



CAMBRIDGE TEXTS
IN THE HISTORY OF
POLITICAL THOUGHT

Edited and Translated by
Victor Gourevitch

ROUSSEAU
*THE SOCIAL
CONTRACT
AND OTHER
LATER POLITICAL
WRITINGS*

Second Edition

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HISTORY OF POLITICAL THOUGHT



ROUSSEAU
The Social Contract and Other
Later Political Writings

A comprehensive and authoritative anthology of Rousseau's major later political writings in up-to-date English translations. This volume includes the essay on *Political Economy*; *The Social Contract*; the extensive, late *Considerations on the Government of Poland*; as well as the important draft on *The Right of War* and a selection of his letters on various aspects of his political thought. *The Social Contract*, Rousseau's most comprehensive political work – he called it a “small treatise” – was condemned on publication by both the civil and the ecclesiastical authorities in France as well as in Geneva, and warrants for its author's arrest were issued. Rousseau was forced to flee. It is during this period that he wrote some of his autobiographical works.

This new edition features an expanded Introduction, and an extensive editorial apparatus designed to assist students at every level access these seminal texts.

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ROUSSEAU

The Social Contract
and Other Later Political
Writings

EDITED AND TRANSLATED BY
VICTOR GOUREVITCH

Wesleyan University, Connecticut

Second Edition



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Preface to the First Edition

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Annotating texts as varied and as rich in references of every kind as these is a cumulative task. No single editor is so learned as to pick up and identify every one of Rousseau's sources and allusions. All students of these rich and rewarding texts are in the debt of the learned editors who have come before us, and we can only hope to repay a part of that debt by doing our share in helping those who will come after us. After a time some references become common property. I have named the sources and editions I have consulted in acknowledgment of such general debts. In the cases where I am aware of owing information to a particular editor, or an accurate or felicitous rendering to a particular translator, I have indicated that fact. In some cases I mention differences with a given edition; it should be clear that by doing so, I also indicate my esteem for that edition: it is the one worth taking seriously. I have

recorded specific help in making sense of a particular passage or in tracking down an obscure quotation in the corresponding Editorial Note.

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I dedicate these volumes to the memory of my father.

Preface to the Second Edition

I am grateful for this opportunity to revise and to correct these translations, and to bring the Introductions and other editorial material up to date.

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Victor Gourevitch

2018

Introduction

The *Political Economy*, *Of the Social Contract*, and the *Considerations on the Government of Poland* are Rousseau's major constructive political writings, the works in which he seeks ways to redeem the promise and, as far as possible, to avoid the "inconveniences" of political society. Perhaps no modern thinker has celebrated the nobility of political life as vividly as has he. Yet it was only in his very last political writing, the *Considerations on the Government of Poland*, that he depicted the life of a citizen or patriot in anything like the concrete detail in which he had depicted the conjectural savages of the state of nature, the private education of Emile, or the domestic economy of Clarens, the country estate of the *Nouvelle Héloïse*.

He wrote, or at least he finished the *Political Economy* in 1755–1756, immediately after the *Second Discourse*. He published the two works which he called "treatises," *Of the Social Contract* and *Emile*, in 1762. On June 7 of that year, the theological faculty of the Sorbonne condemned the *Emile* and ordered it banned. Two days later the civil authorities did so as well and ordered its author's arrest. Rousseau fled Paris. On June 11 the public executioner burned copies of the book in the courtyard of the Palace of Justice. Within days Geneva ordered both the *Emile* and the *Social Contract* banned and publicly burned, and their author arrested if he set foot in its territory. He was forced to spend much of the next decade on the run and living under an assumed name. It was during those years that he began writing some of the first-person

works for which he is also remembered. His specifically political writings during this period are the *Letters from the Mountain* (1764), the *Project of a Constitution for Corsica* (1765), and the *Considerations on the Government of Poland* (1771). They differ from his earlier political writings in that they speak explicitly and in detail to current political situations.

Rousseau explored a variety of ways of life. The fact that he does not consistently hold up any one way of life as the standard by which to gauge all others but calls attention to the merits and the limitations of each one of the alternatives he considers, has left some readers under the impression that he was not a coherent thinker. Much of the most valuable twentieth-century Rousseau scholarship has shown that, on the contrary, his thought is remarkably coherent. One reason why he presents alternatives as alternatives is that, unlike many of his scholars, he did not think it possible to combine all human goods and avoid all “inconveniences” in some one comprehensive way of life. The most general organizing principle of these explorations is the alternative man/citizen.

The competing claims and the tensions between the two ways of life is the central theme of Rousseau’s work, and it is the organizing principle of his writings. He states it most succinctly and dramatically in the contrast he draws between Socrates, the model philosopher, and Cato, the model citizen.

The one teaches some few private individuals, fights the sophists, and dies for the truth: the other defends the state, freedom, the laws against the conquerors of the world, and finally leaves the earth when he no longer finds on it a fatherland to serve. A worthy disciple of Socrates would be the most virtuous of his contemporaries; a worthy imitator of Cato would be the greatest of his contemporaries. The virtue of the first would make for his happiness, the second would seek his happiness in that of all. We would be taught by the one and led by the other, and this alone would determine the preference between them: for no one has ever made a people of wise men, but it is not impossible to make a people happy.¹

¹ PE [30]; *Le verger de Mme la Baronne de Warens* (1739), OC II, 1024, ll. 23f.; “*Parallèle de Socrate et de Caton*,” OC III (1979) 1896–1898; *Discourse on the Virtue a Hero Most Needs* [38].

Rousseau further explored and indeed celebrated ways of life on the margins: the domestic economy of Clarens which he describes in such caring detail in the *Nouvelle Héloïse*, the upbringing, marriage, and adventure-filled later life of his “none too bright” Emile, the lives of people *in* political societies without being *of* them, and who, as he says, have a country (*pays*) even if they cannot be said to have a fatherland (*patrie*).² He indicates on the very title page of the books he devotes to them that these lives and his accounts of them are not properly speaking political by explicitly refusing to attach “Citizen of Geneva” to their author’s name (*NH* zè Préface). The people whose lives he describes in these works are, like all of us, indebted to their country for the moral education and the security which allow them to lead lives of civility and of reasoned natural right³ and, like all of us, they are obligated to repay this debt.

In this connection, Rousseau states in his own name some of the arguments which Plato has Socrates attribute to the Laws of Athens.⁴

Rousseau was an uncommonly careful as well as an uncommonly powerful writer. Every now and then he calls for “attentive” and “judicious” readers, and on one occasion he complains of being judged by what he is said to have meant, not by what he did say.⁵

The *Discourse on Inequality* traces the decline from the state of nature “in its purity” to what Rousseau describes as the current state of nature that is due to “an excess of corruption” (*SD* II [56]). He argues that the only comprehensive and satisfactory way to cope with this breakdown of independence and of the worldwide rule of natural right was/is to institute “municipal” political societies that conform to what he calls political right.

In the *Political Economy*, but especially in the early draft of the *Social Contract* known as the *Geneva ms.*, Rousseau reviews and rejects two representative versions of the view that all men, always and everywhere, do or can readily apprehend the dictates of natural right.

² *Emile* v, *OC* IV, 858, tr. 473, cf. *NH* VI 5, *OC* II, 657.

³ *Geneva ms* II 4[4]; *SC* II 5[2], *Emile* III, *OC* IV, 470, tr. 195.

⁴ to Usteri [8], Plato, *Crito* 50a–53a.

⁵ *SC* IV 3[10], III 1[1]; *LM* 696; Dent, *Rousseau* (1988), 108f., 110, 116.

