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ROUSSEAU

The Social Contract
and other later political
writings

EDITED AND TRANSLATED BY
VICTOR GOUREVITCH

Wesleyan University



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Preface

I am grateful to the many colleagues and friends from whom I have learned about Rousseau, or who have called my attention to infelicities or occasional mistakes in the translations and in the Editorial Notes, among them Steven Angle, Joshua Cohen, Maurice Cranston, Lydia Goehr, Wolfgang Iser, Leon Kass, Sam Kerstein, Ralph Leigh, Mark Lilla, John McCarthy, Terence Marshall, Heinrich Meier, Donald J. Moon, Robert D. Richardson Jr., Charles Sherover, Karlheinz Stierle, William Trousdale, Robert Wokler. Professor Raymond Geuss has been unstinting in his advice regarding the content and the form of the Introductions.

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 am indebted to Joy Johannessen, Revan Schendler and Mark Lilla for their care in going over some of the new translations.

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I did some of the research for these volumes during a year's fellowship at the Wissenschaftskolleg zu Berlin. The Kolleg, its Director, Professor Wolf Lepenies, and its staff have created a uniquely congenial setting for productive scholarship. I welcome this opportunity to thank them publicly.

I wish also to acknowledge research assistance from Wesleyan University over a period of years.

I am most grateful to the reference staff of Wesleyan University's Olin Library, and especially to the late Steven D. Lebergott, for their assistance.

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My greatest debt is to my wife, Jacqueline, who has again sustained and inspired me far beyond anything I could hope adequately to acknowledge.

I dedicate these volumes to the memory of my father.

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Introduction

I

The *Discourse on 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 to redeem the promise and, as far as possible, to reduce the "inconveniences" of politics. Perhaps no modern writer and certainly 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 the citizen or patriot in anything like the concrete detail in which he had depicted the conjectural savages of the pure state of nature, the domestic education of Emile, or the domestic economy of Clarens, the country estate of the *Nouvelle Héloïse*. As has often been noted, the *Political Economy* and, in particular, the *Social Contract* are more concerned with the structure of the legitimate city, than they are with the particulars of its citizens' lives.

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," the *Social Contract* and *Emile*, in 1762. He must have been at work concurrently on at least parts of them. Both works were condemned by the civil as well as by the ecclesiastical authorities in France and in Geneva. Both were publicly burned. Warrants were issued for their author's arrest. He was forced to flee, and spent much of the next decade on the run or living under an assumed name. It was during those years that he

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began writing some of the autobiographical works for which he is also remembered. His specifically political writings during this period are the *Letters Written from the Mountain* (1764), the *Project of a Constitution for Corsica* (1765) and the *Considerations on the Government of Poland*. They differ from his earlier political writings in that they directly address current political situations.

Rousseau explored a variety of ways of life. The fact that he does not consistently hold up one way of life as the standard by which to gauge all others, but calls attention to the merits and the limitations of each 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 cannot help occasionally wondering whether it has not gone too far, and sought to reconcile alternatives which he thought were largely irreconcilable. He did not think it possible to combine all human goods and avoid all “inconveniences” in some one comprehensive way of life, and each one of the major works explores a distinctive way of viewing and resolving the human problem. The most general organizing principle of these explorations is the alternative man/citizen. For all intents and purposes, this alternative corresponds to the alternative ethics/politics or, more formally, natural right/political right.

Natural right and natural law traditionally refer to what, in accordance with human nature, is always and everywhere right, and therefore in some sense of the term “obligatory.” “Right,” in the expression “natural right,” is, for the most part, synonymous with “justice” in the sense of “what is just”; as such, it may subsume rights, but is not itself *a* right.

Natural right and natural law are traditionally contrasted with positive right and positive law(s), the particular rules and laws which, at a given time and under given circumstances, specify what is morally and/or politically right and/or obligatory.

Treating equals equally would be a rule of natural right or a precept of natural law; driving on this side of the road or that is a matter of positive law.

Rousseau’s fullest discussion of natural right and law was prompted by the Academy question whether inequality is authorized by the natural law. He begins with a distinction between two

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natural law traditions: that of the Roman jurists, and that of the modern philosophers (*Ineq.* P [6]–[8]). According to the Roman jurists “natural law” is the name for “the general relations established by nature between all animate beings for their common preservation.” It is natural in the sense that the beings conform to it by nature. It states the minimum conditions for common existence. It is strictly descriptive. The Roman jurists’ natural law is a law of nature. According to the modern philosophers, by contrast, “natural law” is the name for the rules about which it would be appropriate for free and rational, that is to say human, beings to agree for the sake of the common utility. It is natural in the sense of specifying natural ends, namely the optimum conditions for common existence. It is strictly prescriptive.

