

# 契約自由、民主政治與國家責任： 格林對 19 世紀英國勞動立法過程中的 階級代表課題之反思

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始自亞里斯多德而至社會契約論，西方契約學說歷經演變，迄於 18 世紀孕育國家不得任意干涉個人契約自由之原則。惟當產業革命繼起，勞雇雙方的契約不平等現象日益加劇。值此際，格林即藉批駁社會契約論與個人主義式的自由觀，開展了一套融貫個人自由、社群共善和政府干預等觀念之學說，為其積極鼓吹立法改革之基礎。而為闡述格林學說思想的實踐意義，本文即從 19 世紀英國勞動立法過程論起，敘明政黨政治的階級代表問題，何以成為格林開展其立論的關鍵因素之一。而就勞動立法議題來說，格林最終所促進的，乃是一套結合契約正義與國家責任思想的大眾民主論述。

關鍵字：格林、契約自由、國家干預、政黨政治、大眾民主

# **Freedom of Contract, Democratic Politics and State Duty: Green's Critical Reflection on the Class Representation Issue in the 19th Century British Labour Legislation Movement**

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## **ABSTRACT**

From Aristotle to social contract theory, contract doctrine has been through transformations, and by the 18th century, it had developed the principle that the state should not interfere with individual contract freedom. As the Industrial Revolution emerged, however, the unequal contract conditions between employees and employers had become worse. In order to found his call for legal reformation of these unequal conditions on a solid base, Green criticised social contract theory and the individualist conception of contractual freedom and constructed an alternative theory consisting of individual freedom, common goods and government intervention. The present article aims to expound the practical significance of Green's theoretical works, and accordingly, it will explicate how the class representation issue in the 19th century British Labour Legislation movement prompted Green to reconstruct the theorem of liberalism and provide a theory for the reformation. What Green thus established is a popular democratic theory with a focus on contractual justice and state duty.

**Key Words:** Green, freedom of contract, state interference, party politics, popular democracy