He first reviews and rejects the view most recently restated by Pufendorf, that our natural sociality or sociability (*socialitas*), our common needs and our common humanity unite the whole of mankind and instill the precepts of natural right in each member of the species (*DNG* II 3 § xv). He sees no evidence for the claim that shared needs and a shared sense of humanity unite the whole of mankind into a “great” or “general” society.⁶ And even if there were something like Pufendorf’s “universal sociability,” it would be exceedingly watery. Most men’s souls are simply not sufficiently capacious to take an active interest in the lives of far-away people, or to feel a sincere sympathy for them (*PE* [30]; contrast *SD* II [33], *SC* II 7[11]).

our needs unite us in proportion as our passions divide us, and the more we become our fellows’ enemies, the less can we do without them. Such are the first bonds of general society; such are the foundations of that universal benevolence the sentiment of which seems to get stifled by the recognition that it is necessary, and the fruit of which everyone would like to enjoy without being obliged to cultivate it: for as to the identity of nature, its effect in this [respect] is nil, because it is as much a cause of quarrel as of union among men, and it introduces competition and jealousy among them as frequently as it does mutual understanding and agreement. (*Geneva ms.* I 2[2])

Accordingly Rousseau concludes that we come to conceive of the general society in terms of our particular societies, that it is the establishment of small Republics that leads us to think of the large one, and that we begin to become men only once we are Citizens (*Geneva ms.* I 2[15]). The primary reason for regarding Rousseau as preeminently a political thinker is precisely this central tenet of his, that we are moral agents by virtue of being citizens or at least members of political societies; we are not moral agents who may or may not become political agents (*SC* I 8).

The second version Rousseau considers, of the view that the worldwide rule of natural right is independent of whether men are in the pre-civil or the civil state, is the version Diderot had

⁶ *Geneva ms.* I 2[2], [4], [8], [15], [18]; *PE* [19]; *Emile* I, *OC* IV, 248f.; tr. 39.

recently put forward in his article “Natural Right.” In it Diderot argues that anyone can ascertain all the duties and rights of natural right by consulting “the general and common interest” or “general will” of mankind in the silence of the passions. In short, he, like Pufendorf – to whom a number of his formulations are clearly indebted – argues that to be human is to be a member not only of a species but of a community united by a shared sense of humanity and an all-embracing general will (*Droit naturel* vi, f). Rousseau therefore levels at his argument the same criticism he had leveled at Pufendorf’s argument: “. . . the word *mankind* presents to the mind nothing but a purely collective idea that does not imply any real unity among the individuals who make it up” (*Geneva ms.* I 2[8]). He singles out in particular Diderot’s claim that ascertaining one’s duties and rights as “man, citizen, subject, father, child” is “a pure act of the understanding reasoning in the silence of the passions” about the general will of mankind (*Droit naturel* vii, ix 2°). He questions that there is a “general will of mankind” and he denies that our moral conduct is prompted by “reasoning in the silence of the passions”: “. . . since the art of thus generalizing one’s ideas is one of the most difficult and belated exercises of the human understanding, will most men ever be in a position to derive the rules of their conduct from this way of reasoning . . .?” (*Geneva ms.* I 2[15]; *SD* P [6], [10]). “While Socrates and minds of his stamp may be able to acquire virtue through reason, mankind would long ago have ceased to be if its preservation had depended solely on the reasoning of those who make it up” (*SD* I [38]). Rousseau’s challenge is clear: the question is not so much Diderot’s “what might be the just thing to do?,” as it is the question Diderot fails to ask, “how do men ‘know’ – if that is the proper term for whatever moves us to act – what might be the right thing to do in any given set of circumstances, and how might they be moved to do it?” These, for all intents and purposes, are the questions to which he devotes his *Of the Social Contract*.

He calls it a “small treatise” in contrast to the two earlier “Discourses.” If the *Discourses* may be said to be primarily diagnostic, the *Social Contract* may be said to be primarily constructive. It is the most comprehensive and the most systematic of his works. It is therefore also in many respects the most difficult. “Treatise” suggests an impersonal, definitive teaching. Its austere,

abstract manner is not simply an exercise in philosophical rigor. It also serves an explicit political purpose. As Rousseau pointed out on a later occasion, he chose to speak under cover of generality because it permitted him to speak more boldly than he otherwise could (*LM* VI [42], *OC* III, 812; to his publisher Marc-Michel Rey, May 29, 1762 [2], *CC* x, 306f.).

The title page reads:

Of the Social Contract

or Principles of Political Right

By J. J. Rousseau, Citizen of Geneva

followed by a brief epigraph from Vergil's *Aeneid* (XI, 312f.) quoting Latinus, the native king, as he considers offering the invading Trojans a peace which they will reject. The quote suggests that just as the *Aeneid* is the epic recounting the mythical founding of Rome (*SC* III 10[3*]), the *Social Contract* should, at one level, be read as the founding in words of a new Rome (*SC* IV 4[1], [2]).

"Social Contract" does not so much stand for the view that civil or political societies come into being and are sustained in being by a formal contract, as for the view that political rule is necessarily based on a mutual understanding between the parties to it. In the body of his treatise, Rousseau speaks of "the pact" or "the compact" more frequently than he speaks of "the contract." The *Social Contract* is Rousseau's alternative to the view prevalent in his time that a people and its rulers are bound by a contract by which the people committed itself to obey, and the rulers to abide by the laws, the so-called double contract which Rousseau had pretended to accept in the *Second Discourse* only to go on and show that such a contract would be unenforceable because there would be no common superior authorized to settle differences between the parties. The double contract leaves the parties in a legal state of nature (*SD* II [44]–[46], *SC* III 1[4]; III 16[3]–[8]).

The subtitle which Rousseau adopts – and which he repeats in the concluding chapter of the work – "Principles of Political Right" – underscores the distinction between political and natural right.

Between the title page and the text proper a brief Notice announces that the work that follows is all the author judged worth saving from a much larger project.

The surviving work and most of its chapters are headed “du” or “de,” as is Rousseau’s other “treatise,” *Emile ou de l’éducation*; as, for example, are many of Montaigne’s *Essais* and is Descartes’s *Discourse* as well as Bacon’s *Essays*, “of” or “on” or “about” one topic or another; Hobbes’s *De cive* was Englished “concerning”; Locke wrote *Two Treatises of Government*; the list goes on and on.

“Principles of political right” are the basic tenets of the well-ordered civil society, as in the *Second Discourse* the two principles of pre-political humanity were self-preservation and pity (*SD* P [9]).

Rousseau states the aim of the *Social Contract* in the very first sentence of the short proem to the work:

I propose to inquire whether in the civil order there can be a legitimate and reliable rule of administration, taking men as they are and the laws as they can be. In this inquiry I will try always to combine what right permits with what interest prescribes, so that justice and utility may not be disjoined. (*SC* I [1]; consider *SC* IV 9, *PE* [24], [36])

“... [M]en as they are” is primarily to say men both as they by nature always have been and as in decisive respects they remain, free; and as they now are, with their acquired passions, needs, and powers. And from the very first, Rousseau draws a clear distinction between “what right permits” and what “interest prescribes,” between “justice” proper and “utility” or justice diluted by interest. Whereas the principles of natural right are based on “the nature of man” (*SD* P [5]), the principles of political right accommodate to “men as they are,” here and now. Rousseau’s political right not only “permits” but indeed requires the dilution of right which utility “prescribes.” “Political right” so understood is interchangeable with what Rousseau understands by “legitimacy.”

Chapter One opens: “Man is born free . . .,” by which Rousseau means that men both feel free and are not free not to feel free, and that they by nature seek at all costs to be and to remain judges in their own cause; or, as he had put it in the *Second Discourse*, “. . . the worst that can happen in the relations between one man and

another is for one to find himself at the other's discretion . . ." (*SD* II [37], *LM* 841). He categorically rejects Hobbes's "... worst of all, continual fear and danger of violent death . . ." (*Leviathan* XIII [9]). Men will die for freedom (*SD* N XVI [3]) and it is a mark of the nobility of human nature that they do.