Rousseau concludes that *if* there is a natural law, it would have to satisfy both the ancient jurists’ and the modern philosophers’ criteria: 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; it would have to be both *natural* and *law*. He rejects this possibility. Men do not by (their) nature – by immediate, spontaneous inclinations, dispositions or impulsions – act *for the sake of* their common utility. However, they do, in his view, initially – by (their) nature – act *in conformity with* their common utility. He is reluctant to speak of this as natural *law*. He prefers to speak of it, instead, as natural *right*. When, subsequently, men take cognizance of the ends in conformity with which they had acted by nature, and come to act for the sake of them – “submit to it knowingly” – the law they follow is not, properly speaking, *natural*. He therefore sometimes speaks of it, instead, as the law of reason (*Geneva ms.* I 2 [8]; *SC* II 4 [4], cp. IV 8 [31]). In sum, when he speaks in his own name or about his own views, Rousseau for the most part speaks about natural right. He does so for two reasons among others: right, in contrast to law, states principles which may be realized in different ways in different circumstances, for example, one way “initially,” another “subsequently”; law, in contrast to right, is generally understood as the rule by a superior of an inferior, hence as involving (moral) inequality and obedience; yet on Rousseau’s view, “initially” men could not even have made sense of what it might mean to obey (*Ineq.* E [5], N IX [14]), and especially to obey another human being (*SC* IV 8 [1]). Law, like political society, would

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be a late development. Right, by contrast, could be pre- or trans-social or political. When he does use the expression “natural law,” Rousseau is, for the most part, not speaking in his own terms about his own views, but in the language of his times about the doctrines of the authoritative “modern philosophers.”

Natural right is, then, “natural” inasmuch as it conforms to human nature. Rousseau believes he discerns in human nature two principles prior to reason and independent of sociability: self-preservation and pity. The immediate, spontaneous impulsions which they prompt make for behavior in accordance with natural right (*Ineq.* P [10]). So that, independently of the status of reason and of sociability, men could, by the law(s) of (their) nature, live in accordance with at least the minimum requirements of natural right on a world-wide scale: pity, the spontaneous – natural – disinclination to hurt or harm others makes for conformity with the primary rule of natural right, to harm no one (*Ineq.* P [10]; *On War* [17]; *Emile* II, *OC* IV, 340, tr. 104); and self-preservation – each doing his own good – naturally and spontaneously makes for conformity with the “fundamental and universal Law of the greatest good of all” (*Geneva ms.* II 4 [17]; cp. *SC* II 7 [1]).

Self-sufficient men can act in accordance with natural right, without acting because or for the sake of it. As soon as they become materially and psychologically dependent on one another, they cease spontaneously – “naturally” – to conform to the duties of natural right; the workings of the law(s) of (human) nature cease to secure the rule of natural right. Rousseau’s central thesis is that once men are irreversibly dependent on one another, the spontaneous – “natural” – and universal conformity to natural right cannot be preserved or restored on a world-wide scale.

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 – Pufendorf’s and Diderot’s – of the view that the world-wide rule of natural right endures. Pufendorf assumes that our natural sociability, our common needs and our common humanity unite the whole of mankind, and instill the precepts of natural right in each one of us. Rousseau denies the premise as well as the conclusion. There is no evidence for a natural “great” or “general society of mankind” (*Geneva ms.* I 2 [2], [4], [8], [15], [18]; *Pol. Ec.* [19]; *Emile* I, *OC* IV, 248f.; tr. 39), and even

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if there were something like a “universal sociability,” it would be exceedingly watery. Most 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 (*Pol. Ec.* [30]). Diderot goes so far as to speak of a “general will” embracing the whole of mankind, and he bases natural right on a “pure act of the understanding, reasoning in the silence of the passions” (*Natural Right* ix, 2) about what, in the light of this general will, are our duties and rights as “man, citizen, subject, father, child” (*ib.* vii). Again, Rousseau denies the premise that there is a general will of mankind as a whole, and the conclusion that knowing what natural right requires will cause men to heed it. Indeed, the urgent question, in his view, is not so much the question which Diderot asks, “what is the just thing to do?”, as it is the question which Diderot fails to ask, “how will men be moved to do the just thing?” Diderot’s “reasoning in the silence of the passions” cannot be trusted to do so.

Rousseau consistently distinguishes two senses or uses of reason, ruling or regulative reason, and calculative or instrumental reason, and the two fundamentally different kinds of right or justice that correspond to them.

