and theological principles, and the neo-Aristotelian form that tended “to emphasize the secularized autonomy of *politica*,” Dreitzel, *Protestantischer Aristotelismus und absoluter Staat* (Wiesbaden: Steiner, 1970), 166.

¹² Van Gelderen, “Aristotelians,” 208.

¹³ Perry Miller, *The New England Mind*. Gerhard Oestreich, *Neostoicism and the Early Modern State*, Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes*, trans. George

is particularly striking, as it presumes a radical break with the preceding scholastic tradition of Aquinas and his interlocutors:

[C]ovenant does not accord with medieval conceptions of an existing commonwealth forged by God and of a preexistent natural order. The state as order and commonwealth is the product of human reason and human inventiveness and comes about by virtue of the covenant. This covenant is conceived in an entirely individualistic manner. All ties and groupings have been dissolved. Fear brings atomized individuals together. A spark of reason flashes, and a consensus emerges about the necessity to submit to the strongest power.¹⁴

Schmitt connects this conception of covenant not only to Hobbes, but also to the Calvinist tradition as a whole, as we will see in chapter one. While Schmitt does not provide much textual evidence outside Hobbes' corpus, more recent scholarship has attempted to flesh out this covenant-as-artifice conception within the broader tradition of Reformed covenantal thought. Victoria Kahn's recent work *Wayward Contracts* centers on covenant and contract in the English Civil War, but her comments on the trans-Atlantic tradition of covenant theology are relevant. According to Kahn, over the early decades of the seventeenth century a new discourse of contract and covenant gradually replaced traditional Aristotelian notions of natural human sociality. While she acknowledges that traditional Aristotelian or Thomist conceptions of politics referred to the existence of social contracts, Kahn suggests that these contractual arrangements were limited in application by premodern commitments to the idea of an antecedent moral order or humanity's natural sociability. By contrast, early modern contractual theory viewed all social and political arrangements as "wholly artificial."¹⁵ Individuals may choose to enter into whatever relationships or pacts they desire, and may end these relationships for any reason they choose. Kahn identifies multiple strands of this contractarian theory, one of which is Reformed covenant theology.

According to Kahn's narrative, the earliest forms of covenant theology – represented by the French and Dutch resistance theorists – advanced a notion of covenant that was still beholden to traditional and Aristotelian views of political order. They "did not yet conceive of the creation of the state as wholly

Schwab (Westport, CT: Greenwood Press, 1996 [1938]). Cf. David Zaret's contestable sociological analysis of colonial American covenant theology in *The Heavenly Contract: Ideology and Organization in Pre-Revolutionary Puritanism* (Chicago, IL: University of Chicago Press, 1985).

¹⁴ Schmitt, *Leviathan*, 33.

¹⁵ Victoria Kahn, *Wayward Contracts: The Crisis of Political Obligation in England, 1640–1674* (Princeton, NJ: Princeton University Press, 2004), 9–10.

artificial,” but “conceived of political obligation as arising ‘from the nature of things and the will of God.’” Nevertheless, Kahn argues, covenantal thought possessed resources for an “artificial” or fundamentally voluntarist conception of political life. Kahn suggests “at the extreme, covenant theology reimagined fixed status or, rather, the ontological relations of man and God, in terms of the voluntary relations of contract.” This explains the early Protestants’ “intense preoccupation with the artificial arrangements—or covenants—established by the voluntarist God of Calvinism.” Further, this conception of covenant and covenantal norms would “have profound implications for the relation of subject and sovereign.”¹⁶

For the contractarian reading, early modern covenant discourse is bound up with a specific voluntaristic conception of law and obligation. Just as the “voluntarist God of Calvinism” freely entered into contracts with his people, so human beings may create social covenants for whatever reason they choose. While the contractarian reading may acknowledge the theological prehistory of covenantal law, there is an assumption that the concept’s secular kernel can shed its theological shell with little loss of meaning. The sacred covenant mutates into what Kahn calls the *nudum pactum*, and, correspondingly, the voluntarist God morphs into the voluntarist sovereign or collective of individuals. On these terms, once transposed out its original theological key, the law of the covenant could be viewed as a mere artifact—a happenstance of human ingenuity that was made in response to social distrust, division, and the contingencies of political life.¹⁷

I will say more about these three interpretative approaches in subsequent chapters. At present, I will offer only this promissory note: By attending closely to the theological sources, and showing how they shape radical Protestant political discourse from 1574 to 1614, I aim to complicate and correct the secularizing tendencies of contemporary scholarship on this historical context. Against the disciplinarian reading, I will show how covenantal thought interrelated covenants, covenantal laws, and the common goods of fellowship. Against the secular republican reading, I will show how early modern republican thought during this period drew explicitly and substantially from theological sources, principles, and arguments. And against the contractarian interpretive strain, I will show that many radical Protestant thinkers during this period believed that a covenant or law could *not* be arbitrary, or a *nudum pactum*, and still have normative authority.

¹⁶ Kahn, *Wayward Contracts*, 49.

¹⁷ Kahn, *Wayward Contracts*, 55–6, 78–9.