"Man is born free, and everywhere he is in chains . . ." (*SC* I I [1]). It is an extremely blunt opening. Rousseau had said something like it in the *First Discourse* when he spoke of the "garlands of flowers" by which the arts and sciences bedeck the iron chains with which we are laden (*FD* [9]), in the *Second Discourse* when he spoke of men's entering the first, deceptive, so-called double contract as running "toward their chains in the belief they were securing their freedom" (*SD* II [32]), and in the *Political Economy* where he spoke of men voluntarily assuming chains (*PE* 19). When Rousseau speaks of our everywhere being in chains, he means that we are, for all intents and purposes inescapably, in political society. His saying that man is born free but everywhere in chains is often taken for an invitation to break these chains, and the Frontispiece of the *Second Discourse* but especially that of the *Social Contract* with its image of a dove flying free of its cage and a Marianne-like figure doing a jubilant jig, would seem to invite such a reading. But the stated aim of the *Social Contract* is, on the contrary, to show the conditions under which the chains are legitimate and indeed a blessing (*SC* I 8[1]). The image of our being in chains brings to mind, and is probably intended to bring to mind, Plato's cave (*Republic* 514a). The contrast between the two is as striking as the parallel between them: Socrates has men shackled in a cave and seeing only shadows of artefacts be men's actual condition, as has Rousseau with his men everywhere in chains. But in contrast to at least some of the prisoners in Socrates's cave, none of Rousseau's prisoners get unshackled, forced to turn around, look up and ascend the inclined plane. Rousseau strongly implies that our everywhere being in chains, that is to say in political society, is inescapable. Accordingly he sets himself the task in his political writings of showing how political society can be not only legitimate but ennobling. He indicates this in the most general terms on the title page of the work by signing it "Rousseau, Citizen of Geneva" and ending his short Proem to the work by spelling out that this means "citizen of a free state and a

member of the sovereign . . .” (*SC* I [3]). The entire *Social Contract* is devoted to detailing how he understands these key concepts: citizen, free state, sovereign.

His most general statement of what, in his view, constitutes a legitimate civil order is well known:

a form of association that will defend and protect the person and goods of each associate with the full common force, and by means of which each, uniting with all, nevertheless obey only himself and remain as free as before. (*SC* I 6[4])

As he had argued at length in the *Second Discourse* and as he states again at the outset of the *Social Contract*, Rousseau holds that political society and rule are not, strictly speaking, “natural”: men may by their nature be or become sociable (*Emile* IV (Vicar) *OC* IV, 600, tr. 290; *SD* I [37]; *EOL* 9[23]), but they are not by their nature unqualifiedly inclined to form or to participate in political society. If the worst is to be subject to another’s arbitrary rule, the corollary might seem to be that being another’s ruler is best. Rousseau rejects this conclusion. To rule is necessarily to have to mind other people’s business, and hence necessarily to be at least as dependent on them as they would be on us. “Only a few men’s heart is sufficiently wholesome to be capable of loving freedom. Everybody wants to command, at that price, nobody is afraid to obey” (*LM* VIII, *OC* III, 841f.; cf. *Poland* VI [5]). He begins both the *Second Discourse* and the *Social Contract* by making this point: the very first Note to the *Discourse* is devoted to “the wise Otanes” “who did not want either to obey or to command,” and in the *Social Contract*, immediately after saying “Man is born free, and everywhere he is in chains,” he adds “One believes himself the others’ master, and yet is more a slave than they.” It is one of the constants of his thought. His rejection of the view that political society is natural goes hand in hand with his rejection of the view that rule – but in particular political rule – is natural. He devotes the opening chapters of the *Contract* to once again reviewing and refuting received views regarding natural titles to political rule: paternalism, the right of the stronger, being the master of slaves. Since political society and rule are not natural, the modern philosophers were wrong to call “natural law” “the rules about which it would be appropriate for men to agree among themselves

for the sake of the common utility” (*SD P* [7]). They should have called these rules “the law of reason” (*Geneva ms.* I 2[8], *SC* II 4[4], cf. IV 8[31]); as, indeed, Hobbes did (*Leviathan* 14[3]).

Since political society and rule are not “natural,” they are based on conventions, or are “conventional” (*SC* I 4[1], I 5, II 6[1]). “The State or city is only a moral person” (*SC* II 4[1]; I 7[7], II 7[3]; *War* [57]; *Geneva ms.* I 6[2]; *PE* 46). It has to be authorized by the unanimous consent of the parties to it (*SD E* [2], *SC* I 1[2], *Poland IX* [7]); indeed, it *is* by their consent. Although political society and rule are by convention, they are not arbitrary. Political society is a being of reason (*SC* I 7[7]; *On War* [51]), erected on a basis of nature and reason (*SC* I 4[10]) and guided by the law of reason (*SC* I 4[4], I 4[11]).

Rousseau’s proposal for achieving the legitimate and secure political order is as well known as is the aim which he sets for himself in the *Social Contract*: The associates pool all of their resources – their forces, capacities, goods, and rights (*SC* I 6[6] [5]) – to form a civil or political society, and place it – and hence themselves – under the guidance of its – and hence their – “general will.” The people or society constituted by the members’ giving up to it each being judge in his own cause, is sovereign (*SD ED* [5]; *SC* IV 8[12]f.). Popular sovereignty is defining of Rousseau’s political right or “legitimacy”: “. . . everyone necessarily submits to the conditions which he imposes on others; an admirable agreement between interest and justice . . .” (*SC* II 4[7]). Which is the very formula Rousseau used in the opening paragraph of the *Social Contract* to characterize the aim of the work.

The question is frequently asked “How can ‘total alienation’ be reconciled with ‘as free as before?’” “Before,” that is to say in Rousseau’s pre-civil state of nature, men are free because in that state they are for all intents and purposes self-sufficient. The natural inequalities between them therefore make no significant difference. And since they are free, they are, for all practical purposes, equal. In Rousseau’s civil state they are equal by their “total alienation” of the differences between them in brain, brawn, and privileges; they are equal by law (*de droit*: *SC* II 11[1]); and hence free. Nothing short of the parties’ pooling all of their resources can achieve the equality required to secure this freedom.

Formal, legal/political equality is not an end in itself for Rousseau. It is the means to secure civic and political freedom. Civic freedom and equality provide the conditions for popular sovereignty, freedom in the form of self-imposed rule.

The sovereign issues the laws. Since the sovereign is the people assembled, the laws are self-imposed. Since they apply to everyone equally, no one is outside or above them. It therefore stands to reason that the sovereign will not issue any unnecessarily burdensome or restrictive laws. “[I]t cannot even will to do so: for under the law of reason nothing is done without cause [i.e. reason], any more than under the law of nature” (*SC* 11 4[4]; cf. 1 4[11]). The contract, far from depriving the parties to it of anything, on the contrary restores to them all the resources they had pooled, only now their claim to them is also guaranteed by the common force (*SC* 1 6[4], 11 4[10]).

Rousseau holds that what he formally characterizes as the total alienation of each member’s total resources to the community, does not pose a threat of what has come to be called “totalitarianism”:

... the Sovereign power, absolute, sacred, and inviolable though it is, does not and cannot exceed the limits of the general conventions, and ... everyone may fully dispose of such of his goods and freedom as are left him by these conventions: so that it is never right for the Sovereign to burden one subject more than another, because it then turns into a particular affair, and its power is no longer competent. (*SC* 11 4[9]; *On War* [57])

The most distinctive feature of Rousseau’s social contract and of his well-ordered political society, is the psychological and moral change the parties to it undergo as they come to recognize themselves as members of their political community: “... while the opposition of particular interests made the establishment of societies necessary, it is the agreement of these same interests which made it possible” (*SC* 11 1[1]). To say that the parties to the social contract pool their resources is, then, to describe a change in our relation to ourselves as well as to one another (*SC* 1 7[1]). Rousseau consistently stresses how difficult it is for us to recognize ourselves as a part of the corporate whole or wholes to which

we belong and from which we draw so much of our sustenance (*SC* I 6[10], III 2[6]f.).