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 so high, we would need neither government nor laws. No doubt there is a universal justice emanated from reason alone; but this justice, to be admitted among us, has to be reciprocal. Considering things in human terms, the laws of justice are vain among men for want of natural sanctions; they only bring good to the wicked and evil to the just when he observes them toward everyone while no one observes them toward him. Conventions and laws are therefore necessary to combine rights with duties and to bring justice back to its object. (*SC* II 6 [2]; cp. *Ineq.* 1 [23] and *Geneva ms.* 1 2 [3])

Rousseau leaves open the question whether the goodness of the natural order and the justice of which he 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]). He also leaves open the question of whether the justice he says comes from God is the same as the universal justice

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he says emanates from reason alone. However, he leaves no doubt whatsoever about the difference between justice in either of these senses, and the justice which might be “admitted among us” because it is reciprocal, has sanctions attached to it, requires conventions, and makes governments necessary. He leaves no doubt whatsoever about the fact that justice, in order to be “admitted among us,” must be diluted. If we could live by the first, non-reciprocal and sanction-less justice emanating from reason alone, we would have no need of government, but could quite literally live “without civil society,” that is to say in a state of nature. However, “considering things in human terms,” most of us will not live by justice emanating from reason alone. Justice emanating from reason alone may guide the wise (*Ineq.* I [38], *Geneva ms.* I 2 [11], *Emile* II, *OC* IV, 320 and v, *OC* IV, 857) and, under exceptional circumstances like those Rousseau describes in the *Emile* and in the *Nouvelle Héloïse*, it may guide some few people who happen to be ruled by the wise. Rousseau is mindful of the wise, but he speaks of them sparingly and, when he does, he does so from the moral/political perspective of most men most of the time (*To Franquières* [9]). Most men, “men as they are,” will not heed disinterested and dispassionate reason.

Human contrivance, art or reason, must therefore repair or complete nature, and devise a justice of reciprocity and sanctions which “will be admitted among us.” Now, reciprocity with sanctions enforceable on a world-wide scale would be difficult if not impossible to achieve for the very same reasons that sociality does not embrace the whole of mankind: most souls are not sufficiently capacious, and there is no reason to believe that they could be made to experience anything like a lively fellow feeling for the whole of mankind. There is therefore also no reason to believe that it is possible – and hence that it is desirable – to try to fashion a general political society embracing the whole of mankind.

We conceive of the general society in terms of our particular societies, the establishment of small Republics leads us to think of the large one, and we do not properly begin to become men until after having been Citizens. (*Geneva ms.* I 2 [15])

One important reason for regarding Rousseau as preeminently a political thinker is precisely this central tenet of his moral psy-

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chology, that we are moral agents by virtue of being citizens, or at least members of political societies; we are not moral agents first who then may or may not become political agents.

It follows that the most reasonable way to deal with the breakdown of independence and of the world-wide rule of natural right is to institute particular, local, “municipal” political societies subject to political right.

II

Rousseau presents the principles of political right in his “small treatise” *Of the Social Contract*. It is the most systematic of his works, the one which most consistently proceeds in the form of a sustained, rigorous argument. It is therefore also in many respects the most difficult. Yet even this austere treatise begins with “I” and ends with “myself.”

The title continues to make for some misunderstanding. In all likelihood he settled on “social contract” because, like “state of nature,” “civil state,” “natural right,” “natural law” and so many other more or less technical locutions, it had become a term of art in the political vocabulary of the mid-eighteenth century. It stood not so much for the view that civil or political societies normally come into being by a formal, explicit contract between independent individuals, as for the view that legitimate political rule is not based directly on either a divine or a natural title to rule, but must be ratified – “authorized” – by the consent of the ruled. The expression which Rousseau adopts as his subtitle, and which he uses on a number of other occasions – *Principles of Political Right* – from the very first alerts the reader to a distinction between political and natural right.

Rousseau reserves the expression “natural right” to refer to the principles or rules of conduct between individual human beings *qua* human beings – “man *qua* man” – either prior to or independently of positive laws and of political societies. “Political right,” by contrast, refers primarily to the principles or rules for what he often calls “well-constituted” states (*Narcissus* [19], *SC* II 10 [5], III 4 [6], III 15 [3], IV 3 [8], IV 8 [13]), their institution and end; sovereignty, its legitimate bases and scope; government, its major structures, its forms, and which government is best; and, most particularly, the

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principles and rules that specify the relations between political rulers and ruled or between being a citizen and being a subject; in short, issues most of which would now be considered under the heading “constitutional law.”

The featured place which Rousseau assigns to the expression “political right” and the distinction between natural and political right which it implies underscores his view that political society and rule are not, strictly speaking, “natural”: men may by their nature be sociable or at least made to become sociable (*Emile* IV (Vicar), *OC* IV, 600, tr. 290; *Languages* 9 [23]), but they are not by their nature unqualifiedly inclined to form political societies or to participate in them; political life is not unqualifiedly the best life; we may therefore not be under an unqualified, “natural,” obligation to strive for full membership in political society. Rousseau’s rejection of the view that political society is natural goes hand in hand with his rejection of the view that political rule is natural. 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” (*Ineq.* P [7]). They should have called these rules “the law of reason” (*Geneva ms.* I 2 [8]; *SC* II 4 [4], cp. IV 8 [31]). Political society is a being of reason (*SC* I 7 [7]) guided by the law of reason (*SC* II 4 [4]; cp. I 4 [10]).

