



Jean-Jacques Rousseau

The Social Contract

Book I opens with Rousseau's statement of his intention to inquire into the possibility of a legitimate and reliable government that can serve both justice and utility and to offer his explanation on how man, who is born free, has become everywhere enslaved. Asserting that social order is derived from convention, he uses the next three chapters to deny that it is either in the natural order, acquired by force, or found in the relationship of master and slave. He begins by asserting that the oldest society was the family, in which all were born equal and gave up their freedom only for the length of time required to assure the preservation of the children. In Chapter III he establishes that might does not make right and that one is obligated to obey only legitimate authority; and in Chapter IV he clarifies that the relationship between master and slave cannot be voluntary and so is not legitimate.

Turning then to the *Social Contract*, Rousseau asserts that a people must be a unified people at least one time in order to give itself to a ruling authority. This act of giving takes place when individual man is no longer able to maintain his own self-preservation and must join with others. The fundamental problem the individual faces in this act is how to join with them without harming his own freedom. This is the problem that is solved by the Social Contract. Every individual gives all of his rights to the whole community, thereby protecting each individual's equality. No rights are held out for any individual, and no one gives up a right he isn't given back through his participation in the whole.

Rousseau illustrates the relationship of the individual to the community by asserting that the private individual is now replaced by a collective body that takes on a life and will of its own. He calls this body the *Sovereign*. This sovereign can do nothing that would violate the Social Contract that brought it into being, and it can do nothing to harm its subjects because to do so would be to harm itself, so it will of necessity always act in the best interests of the common good. The individual subjects however, may have private wills that are contrary to the common good and so must be constrained by law to follow

the will of the sovereign as the will for the common good. Rousseau is clear that man loses something in entering into this Social Contract, namely his natural freedom to do as he pleases and the right to take anything that he can, a right that is limited to his individual abilities. In exchange, he gains civil freedom to participate in the common good, legitimate possession of his property, and the moral freedom from the impulses of his own appetite that are now subject to reason and the general will of the sovereign.

The final chapter of Book I is a brief discussion of property. Here he bases the accepted notion of the right of the first occupant on three conditions: that no one else claims the land; that only the amount needed to subsist is claimed; and that the land be claimed by the personal labor of the one who claims it. All property is given over to the sovereign in the contract, but in return the owner receives legitimate possession of his property so he has lost nothing. He concludes Book I with the statement that the social contract, rather than destroying the natural equality of men, "substitutes a moral and legitimate equality for whatever physical inequality nature may have placed between men, and although they may be unequal in force or in genius, they all become equal through convention and by right."

Book II begins with a discussion of the attributes of sovereignty: it is inalienable—it cannot be transferred without destroying itself; it is indivisible—it is either the general will or it is not; it cannot err—though it can be fooled; its power over the individual is absolute with respect to those issues that concern the common good but does not extend into the individual lives of its subjects in any area outside of the common good. This absolute power extends even to the right of life or death of an individual should he threaten the common good.

Having given the body politic—the sovereign—existence through the expression of the common will, Rousseau now turns to giving it movement and preservation through legislation. The natural and universal justice that comes from God is insufficient for the civil body because it is not binding and will therefore benefit the lawbreaker at the expense of the law abider. For the body politic, then a code of law must establish and enforce the rights inherent in the common good. Since the law must express the common will, it must of necessity be general, apply to all, and cannot address any individual. Anything that addresses an individual is not a law but a decree. The drafting of these laws will require a legislator of superior intelligence who understands but is not subject to the passions of human nature and who is independent (not to be confused with above) of the law. In short, "Gods would be needed to give laws to men."

The people who are to join together in the creation of this sovereign state are also crucial to its success. They must be bound by some union of origin and interest; they must be free of any corrupt system of laws that would have already formed habits and conventions difficult to overcome; they must be neither too sparse nor too populous for the land they occupy; and they must be in a state of peace at the moment of founding. Rousseau is clear that finding a people thus ripe for a founding is very unlikely.

In dealing with the various systems of governments, Rousseau identifies two fundamental principles that all of them must have in common, those two being the freedom and equality of its citizens. Having laid down these principles, he goes on to say that there is room for various systems that conform to the individual situations and character of the people. He closes Book II by distinguishing between four types of laws which must all contribute to the successful preservation of the state: political laws—those which establish the structure of the sovereign state itself; civil laws—those which regulate the relationships of the citizen to the state and to one another; criminal laws which address disobedience and punishment; and the mores, customs, and beliefs of the people which form their characters and are the unwritten law that nourishes and sustains the state over time.



Things to Think About

1. Think about the concepts of progress and evolution. Rousseau speaks of the progress of man from pre-civilized savage to citizen of society. Does he think this is progress in the sense of man being better off? Is this progress or evolution? Or both?
2. Contrast Hobbes' characterization of man's life in the state of nature as "short, nasty, and brutish" with Rousseau's concept of man in the state of nature.
3. *Exordium*: to begin; the opening of a discourse or treatise.
4. Compare Rousseau's attitude toward man in the state of nature and man as a member of civil society in the *Second Discourse* and his attitude toward these same conditions in his *Social Contract*. Are they different? If they are, how?
5. Rousseau helps fill out and complete the social contract theories that began with Hobbes (Hobbes, *Leviathan*, 1650; Locke, *Two Treatises*, 1690; Rousseau, *Social Contract*, 1762-1797). Reflect on the religious, political conditions that helped produce these works; all are post-Renaissance/Reformation philosophies. What conditions are they attempting to ameliorate; how are their works different in principle from those conceived by pre-Renaissance political thinkers, men like Plato, Aristotle, St. Augustine, and St. Thomas? What is the cumulative effect of three centuries of Social Contract thinking in the West?



Study Questions

1. To whom does Rousseau dedicate his *Discourse on the Origin of Inequality*?
2. What are the two fundamental principles that Rousseau asserts moved man prior to reason (Preface)?
3. What are the two faculties that Rousseau identifies as distinguishing man from other animals (Part I)?
4. Hobbes took the position that savage man was naturally evil because he had no conception of what it meant to be good. What is Rousseau's position (Part I)?
5. Whom does Rousseau identify as the true founder of civil society (Part II)?
6. Identify the first two "revolutions" that Rousseau sees in the evolution of savage man (Part II). What caused them and what did they produce?
7. What does Rousseau say is the result of the formation of a civil society and the establishment of laws on the perpetual state of war between the rich and poor (Part II)?
8. Beginning with the establishment of the law and the right of property, trace the progress of inequality in the three revolutions that Rousseau identifies. What did each establish and what status did each authorize (Part II)?
9. Explain the relationship that Rousseau finds between the words slavery and right (Social Contract, Book I, Chapt. IV).
10. What is the distinction that Rousseau makes between the general will and the will of all (Book II, Chaps. 1,3)?
11. How does Rousseau justify the death penalty (Book II, Chapt. V)? What are his thoughts on the frequency with which it is invoked?
12. Why does Rousseau think that the size of a state is so important to its preservation (Book II, Chapt. IX)?
13. Identify some of the areas where Rousseau's thinking is compatible with the place a Catholic gives natural law or reason, sin, man's fall, the special place of free-will and grace in the work of man's salvation, and those places where it is incompatible.