In the *Social Contract* Rousseau describes this task as “so to speak changing human nature” or “denaturing” us (*SC* II 7[3], *Emile* I, *OC* IV, 250, tr. 40).

Anyone who dares to institute a people must feel capable of, so to speak, changing human nature; of transforming each individual who by himself is a perfect and solitary whole into part of a larger whole from which that individual would as it were receive his life and his being; of weakening [“mutilating”: *Geneva ms.* II 2[3]] man’s constitution in order to strengthen it; of substituting a partial and moral existence for the independent and physical existence we have all received from nature. In a word, he must take from man his own forces in order to give him forces that are foreign to him and of which he cannot make use without the help of others. The more these natural forces are dead and destroyed, the greater and more lasting are the acquired ones, and the more solid and lasting also is the institution: So that when each Citizen is nothing and can do nothing except with all the others, and the force acquired by the whole is equal or superior to the sum of the natural forces of all the individuals, the legislation may be said to be at the highest pitch of perfection it can reach. (*SC* II 7[3])

“So to speak,” “as it were”: Rousseau evidently does not think that “denaturing” ever does or even should fully extirpate the particular will; the sentiment of one’s own existence, individuality, natural inequalities keep reasserting themselves (*SC* III 2[7]). “Since nature never gets completely choked off, social man remains ever imperfect” (*Emile*, *OC* IV, 1268, note a *ad* p. 56). Becoming a party to the social contract is, then, not so much some once and for all historical event in the more or less distant past, as it is our ever renewed recognition of how intimately intertwined our own good is with the common good. To become a party to it is to become civil-ized in the original sense of the term (*SD* II [18], II [15], *SC* IV 1[1]).

Rousseau summarizes this change most succinctly in the penultimate chapter of Book I of the *Social Contract* by contrasting

man's natural state with his civil state, natural freedom with civil freedom, acting on the impulses of mere instinct and appetite with obedience to communally self-imposed law or what on this one occasion he calls "moral" – in contrast to physical – freedom. He has almost shown men's being "born free but everywhere in chains" to be "legitimate"; almost: "... if the abuses of this new condition did not often degrade him to beneath the condition he has left, he should ceaselessly bless the happy moment that wrested him from it forever" (*SC* I 8; cf. *SD* E [4]). The conditions that make for moral freedom are also the conditions that can make for depths of moral turpitude (see also on "perfectibility," *SD* I [17]).

For all intents and purposes, the alternative natural freedom and civil or moral freedom, corresponds to the alternative natural/political right.

Rousseau's most sustained discussion of natural right/law was occasioned by the Dijon Academy's question whether inequality is authorized by the natural law.

He begins by contrasting two dominant natural law traditions: that of the Roman jurists, and that of the modern philosophers (*SD* P [6]–[8]).

According to the Roman jurists (e.g. Ulpian, Justinian) "natural law" is the name for "the general relations established by nature between all animate beings for their common preservation." As Grotius observes (*War and Peace* I, I, § xi), the Roman jurists do not distinguish between natural law and law of nature; their "natural law" states the minimum conditions for common existence.

According to the modern philosophers (e.g. Grotius, Pufendorf, Cumberland, Burlamaqui), "natural law" is the name for the rules about which it would be appropriate for men as free, rational beings to agree for the sake of the common utility. It is "law" in the sense of being prescriptive: it applies only to free and rational, that is to say human beings. The modern philosophers' "natural law" states the optimum conditions for common existence.

Rousseau concludes that *if* there is a natural law, it would have to satisfy the criteria of both the ancient jurists and the modern philosophers: it would have to speak immediately with the voice of

nature, and the will of him whom it obligates would have to be able to submit to it knowingly. In short, it would have to be *both* pre- or sub-rational *and* rational. It would have to be by the natural impulsion or inclination of pre-rational and pre-social beings, and, in due course, articulated and confirmed by reason and sociability. Now, since law presupposes reason, pre-rational impulsions can clearly not be “law.” Rousseau therefore rejects the very notion of *natural* law.

Hence when he speaks in his own name or about his own views, Rousseau for the most part speaks about “natural right” and the rules of natural right – thus, incidentally, reverting to the ancients’ practice for whom the expression “natural law” (*nomos phuseos*) would be a contradiction in terms, tantamount to saying that something is both by nature and by convention. When he does speak about “natural law” he is for the most part speaking in the language and about the doctrines of the representative writers on these subjects in his time. Right, in contrast to law, states principles that may be realized in different ways under different circumstances. Thus, actions performed by immediate, spontaneous inclinations, dispositions, or impulsions that are prior to and independent of reason or sociability could perfectly well conform to natural right without being performed because or for the sake of law, natural or positive. At the same time, it is possible and indeed plausible that rational and sociable human beings might take cognizance of the natural right in conformity with which they had been acting by nature all along, understand it, adopt it, yield to it willingly, and even try to foster and develop it into habits or states of character. Accordingly, Rousseau on one occasion speaks of “reasoned natural right” (*droit naturel raisonné*, *Geneva ms.* II 4[14]).

Seventeenth- and eighteenth-century discussions of natural right/natural law typically proceeded either a priori, in terms of the causes or, as Grotius put it, “by arguments drawn from the nature of the thing,” or a posteriori, in terms of the effects or, as he put it, “by reasons taken from something external.” In other words, they proceeded by appealing either to principles or appealing to facts, to what he also calls the common sense of civilized nations (*War and Peace*, I, I, § xii). Grotius himself explicitly proceeds a posteriori, by an appeal to effects, or facts, or the

common sense of civilized nations. Hobbes, in an argument which directly echoes Grotius's text, flatly rejects the notion of a common sense of civilized nations, and hence Grotius's a posteriori way (*De cive* II, 1). Rousseau, like Pufendorf (*DNG* II, iii, §§ vii–ix) and Locke before him (*Treatises* I, § 58; II, § 103), fully accepts Hobbes's criticism of Grotius's a posteriori way. Accordingly, he consistently criticizes those who derive right from fact (*SC* I 2[4]–[8]; cf. *Geneva ms.* I 5[1]; *On War* [24], [28]) by what he calls the “analytic method” (*Idea of the Method in the Composition of a Book* [6], [10], *War* [16*]), and, instead, himself resolutely proceeds “synthetically”: he begins by inviting the reader to set aside all the facts and to attend solely to arguments derived from the nature of things (*SD* P [6]), and ends by saying that this is what he has done (*SD* I [52], II [58]).

Natural right is, then, “natural” inasmuch as it conforms to the nature of man. At the same time, Rousseau fully recognizes that an a priori, analytic inquiry, for instance about putative human beings (*nos semblables*) without and possibly prior to any artifice or convention, living in a pure state of nature, is necessarily conjectural (*SD* P [4]), about “a state which no longer exists, *which perhaps did not ever exist*, which probably will not ever exist, and about which it nevertheless is necessary to have exact Notions in order to judge our present state accurately . . .” (*SD* P [4], my italics). The account of such a state may spell out a paradigm or standard, but it can only be an object of thought, as soul without body, or color without shape can only be objects of thought. “. . . [M]editating on the first and simplest operations of the human Soul, *I believe I perceive in it . . .*” two principles prior to reason and independent of sociability, self-preservation and pity (*SD* P[9], my italics). The impulses prompted by these two principles may be assumed to speak immediately with the voice of nature, and so to conform to Rousseau's first requirement for natural law/right (*SD* P[10]). So that it can be conjectured that, independently of the status of reason and of sociability, men may be able to live by the law(s) of (their) nature, in accordance with at least the minimum requirements of natural right on a worldwide scale: pity, the spontaneous, natural disinclination to hurt or to harm would make for conformity with the primary

rule of natural right: do no harm;⁷ and self-preservation – each doing his own good – naturally and spontaneously makes for conformity with the “fundamental and universal law of greatest good of all.”⁸

Putatively self-sufficient men could spontaneously – “naturally” – act in accordance with natural right, without acting because or for the sake of it. Men who are materially and psychologically dependent on one another, cannot. Among them, the workings of the law(s) of (human) nature fail to secure the spontaneous – “natural” – conformity to natural right.