Since political society and rule are not “natural,” they require conventions, or are “conventional.” They have to be authorized by the consent of their members (*Ineq.* E [2]; *SC* I I [2]); indeed, they *are* by virtue of their members’ consent or agreement.

The aim therefore is, as Rousseau announces in the very first sentence of the *Social Contract*,

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

Whereas the principles of natural right are derived from “the nature of man” (*Ineq.* P [5]), the principles of political right are derived from “men as they are,” here and now, and whose amour propre, individual interests and common utility or common good

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have to be taken into account. Political right is, then, as Rousseau explicitly announces from the first, not right as such, but right diluted by the interests and utility of men as they are. Up to a point, right or justice “permits” the dilution which interests and utility “prescribe.” Political right so diluted constitutes “legitimacy.” Rousseau expands on his concern with legitimacy in the first chapter. “Man is born free, and everywhere he is in chains . . . What can make . . . [this] legitimate? I believe I can solve this question.” The basic condition, our everywhere being in chains, that is to say in political society, is irreversible. It may also be perfectly legitimate.

Rousseau’s most general statement of what 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[s] only himself and remain[s] as free as before. (*SC* I 6 [4])

The associates constitute a civil or political society by pooling all of their resources, their forces, capacities, goods and rights. In short, they give up each being judge in his own case. Instead, they place the society – and hence themselves – under the guidance of its – and hence their – “general will.” Rousseau sometimes also calls a society so constituted a “people.” The society or people so constituted is sovereign (*SC* I 6 [6]–[10]). Popular sovereignty so understood is the defining feature of what Rousseau calls “political right” or “legitimacy.” Thus republican or popular rule is legitimate (*SC*, II 6 [9]; cp. *Pol. Ec.* [19], [47], [59]); tyranny and despotism are illegitimate (*SC* III 10 [10]).

The most distinctive feature of the social contract and, more generally, of the social state as Rousseau conceives of it is the moral and psychological change each one of us undergoes as we come to conceive of ourselves as members of our political community. To say that the parties to the social contract pool their resources is, first and foremost, to describe a change in our relation to ourselves (*SC* I 7 [1]). Rousseau consistently stresses how difficult it is for us to learn to be – and to perceive ourselves as – a part of the corporate whole to which we belong and from which we draw so much of our sustenance (*SC* I 6 [10]). In the *Social Contract* he

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describes this task of civic education as, “so to speak, changing human nature” or “denaturing” us (*SC* II 7 [3]; cp. *Geneva ms.* II 2 [3], *OC* III, 313; *Emile* I, *OC* IV, 250; tr. 40; and consider *Pol. Ec.* [47]). Becoming a party to the social contract is, then, not so much some historical event in the more or less distant past, as it is our constantly renewed recognition of ourselves as members of a common political or civil society (*SC* IV I [1]), and 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 (*SC* I 8).

Perhaps the most conspicuous mark of the differences between natural and political right is that pity, which occupies such a featured place in the moral psychology of the pre-political condition of the *Second Discourse* and of the *Essay on the Origin of Languages*, and in the “domestic education” of the *Emile*, plays no role whatsoever 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. It is not surprising that it should not be. Pity, especially pity in the sense of not harming anyone, 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; cp. *Réveries* VI [21], *OC* I, 1059, tr. 84)

Pity, especially pity in the original sense Rousseau attaches to the term, can, therefore, simply not be the guiding principle of men in the civil state, let alone of citizens. In political right, amour propre and reciprocity take the place which pity occupies in natural right.

In the legitimate political society, political right or justice is reciprocal.

The commitments which 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 . . . Why 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

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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]; cp. [8], II. 6 [2])

This “notion of justice” based on reciprocity – “do unto others as you would have them do unto you” (*Ineq.* I [38]) – requires equality. Only equals will treat others as they would be treated by them. Since men are not equal by nature (*Ineq.* E [2], *SC* I 9 [7], I I [1], IV 2 [5]), they have to be made equal by convention. Nothing short of their pooling all of their resources will reduce them to total equality (*SC* I 6 [6]).

Equality is not an end in itself for Rousseau. It is the means to secure political freedom. The aim of the conventional equality established by all of the parties pooling all of their resources is to render all unearned inequalities irrelevant before the law. However, nothing prevents equals from instituting laws that recognize inequalities earned by contributions to the public good. Conventional equality, precisely because it is no more than conventional, is inherently unstable: men's natural inequalities will repeatedly reassert themselves (*SC* II 11 [3]; *Emile* III, IV, *OC* IV, 461, 524f.). Conventional equality therefore has to be repeatedly restored. Membership in the community constituted by the pooling of its members' resources provides a close civil counterpart to the natural freedom and equality of Rousseau's pre-civil state of nature: in the pre-civil state of nature, men are equal because they are free; their natural inequalities make no significant difference because they are not dependent on one another; in the civil state they would be free because equal (*SC* II 11 [1]). Civic freedom and equality provide the conditions for popular sovereignty, and hence for public happiness and for moral and political excellence (*SC* I 8). However, excellence is not the primary aim; freedom is.