What is good and conformable to order is so by the nature of things and independently of human conventions. All justice comes from God, he alone is its source; but if we were capable of receiving it from that high, we would need neither government nor laws. No doubt there is a universal justice that emanates from reason alone; but for it to be admitted among us, this justice has to be reciprocal. Considering things in human terms, the laws of justice make no difference among men for want of natural sanction; they only benefit the wicked and harm the just when he observes them toward everyone while no one observes them toward him. Conventions and laws are therefore needed to join rights with duties and to bring justice back to its object. (*SC* II 6[2]; cf. *SD* I [23] and *Geneva ms.* I 2[3])

⁷ “As if the first good were not to do no harm!” *Discours sur les richesses* [13], *OC* v, 472; “I am obliged not to harm another being like myself [*mon semblable*] . . .” *SD* P [10]; “The only lesson of morality appropriate to childhood and the most important for every age is never to harm anyone” (*Emile* II, *OC* IV, 340, tr. 104); “. . . the first step toward the good is to do no harm . . .” St Preux to Milord Edouard, *NH* v 2, *OC* II, 531; “never to do harm seems to him a more useful, a more sublime, and a much more difficult maxim than even that to do good . . .” *Rousseau juge* . . . II, *OC* I, 855; “How could one be unjust in not harming anyone, since injustice consists solely in the wrong done to someone else?” *Reveries* IV, *OC* II, 1027; cf. Pufendorf, *DNG* III, I, § I, *Homme et citoyen*, I, 6, § II.

⁸ “It is therefore in the fundamental and universal Law of the greatest good of all and not in the particular relations of man to man that one has to look for the true principles of the just and the unjust, and there is not a single particular rule of justice which cannot easily be deduced from this first law” (*Geneva ms.* II 4[17]).

The passage leaves open the question whether the natural order and the justice of which Rousseau is here speaking, refer to our world and to ourselves only, or to the universe as a whole, including the inhabitants of Saturn and Sirius (*to Philopolis* [12], *to Voltaire* [21]). Yet the answer to this question clearly makes a significant difference to what Rousseau here calls the justice that “comes from God” or “universal justice,” and elsewhere he calls “the fundamental and universal law of the greatest good of all” (*Geneva ms.* II 4[18]) and “natural divine right” (*SC* IV 8[15]). By contrast, the duties of “particular justice,” stipulated and enforced by the positive laws of given political societies are duties of “strict right” or “right strictly and narrowly so called” (*SD* XIX, *Geneva ms.* I 6[5], II 4[14], *to d’Alembert*, *OC* V, 61, tr. 66). Rousseau also leaves open here, as he had in the parallel passage of the *Second Discourse* (*SD* I [23]), the question of whether the justice he says comes from God is the same as the universal justice he says emanates from reason alone. If the unaided reason concluded that man occupies but a negligible place in the order of the whole, if – as Rousseau says in his *Letter to Voltaire*, “the planets are inhabited, as is likely . . .” – our well-being may be negligible in the scheme of things: “. . . why would I be worth more in . . . [God’s] eyes than all the inhabitants of Saturn?” (*to Voltaire* [23]). However, he leaves no doubt whatsoever about the difference between justice in either of these senses, and the justice that in order to be “admitted among us” has to be reciprocal and have sanctions attached to it, in short the justice that makes political society necessary. He leaves no doubt whatsoever about the fact that justice, in order to be “admitted among us,” is justice diluted. If we could live by the non-reciprocal and sanction-less justice that emanates from reason alone, we could live quite literally “without civil society.” However, “considering things in human terms,” most of us will not live by the justice that emanates from reason alone. The justice that emanates from reason alone may guide the wise: “the wise man has no need of laws” (*Emile* II, *OC* IV, 320, tr. 91); “. . . the eternal laws of nature and of order exist. They take the place of positive law for the wise; they are inscribed in his inmost heart by conscience and by reason” (*Emile* V, *OC* IV, 857, tr. 473). Rousseau speaks of wise founders and Lawgivers as a miracle (*SC* II 7[11]); in rare cases like those he describes in

the *Emile* and in the *Nouvelle Héloïse*, an attenuated form of wisdom may guide some few people who happen to be ruled by the wise; he is mindful of the wise, but he speaks of them sparingly, and when he does, he for the most part does so from the moral/political perspective of most men most of the time: “men as they are” (*SC* I [1]), “. . . man who is neither a brute nor a prodigy is man properly so-called, the mean between the two extremes, and who makes up the nineteen twentieths of mankind” (*to Franquières* [9]).

Natural justice is too demanding. “[M]en as they are” will not conform to a sanction-less justice. In the legitimate political society, political right or justice is reciprocal:

The commitments that bind us to the social body are obligatory only because they are mutual, and their nature is such that in fulfilling them one cannot work for others without also working for oneself . . . [W]hy do all consistently will each one’s happiness, if not because there is no one who does not appropriate the word *each* to himself, and think of himself as he votes for all. Which proves that the equality of right and the notion of justice which it produces follows from everyone’s preference for himself and hence from the nature of man . . . (*SC* II 4[5], [8]; II 6[2])

For all practical purposes, the *Social Contract* settles for this “notion of justice.”

Rousseau calls the guiding principle of the body established by the social contract the general will (*SC* I 6[9]). Most immediately, the general will is the will for the good of the comprehensive political framework within which we, as parties to the contract and hence as citizens, severally pursue our individual ends or goods. The success of our individual pursuits depends on the well-being of the society or the comprehensive wholes within which we engage in these pursuits. Hence everyone of us wishes and may even be said to will the well-being or common good of the whole of which we are part (*SC* II 1[1], II 4[5], [8]; II 6[2]). “Wish” or “will” may be too weak to convey Rousseau’s meaning. “Wish” or “will” may imply that we are free not to wish or will our own and hence the common good, or even to wish or will what is at odds with our own and hence the common good. Rousseau

categorically rejects this possibility. It is a basic tenet of his moral psychology that we are no more free to consent to anything that is – or that we take to be – at odds with our good (*SC* II 1[3], II 3[1]; *Emile* IV (Vicar) 586, tr. 280; 599, tr. 290; Plato *Meno* 78A, Xenophon, *Oeconomicus* 20.29), than we are free not to *feel* free and hence not to feel ourselves and to regard our fellows as capable of responsible moral conduct (*P&P* 41f. = *OC* III (1979 printing), 1894; *SD* I 1[6]f., to *Voltaire* [30]); “to deprive one’s will of all freedom is to deprive one’s actions of all morality” (*SC* I 4[6]). He is keenly alive to the theoretical or, as he puts it, “philosophical” problems surrounding “freedom of the will” (*SD* I 1[6]f.; to *Voltaire* [30]; *Conf.* I, *OC* I, 409 on “*morale sensitive or the materialism of the Wise*”; *OC* III, 53of. = *EOL* 9[23], *OC* V, 401; *Reveries* 8), and he therefore says in the context of his one, brief but crucial mention of moral – that is to say of practical – freedom, “. . . the *philosophical* meaning of the word *freedom* is not my present subject” (*SC* I 8[3]).

The defining feature of the social contract is freedom under self-imposed law: each party to it is both a member of the sovereign and a subject or Citizen (*SC* III 13[5]). The sovereign’s will declares itself through laws; to obey the law is, therefore, to obey oneself; and, “obedience to the law one has prescribed to oneself is freedom” (*SC* I 8[3]). The rule of self-imposed law liberates from the greatest and most galling evil, dependence on the will of another, by substituting for it dependence on impersonal authority – “peoples, subject to the laws of the State as to those of nature” (*SC* II 7[10]). That is why “[t]he worst of laws is still preferable to the best master . . .” (*LM* VIII, *OC* III, 842f.). On one occasion, Rousseau makes the point in a particularly dramatic way:

whoever refuses to obey the general will, will be constrained to do so by the entire body: which means nothing other than that he will be forced to be free; for this is the condition which, by giving each Citizen to the Fatherland, guarantees him against all personal dependence . . . (*SC* I 7[8]; also *SC* I 7 [9], *PE* 17)

The general will “wills” the common good. The common good is not each one’s own unqualified good but the primarily political

condition for each one's greatest attainable good. The general will wills the common good if only in the sense that no member of the body politic can consent to what is or what they take to be at odds with their good. The general will may therefore be said to be the goal or the final cause of human aspiration and endeavor. As such it may be said to be invariably upright (*droit*: SC II 3[1], II 4[5], II 6[10]) and indestructible (SC IV 1). But when Rousseau asks whether the general will can err (SC II 3), he is not asking whether the invariably upright and indestructible standard can err, but whether an electorate faced with deciding whether this or that proposal is or is not in the common interest – “. . . *is it advantageous to the State . . .*” (SC IV 2[8], IV 1[6]) – happens to believe that it is. “How will a blind multitude which often does not know what it wills because it rarely knows what is good for it . . .” vote wisely? “The general will is always upright, but the judgment that guides it is not always enlightened” (SC II 6[10]). In case it is enlightened, in case “. . . all the characteristics of the general will are still in the majority . . .” (SC IV 2[9]), then, and only then, what after a suitably free and public debate a majority of citizens declares to be in the general interest, is so. If the electorate is not enlightened, if all the characteristics of the general will are not yet or no longer in the majority, it needs guidance (SC II 12[2]).

The Scylla and Charibdes of popular sovereignty is that knowing and achieving the willed good requires wisdom. (SC II 6[10]). Rousseau repeatedly calls attention to how difficult it is to combine will and wisdom. He explores various ways of resolving this difficulty throughout much of his work: in his studies of “morals” (*moeurs*), patriotism and civil religion, in how he conceives of the Lawgiver (SC II 7), by arguing that the best government is elective aristocracy (SC III 5[4]) or democracy wisely tempered (SD II [48]), by considering various voting procedures (SC IV 2–4), emergency powers, institutions like Tribunes, Censors . . .

He assigns pride of place to morals (*moeurs*) broadly speaking, the beliefs, habits, and practices which characterize and continually re-enforce a given people's distinctive way of life, what it does and what it does not prize and honor, its attitudes toward freedom, equality, citizen responsibility, in short, the dispositions that energize and direct the general will, and that are the great Lawgiver's secret preoccupation while he appears to attend to

routines and procedures (*SC* II 12[5]). The prominence Rousseau assigns to morals in his classification of laws – and in each one of his writings – clearly illustrates how problematic the radical disjunction between law and morality is in his judgment.

In order to unite wills, the passion to be counted on is love, specifically the form of love which Rousseau calls *amour propre*, suitably generalized to make the common good and hence the general will an object of true attachment by becoming patriotism. Patriotism, “enlightened patriotism” (*Poland* IX [3]), is the most direct form of public-spirited devotion to the common good. It is the passional surrogate of practical wisdom. It is what most immediately makes the difference between the self-seeking calculations that hold together even a band of robbers, and a politics of citizenship (*PE* [30]; *Fragments politiques*, *OC* III, 536, and *Poland*, *passim*). By taking us beyond narrow self-absorption and helping us to see ourselves as parts of a larger whole, it can ennoble political life (*SC* I 8[1], *Poland* II [5], III [6]). From the *First Discourse* through the *Considerations on the Government of Poland*, Rousseau not only speaks eloquently about patriotism, he also casts himself in the role of a patriot who signs his most explicitly political writings “Citizen of Geneva,” takes the highly unusual step of dedicating one of his writings to his native City, and justifies writing the *Social Contract* on the grounds that the right to vote imposes on him the duty to learn about public affairs (*SC* [3]).

Rousseau’s discussion of the Lawgiver is one of the high-points – and one of the stumbling blocks – of his political teaching. The Lawgiver must know what to do and when and how to do it. Rousseau repeatedly speaks of the Lawgiver’s wisdom. He must persuade the people to give up the rewards they know for the sake of the greater rewards they are promised. He cannot do so by arguments. Arguments would be too abstruse. Besides, reason rarely moves to action. He must therefore “persuade without convincing” (*SC* II 7[9], *to Voltaire* [30], *to Mirabeau* [14]): he has to place the conclusions reached by his “sublime reason which rises beyond the reach of vulgar men” “in the mouth of the immortals, in order to rally by divine authority those whom human prudence could not move.” “This,” he goes on, “has at all times forced the fathers of Nations to resort to the intervention

of heaven and to honor the Gods with their own wisdom" (SC II 7 [10]); and, lest his meaning be misunderstood, he adds, "... it is not up to just anyone to make the Gods speak or to have them believe him when he proclaims himself their interpreter..." (SC II 7[11]). The remark goes some way toward resolving the question he had left open earlier, whether the justice he said comes from God is the same as the universal justice emanated from reason alone (SC II 6[2]). By concentrating on the people's religion, its morals, its distinctive way of life (SC II 12[5], *Poland* II), the Lawgiver seeks to embed as deeply as possible habits, tastes, dispositions for what the community should esteem, so that they might become, as it were, its "fundamental laws."

The importance Rousseau attaches to Lawgivers is sometimes said mistakenly to attribute to some legendary figure of heroic proportions the often quite fortuitous effects of long range trends which no one controls. In part he speaks primarily about traditional, larger-than-life figures – Lycurgus, Romulus and Numa, Moses, Mohammed – for transparent prudential reasons: they are in a safe because distant past. However, he also does so because founders do deservedly enjoy special honor. At the same time, he is well aware that there are many other ways of being a Lawgiver than to articulate the principles of political right, or to be a founder, or to craft constitutions. He clearly conceives of the task of the Lawgiver as being carried on by thoughtful and public-spirited citizens throughout the life of a political society. Just as "contract" in part stands for the ongoing civil-izing process in which all of us are in varying degrees involved throughout our lives, as were our forebears, and as our descendants will be, so "Lawgiver" in part stands for the activities of every generation of public-spirited citizens (cf. *Poland* VII [12]).

Rousseau's discussion of Lawgivers puts the reader in mind of the limitations of law and of the rule of law: law is subject to the higher rule of living wisdom. At the same time, his discussion of Lawgivers calls attention to the limitations of "the notion of justice" based on reciprocity as reciprocity is commonly understood: Lawgivers are just, not so much as "men as they are" are just, but as the wise are just, willing to work for our happiness although their own happiness does not depend on ours, and prepared to reap in future centuries the rewards for laboring in

this century (*SC* II 7[1]), cf. *FD* [2]). “The great soul of the Lawgiver is the true miracle that must prove his mission” (*SC* II 7[11]). This is not Rousseau’s only acknowledgment of greatness of soul – “magnanimity” – and of the need to summon it and to allow it full scope. “The soul insensibly proportions itself to the objects that occupy it . . .” (*FD* [59]).