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 imposes the laws. Since the sovereign is the people assembled, the laws are self-imposed. Since they are reciprocal, no one is outside or above them. It therefore stands to reason that the sovereign will not impose any unnecessarily burdensome or restrictive laws: “It cannot even will to do so: for under the law of reason

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nothing is done without cause, any more than under the law of nature” (*SC* II 4 [4]; cp. I 4 [10]). 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 (cp. *SC* I 6 [4] with II 4 [10]).

Rousseau calls the guiding principle of the sovereign body established by the social contract the general will. The general will wills the general good. It is the will of the members *qua* citizens, their concern with the general conditions of their communal life which they can affect by their actions. Each one of us cares about the well-being of the society to which we belong, and within the context of which we pursue our private interests (*SC* II 1 [1]). Each one of us more or less adequately perceives and more or less adequately wills whatever contributes to the common utility. At the same time, each one of us has experienced tensions between whatever we may happen to perceive as our private interest and what we perceive to be in the common interest, or the general will; and each one of us has had the experience of subordinating our particular to our general will. This is as true in our relations within our families and in the innumerable more or less tight-knit associations to which we belong at work and at play as it is of ourselves as citizens. Rousseau therefore sometimes speaks of our having several general wills (*Pol. Ec.* [15], *SC* III 2 [5]). Like all political thinkers, he worries lest the general wills of factions, parties, and especially of what he calls the government, become independent of the comprehensive general will of the political society as a whole and, as a result, distort it.

The general will is “general” because it attends to general objects, kinds or types of cases, and the comprehensive framework within which each one of us pursues his own private ends or goods. Accordingly, its pronouncements are couched in the form of laws: general propositions about general matters. The defining feature of Rousseau’s political teaching is freedom under self-imposed law: by being a party to the social contract, each one of us is a member of the sovereign; the sovereign’s will is the general will; the general will declares itself through laws; to obey the law is, therefore, only to obey oneself; and “obedience to the law one has prescribed to oneself is freedom” (*SC* I 8 [3]). Law liberates from that greatest and most galling evil, dependence on the will of another, by substituting for it dependence on impersonal necessity. That is why “the

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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 shall be constrained to do so by the entire body: which means nothing other than that he shall 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])

The formula is so arresting that its point is sometimes missed: even those who do not themselves obey the laws are protected by them.

Since the general will wills the common good, it may be said to be invariably upright (*droit*) (*SC* II 3 [1], II 4 [5], II 6 [10]). Is it also invariably right? In one important respect the question simply does not make sense: the common quest for the common good is not guided by some independent pattern or “idea,” nor is it accountable to any standard other than itself. Rather, it is what, after a suitably free and public debate, a majority of informed and public-spirited citizens declares it to be; and what they declare it to be cannot be “right” or “wrong,” “true” or “false,” for the simple reason that it is not true to some standard that is in any sense independent of what a self-legislating citizenry declares it to be. If there were such a standard, the case for self-legislation would, to say the least, be significantly weakened.

Still, there clearly is a sense in which the question whether the general will is right does make perfectly good sense: the people may will the common good, and yet not know how to attain it (*SC* II 12 [2]).

The great problem for the doctrine of popular sovereignty is that achieving the willed good requires wisdom (*SC* II 6 [10]). Rousseau fully acknowledges how difficult if not impossible it is to reconcile popular sovereignty and wisdom. He explores various ways to resolve the 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], cp. *Ineq.* II [48]); and by considering various voting procedures (*SC* IV 2–4).

The justice based on reciprocity between “men as they are” may unite their powers, but leave their wills divided. To unite wills,

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morals (*moeurs*) must complement what the laws dictate. In his classification of laws, Rousseau therefore assigns pride of place to morals, the beliefs, habits and practices which characterize and continually re-enforce a people's distinctive way of life, what it does and what it prizes and honors, its attitudes toward freedom, equality, citizen responsibility: in short, the dispositions which energize and direct the general will (*SC* II 12 [5]). To unite wills, the passion to be reckoned upon 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* 9 [4]), is the most immediate, accessible 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 which hold even a band of robbers together, and the politics of citizenship (*Pol. Ec.* [30], cp. *Fragments politiques*, *OC* III, 536, and *Poland*, *passim*). By taking us outside and beyond narrow self-absorption, and helping us to see ourselves as parts of a larger whole, it ennobles political life (*SC* I 8 [1], *Poland* 2 [5], 3 [6]). "The soul insensibly proportions itself to the objects that occupy it" (*First Discourse* [59]). From the *First Discourse* through the *Considerations on the Government of Poland*, Rousseau not only speaks vigorously and sometimes 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 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 only promised. He cannot do so by arguments. They would be too abstruse. Besides, reason rarely moves to action. He must therefore "persuade without convincing" (*SC* II 7 [9], *To Voltaire* [30], and Introduction to *Discourses* tr., p. xxix): he has to place the conclusions reached by his "sublime reason which rises beyond the

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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 [11], [10]); and, lest careless readers mistake his meaning, 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 emanating 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* 2), the Lawgiver seeks to embed as deeply as possible habits, tastes, dispositions for what the community esteems, so that they might become, as it were, its “fundamental laws.”

It is sometimes said that the importance Rousseau attaches to founders, as had Machiavelli before him, mistakenly attributes to some legendary figure of heroic proportions the often quite fortuitous effect of long-range trends which no one controls. In part he speaks about such traditional, larger-than-life figures – Lycurgus, Romulus and Numa, Moses, Muhammad – for transparent prudential reasons: they are in a safe because distant past. In part he does so because founders do deserve special honor. At the same time, he is well aware that there are many other ways of being a Lawgiver than to craft constitutions or to mold a people’s morals. 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 *civilizing* 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 (cp. *Poland* 7 [3], [10], [12]).

The theme of the *Social Contract* is popular sovereignty, and every issue and argument which Rousseau takes up in the course of the work seeks either to strengthen the case for it, or to ward off possible challenges to it. This is particularly true of the sharp distinction which he draws half-way through the work between sovereign on the one hand, and government or Prince on the other.

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The distinction is central to his conception of political right, and of legitimacy. The sovereign people promulgates or ratifies the laws. It cannot and it ought not to implement them. It cannot implement them because it is simply too unwieldy for the people assembled to do so. It ought not to implement them because the exercise of sovereignty consists in attending to the general will, that is to say to general concerns, whereas implementing the law is necessarily a matter of particulars (*Ineq.* ED [10], II [36]; *SC* II 4 [6], II 1 [3], III 4 [2]). To assign implementation to some part of the sovereign would divide it, and to divide the sovereign would be to annihilate it. Sovereignty is indivisible and inalienable. The sovereign people must therefore delegate the responsibility and the power to implement the laws to a body of magistrates or government in the strict sense Rousseau attaches to this term (*SC* III 1). Now, if, as Rousseau holds, government is merely 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 accounts and renew its mandate (*SC* III 13, 18). It is easy to see how this doctrine more than any other caused the *Social Contract* to be condemned by the Genevan as well as by the French political authorities.

Two dangers threaten Rousseau's separation of sovereign and government: the sovereign may usurp the role of government by retaining executive and administrative functions; alternatively, the government may encroach upon the sovereignty and gradually usurp it (*Ineq.* ED [5], II [36]; *SC* II 4 [6]; III 16 [5]). The first is characteristic of pure or direct democracy, the second of absolute monarchy. Rousseau therefore rejects both forms of government. As for the third traditional form of government, aristocracy, he distinguishes between natural, elective and hereditary 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*), and rejects hereditary aristocracy as the worst form of government. Elective aristocracy, by contrast, is the best form of government (*SC* III 5; cp. *Ineq.* II [48]). What he here calls elective aristocracy is for all intents and purposes what elsewhere he calls democratic government wisely tempered (*Ineq.* ED [3]; cp. *SC* III 10 [3]* ¶ 4, and III 7 [5]). Elective aristocracy or wisely tempered democracy is best because it combines the strictest requirement of

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legitimate political rule, election, with the most natural claim to rule, wisdom in the service of the common good (*SC* III 5 [7]). The *Considerations on the Government of Poland* explores in some detail how a hereditary aristocracy might be transformed into an elective aristocracy without a revolution. As in his discussion of the Law-giver, so, in his discussion of elective aristocracy or democracy wisely tempered, Rousseau seeks to combine and reconcile popular sovereignty with wisdom (see also Introduction to *Discourses* tr., p. xxv).

The extended discussion, through much of Book IV, of the divisions of the Roman people – “that model of all free Peoples” (*Ineq.* ED [6]) – into tribes and comitia, of their complex voting procedures, of the Tribunes, the Censors, 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 of forestalling and delaying 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 political societies (*SC* III 11 [1] *et seq.*, *Poland* 7 [39], *LM* VI [31], *OC* III, 809).