The theme of the *Social Contract* is popular sovereignty, and every issue and argument Rousseau takes up in the course of the work seeks either to strengthen the case for it or to rebut challenges to it. He does so most formally with the distinction he draws half-way through the work between sovereign on the one hand, and Prince or government on the other: the sovereign, i.e. the people assembled, voting as parties to the contract or as citizens, promulgates the laws that articulate its general will. These laws once promulgated have to be implemented. They cannot and ought not to be implemented by the sovereign. It cannot do so because it is simply too unwieldy for it – i.e. the people assembled – to do so. It ought not to do so because the exercise of sovereignty consists in attending to general concerns in general terms or laws, whereas implementing the laws is always a matter of particulars (*SD* ED [10], II [36]; *SC* II 1[3], II 4[6], III 4 [2]). To assign their implementation to some part of the sovereign would be to annihilate it. Sovereignty is indivisible and inalienable. The sovereign must therefore delegate the responsibility and the authority to implement the laws to a magistracy or government in the strict sense Rousseau attaches to these terms.⁹ If government is but the minister of the sovereign people, it clearly follows that every government is provisional, and that the sovereign people may, and Rousseau argues, should regularly call it to

⁹ “What, then, is Government? An intermediate body established between subjects and Sovereign so that they might conform to one another, and charged with the execution of the laws and the maintenance of freedom, both civil and political.

The members of this body are called magistrates or *Kings*, that is to say Governors, and the body as a whole bears the name *Prince*. Thus those who hold that the act by which a people subjects itself to chiefs is not a contract are perfectly right. It is absolutely nothing but a commission, an office by which they, as mere officers of the Sovereign, exercise in its name the power it has vested in them, and which it can limit, modify, and restore, since alienation of such a right is incompatible with the nature of the social bond and contrary to the aim of the association” (*SC* III 1[5]f.).

accounts and either renew or revoke its mandate (*SC* III 13, 18). It is not difficult to see how this view contributed to the *Social Contract's* being condemned by Geneva's political authorities.

Rousseau is fully aware of the fact that it is easier to draw the distinction between sovereign and government in principle than it is to keep them distinct in fact. On one occasion he compares the difficulty of construing their relation correctly to "the abyss of philosophy," how to conceive of the action of the soul on the body (*Geneva ms.* I 4[5], *SC* III 1[4]).

Two dangers threaten the proper relation between sovereign and government: the sovereign may usurp the role of government by retaining executive functions; alternatively, the government may encroach upon the sovereignty and gradually usurp it (*SD* ED 4], II [36]; *SC* II 4[6], III 16[5]).

Rousseau's discussion of the forms of government seeks to skirt both dangers. For practical purposes he structures that discussion in terms of the traditional classification: democracy, aristocracy, monarchy. He rejects pure democracy because in it the sovereign acts as its own government (*SC* III 4), and absolute monarchy because in it the government acts as the sovereign.

"To be legitimate, the Government must not be confused with the Sovereign, but be its minister: Then monarchy itself is a republic" (*SC* II 6[9]*). As for aristocracy, he distinguishes between natural, hereditary, and elective aristocracy. He sets aside natural aristocracy as suited only to primitive peoples – or to such sub-political communities as that described in the *Nouvelle Héloïse*; he rejects hereditary aristocracy as the worst form of government; but regards elective aristocracy to be the best form of government (*SC* III 5; *SD* II [48]). What he here calls "elective aristocracy" is for all intents and purposes what elsewhere he calls "democratic government wisely tempered" (*SD* ED 3]; *SC* III 10[3] ¶4, III 7[5]). Elective aristocracy or wisely tempered democracy is best because it combines the strictest requirement of legitimate rule, election, with the natural claim to rule, wisdom, in the service of the common good. As in his discussion of the Lawgiver, so here again Rousseau seeks to combine popular sovereignty and wisdom.

Still, for practical purposes, the question of what is unqualifiedly the best form of government is too indefinite to admit of an

answer: “. . . each of them is the best in certain cases, and the worst in others” (*SC* III 9[1]; III 3[7]).

The extended discussion through much of Book IV of the divisions of the Roman people – “that model of all free Peoples” (*SD* ED [6]) – into tribes and comitia, of their complex voting procedures, of the Tribunate, the Censorship and the other institutions designed to maintain a proper balance between the various sectors of the sovereign people and the various “intermediate forces” (*SC* III 1[8]) or branches of government, considers exemplary ways to forestall and delay as much as possible the imbalances between sovereign and government which in the long run inevitably lead to the decline and fall of even the best ordered political societies (*SC* III 9[1]f., *Poland* VII [39], *LM* VI [31]).

So, in large measure, does the famous chapter on the civil religion, the last chapter of the *Social Contract* devoted to domestic policy and, if only by a narrow margin, its longest chapter (*SC* IV 8). Rousseau’s preoccupation with the relations between religion and political society can be traced through all of his writings. In the chapter on the civil religion he enlarges upon the reflections about this problem which he had considered at some length in the chapter on the Lawgiver (*SC* II 7).

Religion is a branch of political right because “. . . no State has ever been founded without Religion serving as its base . . .” (*SC* IV 8[14], cf. *SD* II [46]). Initially all political societies were ruled, each by its own gods. All polities were theocracies, all religions national and, so to speak, citizen religions: patriotism ennobled and hallowed by divine sanction. Rousseau goes out of his way to argue that this was even true of Judaism until the Babylonian Captivity (*SC* IV 8[4]f., *LM* I, *OC* III, 703) as well as of early Islam (*SC* IV 8[11]). Jesus introduced a radically new alternative. By proclaiming a spiritual kingdom on earth (*SC* IV 8[8]) he drove a wedge between the citizens’ allegiance to the political realm and their allegiance to the spiritual realm, and so radically disjoined being a citizen and being a man. Before long, the Christians’ “supposed spiritual kingdom in the other world” became “the most violent despotism in this world” (*SC* IV 8[9]), and this fatally sundered the bodies politic by now also dividing the sovereignty (*SC* IV 8[12]): “. . . regardless of how a government is constituted, if there is a single person in it who is not subject to the law, all the

others are necessarily at his discretion; and if there is one national Chief, and another, foreign, Chief then, regardless of the division of authority they may establish, it is impossible that both be obeyed well and the State well governed" (*SD* ED [5]; *SC* I 7 [3]). As a result sound polity became impossible in Christian states (*SC* IV 8[10]). Rousseau calls this worldly Christianity, but especially Roman Catholicism with its own worldly chief and subjects, the religion of the priest (*SC* IV 8[6], IV 8[12]*). All attempts at preserving or restoring pre-Christian national religions have failed (*SC* IV 8[11]). In the *Letter to Voltaire* Rousseau had gone so far as to say that all religions that attack the foundations of society ought to be exterminated (*to Voltaire* [34]). Now he leaves it at proposing a reinterpreted Christianity which might no longer interfere with what he regards as sound politics. To this end, he draws a sharp distinction between what he calls the pure and simple Christianity of the Gospels, "true Theism" (*SC* IV 8[15]), and the religion of the priest, the religion of the Lamas, of the Japanese, and Roman Catholicism. He calls the first, "the purely internal cult of the Supreme God and the eternal duties of morality," natural divine right (*SC* IV 8[15], cf. *to Voltaire* [15]). He does not attribute natural divine right either to the earlier, national, religions, or to the religion of the priest. By contrast, he calls the external rites and rituals of the earlier, national religions, divine civil or positive right (*SC* IV 8[15]); but his stripped "pure and simple Christianity of the Gospels" is without positive commandments, creed, or ceremonial law, in short without divine civil or positive right of any kind. However, when this "pure and simple Christianity of the Gospels" is interpreted as Rousseau suggests interpreting it, nothing prevents combining it with civil or political right, and introducing alongside it a positive, civil religion with a civil profession of faith fostering sentiments of sociability or citizenship. The positive dogmas of such a civil religion would be few and simple: the existence of the powerful, intelligent, beneficent, prescient, and provident Divinity, the life to come, the happiness of the just, the punishment of the wicked, the sanctity of the social contract and of the laws; its one negative dogma is the prohibition of intolerance. While Christians and, possibly, Jews and Muslims as well, should have no objections to most of these positive dogmas, they do go far beyond anything Rousseau himself found

persuasive, let alone convincing (*to Voltaire* [29]). Once again he solves this problem by drawing a sharp distinction between beliefs and practices. The sole admissible gauge of beliefs is conduct (*SC* IV 8[31], cf. II 4[3]; *to Voltaire* [32]; *SD* N XIX). The civil authority may inquire only into whether one conducts oneself as a good citizen and a loyal subject would conduct himself. It is true that anyone who does not *believe* the articles of the purely civil profession of faith may be banished, but as Rousseau makes clear in the context, the only evidence of one's not believing them, is one's failure publicly to acknowledge them, in other words, once again, one's conduct. Anyone who has publicly acknowledged them but conducts himself as if he did not believe them, may be condemned to death. The last two dogmas of the civil profession of faith are the most radical. They again proclaim the sanctity of the social contract and of the laws, hence the civil society's indivisible and inalienable sovereignty, and hence that no being or body whatsoever has a legitimate rival claim to authority in the state's affairs (*SC* I 7[3]; *SD* ED [5]).