So, in large measure, does the famous chapter on civil religion (*SC* IV 8). Rousseau’s preoccupation with the relations between religion and society can be traced through all of his writings. In the chapter on civil religion he enlarges upon the reflections about this problem which he had begun to develop in the chapter on the Law-giver (*SC* II 7). Religion is a branch of what Rousseau calls “political right” because the parties to the social contract will not regard as binding an apparently foundation-less, self-validating pact: “no State has ever been founded without Religion serving as its base” (*SC* IV 8 [14], cp. *Ineq.* II [46]); and because the problem therefore arises of how to reconcile the claims of popular sovereignty with the claims of religion, or, as Rousseau puts it, how to reunite the two heads of the eagle (*SC* IV 8 [13]). Initially they were united. At first 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 (consider *SC* I 1 [2]). Jesus introduced a radically new alternative: a religion not of citizen but of man, a religion embracing the whole of mankind. By driving a wedge between the citizens’ allegiance to

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the political realm and their allegiance to the spiritual realm, he radically disjoined being a citizen and being a man. Christianity became the vehicle for disseminating all over the world “the healthy ideas of natural right and of the common brotherhood [*fraternité*] of all men” (*Geneva ms.* 1 2 [16], *SC* IV 8 [20], cp. *Languages* 9 [1]). It seeks to universalize a trait which Rousseau attributes to but a few “Cosmopolitan Souls” (*Ineq.* II [33] and Editorial Note) and which, he says, will “always escape the multitude” (*Geneva ms.* 1 2 [11]). In the process of getting universalized and transformed into a religion for the multitude, “the purely internal cult of the Supreme God” therefore inevitably changes in character. Before long, the Christians’ “supposedly otherworldly kingdom” became “the most violent despotism in this world” (*SC* IV 8 [9]). In becoming an earthly Principality, it drove the fatal wedge into the bodies politic by now dividing sovereignty as well (*SC* IV 8 [12]). As a result sound polity became impossible in Christian States (*SC* IV 8 [10]). It is a constant of Rousseau’s thought that Christianity tends radically to subvert political life (*SC* IV 8 [8], [10], [16], [17] [21]–[30]; *To Usteri* [2]–[8]; *LM* I, *OC* III, 704f.). In his *Letter to Voltaire* he had gone so far as to say that any religion that attacks the foundations of society ought to be exterminated ([34]). In the *Social Contract* he leaves it at proposing a reinterpreted Christianity which might be compatible with sound politics. Specifically, his bold proposal is to combine a stripped Christianity – “the purely internal cult of the Supreme God and the eternal duties of morality”, or “divine natural right” (*SC* IV 8 [15] and the Editorial Note) – and a civil religion with a civil profession of faith fostering sentiments of sociability or citizenship – or “divine civil or positive right.” The positive dogmas of this 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 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 the bulk of the positive dogmas, they do go far beyond anything Rousseau himself was publicly on record as finding persuasive, let alone convincing (*To Voltaire* [29], and Introduction to *Discourses* tr., pp. xxvii–xxx). Once again he solves this problem by drawing a sharp distinction between beliefs and con-

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duct. The sole admissible gauge of beliefs is how one acts; and only actions are subject to right strictly and properly so called (*Ineq.* N XIX, *Geneva ms.* I 6 [5], II 4 [14], *To d'Alembert*, OC v, 61; tr. 66), that is to say to scrutiny and enforcement by the laws (SC IV 8 [31], cp. II 4 [3]; *To Voltaire* [32]; *Ineq.* N XIX). 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 how one acts (NH v 5, OC II, 592f.). The last two dogmas of the civil profession of faith are the most radical. They proclaim the sanctity of the social contract and the laws, hence the civil society's indivisible and inalienable sovereignty, and hence that no Church has a legitimate rival claim to authority in the state's affairs (SC I 7 [3]; *Ineq.* ED [5]).

Rousseau's discussion of Christianity in the chapter on civil religion is more explicit than anything he ever said on the subject either in print or in private correspondence, and it contributed significantly to the condemnation of the *Social Contract*.

Like most political philosophers, Rousseau attends to domestic policy far more exhaustively than he does to foreign policy. In the brief concluding chapter of the *Social Contract*, he lists – but does no more than list – the major branches of what he calls the right of nations and we would call international law: (1) international commerce, (2) war, and (3) public right or alliances, negotiations and treaties. The existing laws of the right of nations are nothing but “chimeras”: sovereign states are in a state of nature with one another, and the few more or less tacit conventions between them cannot be enforced for want of sanctions (*Ineq.* II [33] *et seq.*; *War* [6]). Yet his own proposals for a federation of European states and for a sound right of war remain fragmentary. The major reform he proposes is that war be recognized as a state between civil societies, that is to say between “moral” entities, and not between individual, “physical” human beings; and that, accordingly, its rightful aim be recognized to consist in breaking the common or general will holding the enemy society together. It is not rightful 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]).

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In Rousseau's judgment, political right, citizenship in a well-constituted, legitimate political society, which is self-contained, self-sufficient and patriotic, provides the best or most satisfactory collective solution possible for "men as they are." It does not provide the best or most satisfactory solution simply to the human problem. He does not think that this problem admits of a single best solution. He indicates this most clearly by refusing to ignore or even to minimize the tension between natural right and political right, between the claims of cosmopolitanism and humanity on the one hand, and the claims of citizenship and patriotism on the other. As noted earlier, one illustration of this tension is that he does not so much as mention pity in the works devoted primarily to political – in contrast to natural – right. In civil society, Rousseau explicitly subordinates pity to justice, and "there are a thousand cases where it is an Act of justice to hurt one's neighbor," as Brutus's just condemnation of his sons to death so dramatically illustrates (*Geneva ms.* II 4 [17], cp. *Pol. Ec.* [28], *Emile* I, *OC* IV, 248f., tr. 39 and IV, *OC* IV, 548, tr. 253; *Last Reply* [5]*, [54]–[56]; *Franquières* [20]).