Like most political philosophers, Rousseau attends more closely to domestic policy than he does to foreign policy: the right of nations is "a mere chimera"; sovereign states are in a state of nature with one another, and the few more or less tacit conventions between them lack sanctions and cannot be enforced (*SD* II [33]f.; *War* [6]). Yet his own proposals for a federation of European states and for a sound right of war remain fragmentary. His main point is that, by right, a state of war can obtain only between "moral" entities, civil societies; "physical" human beings are not and cannot be at war with one another. The rightful aim of war is moral, not physical, to break the general will that holds the enemy society together, not to kill the enemy's population, let alone to enslave them in exchange for sparing their lives (*War* [34]–[57], *SC* I 4[7]–[12]).

In Rousseau's judgment, political right, citizenship in a well-ordered, legitimate political society, public-spirited and as self-sufficient as its circumstances permit, provides the most satisfactory collective solution for "men as they are." It does not provide the best or most satisfactory solution to the human problem. He does not think that it admits of a single best solution.

He most clearly indicates that he does not think that it does by refusing to ignore or even to minimize the tension between natural and political right. Perhaps the clearest mark of the differences between them is that pity, which occupies such a conspicuous place in the moral psychology of the pre-political condition of the *Second Discourse*, of the *Essay on the Origin of Languages*, and in the domestic education of the *Emile*, plays no role in the moral-political psychology of the *Social Contract* and is never so much as mentioned in it or in any of Rousseau's other finished writings primarily devoted to political right. In political right, the general will may be said to occupy the place which pity occupies in natural right. Pity, especially pity in the original sense Rousseau attaches to the term, can be the guiding principle of action and conduct only for solitaries. "The precept never to harm another person entails that of being attached as little as possible to human society; for in the social state one person's good necessarily makes for the other's evil" (*Emile* II, *OC* IV, 340*, tr. 105* and context; cf. *Reveries*, VI, the last paragraph, *OC* I, 1059). Pity, especially pity in the sense of not harming anyone, can, therefore, not be the guiding principle of men in the civil state, let alone of citizens. In civil society, Rousseau explicitly subordinates pity to justice: "there are a thousand cases where it is an act of justice to hurt one's neighbor," as Brutus justly condemning his sons to death so dramatically illustrates (*Geneva ms.* II 4[17], cf. *PE* [28], *Emile*, IV, *OC* IV, 548, tr. 253; *Last Reply* [5]*, [54]–[56]; to *Franquière* [20]).¹⁰ It is not that "men as they are" know no pity, but that its small still voice is overwhelmed by the passions, the interests and the general will, which together assume dominance in the economy of their soul and make it necessary to institute civil society in the first place (*SD* II [29], cf. P [9] with *Geneva ms.* II 4[14]).

One has to choose between being a citizen and being a man (*Emile* I, *OC* IV, 248f., tr. 39):

Patriotism and humanity . . . are incompatible virtues in their very thrust [*énergie*], especially so in an entire people. The Lawgiver who strives for them both, will achieve neither:

¹⁰ In his first mention of pity Rousseau says that it is the principle of all the social virtues; his examples are virtues of natural, not of political right: no courage, no justice (*SD* I [37]).

such a combination has never been seen; it will never be seen because it is against nature, and it is impossible to assign two objects to one and the same passion. (*LM* I, *OC* III, 706*)

Entire peoples cannot wholeheartedly devote their best energies both to the greatest good of their own country and to the greatest good of mankind as a whole. Being a citizen and being a man makes for fundamentally different economies of the soul and fundamentally different ways of life.

Rousseau's political thought is sometimes said to be "utopian." The reason for saying that it is, is that if, as he holds, man is by nature good, political society corrupts him, and everything depends on politics, it might seem to follow that the human problem could be solved fully and satisfactorily by the right political arrangements, or by sloughing off the political condition, either by returning to a pre-political state or by progressing to a trans-political state. There is no denying that some of his statements may appear to lend support to such a reading: "There is not a single wicked man [*méchant*] who cannot be made good for something" (*SC* II 5[6]). Still, "... anyone who has to govern men should not look for a perfection beyond their nature of which they are not capable" (*PE* [37]). He categorically denies that any political solution can be definitive: "If even Sparta and Rome perished, what State can hope to last forever?" (*SC* III 9[1]). The attempt to eliminate need by providing ever greater plenty only exacerbates the needs and makes us increasingly dependent on the means of providing for them. He sees no way to reconcile Hobbes's "commodious living" and freedom – "... I see no tolerable mean between the most austere Democracy and the most perfect Hobbesism . . ." (*to Mirabeau* [6], *Last Reply* [72]) – and he dismisses out of hand those who ignore the difference between being a bourgeois and being a citizen. He holds out no prospect whatsoever of an end of politics either by the "moralizing" of mankind, or by the "withering away of the state." At every level, there is at the very least a tension between the good of the whole and the good of its parts, and even the most satisfactory resolutions of these tensions are fragile. "The constitution of this universe does not allow for all the sentient beings that make it up to concur all at once in their mutual happiness . . ." (*War* [7]). He

rejects from first to last the suggestion that progress can eliminate them.

the abbé de Saint-Pierre . . . claimed that human reason was forever perfecting itself, since every century adds its lights to those of the preceding centuries. He did not realize that the scope of the human understanding is always one and the same, and it is very narrow; that it loses at one end as much as it gains at the other; and that ever recurring prejudices deprive us of as much enlightenment as cultivated reason might replace. (*to Mirabeau* [I]; *Confessions* VIII, *OC* I,422)

“Everything that is not in nature has its inconveniences, and civil society more than all the rest” (*SC* III 15[10]; II 10[5]).

Chronology of Jean-Jacques Rousseau

- 1712 June 28, born in Geneva; the second son of the watch-maker Isaac Rousseau and his wife Suzanne Bernard; both parents are "citizens" of Geneva; on July 7 Jean-Jacques' mother dies.
- 1722–1728 Isaac Rousseau flees Geneva after a quarrel; his sons, who had received no formal education, were apprenticed. Jean-Jacques worked briefly as a notary's clerk, and then (1725–1728) as apprentice to an engraver.
- 1728–1740 One night in March 1728, Rousseau finds himself locked out of Geneva, and decides to seek his fortune elsewhere; goes to Annency in the Savoy, where he meets Mme. de Warens. She sends him to Turin, where he renounces Calvinism and converts to Roman Catholicism (briefly attending a seminary for priests, then a choir school). Works intermittently as a lackey, an engraver, and a music teacher. Becomes Mme. de Warens's lover (1733–1740) and begins to write while living with her.
- 1740–1741 Tutor in the house of M. de Mably, in Lyon, where he also makes the acquaintance of de Mably's two elder brothers, Etienne Bonnot, who comes to be known as the Abbé de Condillac, and the Abbé de Mably.