The subordination of pity to justice in civil life is but one consequence of Rousseau's dictum that we are citizens of our country or fatherland first, and citizens of the world or men second. For even those who, as he says, only have a country (*pays*) and not a fatherland (*patrie*) (*Emile* v, *OC* IV, 858, cp. *NH* VI 5, *OC* II, 657) learn about justice from the laws of the country in and by which they are raised. Admittedly, these laws are not always based on justice, but even bad and unjust laws maintain a pretense of the form of justice (*Geneva ms.* II 4 [15], *Emile* v, *OC* IV 858, tr. 473), and thus point to what law could and should be – just as the initial contract may have been flawed, but at least was in the form of a contract (see Introduction to *Discourses* tr., p. xxiii).

Civil society and the laws provide the shield behind which "natural right" is restored. This restored natural right assumes two forms: civility and beneficence in our relations with our fellow-citizens (*Geneva ms.* II 4 [13]), and reasoned or systematic natural right (*droit naturel raisonné*) in our relations with strangers (*Geneva ms.* II 4 [14]).

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Extend this maxim [of the greatest good or utility of a given civil society] to the general society of which the State gives us the idea, protected by the society of which we are members, or by that in which we live, the natural revulsion to do evil no longer being offset by the fear of having evil done to us, we are inclined at once by nature, by habit, by reason, to deal with other men more or less as [we do] with our fellow-citizens, and this disposition reduced to actions gives rise to the rules of reasoned [or: systematic] natural right [*droit naturel raisonné*], different from natural right properly so called, which is founded on nothing but a true but very vague sentiment often stifled by the love of ourselves. (*Geneva ms.* II 4 [14])

The province of civility and of reasoned or systematic natural right, like that of natural right properly so called, is the conduct of individuals with one another. Natural right cannot replace political right. It cannot regulate the conduct of domestic or of foreign policy.

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: 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*; *Pol. Ec.* [30])

Entire peoples simply 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, guiding one's life by political right and guiding it by natural right, make for fundamentally different economies of the soul, and fundamentally different ways of life. One way in which Rousseau illustrates this difference is that in the education of man, he has instruction in natural religion precede instruction in citizenship; Emile is taught the Savoyard Vicar's natural religion before he is taught a summary of the *Social Contract*, and the summary of it which he is taught makes no mention of the civil religion; man is brought up to conceive of his political place in the light of his place in the whole. The citizen, by contrast, would appear to be brought up to conceive of his place in the whole in the light of his membership in his political society, and the

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religion he is taught is the civil religion. The competing claims of the two ways of life and the tensions between them 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 Cato, the model citizen, and Socrates, the model philosopher or, more precisely, between the best and most responsible of those who seek and find their happiness in the happiness of their city, and the best and most responsible of those who seek and find their happiness in self-sufficiency. He assigns pride of place to the model citizen because, as he says, citizenship is concerned with the happiness accessible to the greater number (*Pol. Ec.* [30]; cp. *To Usteri* [8], ed. note). This is why, for the most part, he proceeds on the principle that among men he who makes himself most useful to others should be the foremost (*Hero* [7]) and that "in politics, as in ethics, not to do good is a great evil, and every useless citizen may be looked upon as a pernicious man" (*First Discourse* [39]; cp. *Rêveries* VI [12], *OC* I, 1056, tr. 80). He even goes so far as to imply that if Socrates could have entered political life, he would have done so: "Athens was already lost, and Socrates no longer had any other fatherland than the whole world" (*Pol. Ec.* [30], *Hero* [5]; however, *Narcissus* [25]). He explicitly says that Jesus began as a citizen intent, like Moses, on leading his people out of political bondage, and that he directed his efforts at revolutionizing the world only once his efforts to revolutionize his own people had failed (*To Franquières* [24]). In other words, he fully recognizes that citizenship is not always an option. At the same time, the way of Socrates, to say nothing of the way of Jesus, is accessible only to the few. He therefore explores or, more precisely, he constructs ways of life accessible to at least some ordinary people who are *in* political societies without being *of* them: the domestic – in contrast to the political – economy of the Wolmar household in the *Nouvelle Héloïse*, and the life of Emile and of his Sophie. While theirs is not a life of citizenship in the strong sense of the term, it is dependent on their country for the security and the moral education which allows them to lead lives of civility and of reasoned natural right (*SC* II 5 [2]; *Emile* III, *OC* IV, 470, tr. 195), and they are under obligation to repay this debt.