

From: Rousseau's Political Writings  
~~Norton~~ Norton Critical Edition, 1988

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## On Social Contract

or

## Principles of Political Right

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*On Social Contract*, published in 1762, systematically sets out Rousseau's views, which he had been elaborating for at least eight years, on how a legitimate state should be established, organized, and run. What marks a state as legitimate for Rousseau, thus giving it a right to unqualified obedience, is its guarantee to all its members of the freedom to enact their own laws. The institutional device which Rousseau relies on to allow this freedom is direct democracy. If those who are subject to a state's jurisdiction assemble together to make its laws, that state is legitimate, since all of its members then have a direct and equal legislative voice. Rousseau's main task in *On Social Contract* is to vindicate the tight connection between direct democracy and legislative freedom by identifying the numerous contextual requirements and institutional conditions which a direct democracy must meet, if its members are indeed to be self-legislating.

By the time one reaches the end of *On Social Contract*, it becomes obvious that only in rare and difficult cases does Rousseau believe the citizens of a direct democracy can be the authors of their laws. Society must be small, isolated, homogeneous, and egalitarian. A superhuman lawgiver must launch the state by endowing it with sound principles. Political institutions, meticulously divided into legislative and executive, must be in exquisite balance. No state has ever met these demanding requirements, nor is it likely that a state ever will. Rousseau's bleak assessment of the prospects for legitimate democracy is bound to distress those of us who are inspired by his vision of citizens as lawmakers, assembled together to decide their own fates. One of the best reasons to read *On Social Contract* is for help in deciding whether that vision should be abandoned, adjusted, or intrepidly sought.

### On Social Contract or Principles of Political Right

—foederis aequas  
Dicamus leges.  
*Aeneid* XI<sup>1</sup>

1. Rousseau cites Virgil's *Aeneid*, XI. 436, where, after the funeral rites and mourning for his son Pallas, King Latinus, finding himself without allies, proposes to end the violence by drawing up an

equitable treaty ("Let us make equitable treaty terms"), so that both Latins and Trojans may live in peace as citizens in Italy.

### Foreword

This little treatise is extracted from a more extensive work, undertaken in the past without having considered my strength, and long since abandoned. Of the various fragments that might have been taken from what was completed, this is the most important and seemed to me the least unworthy of being offered to the public. The rest no longer exists.

### Book I

I wish to discover if, in the civil order, there can be any legitimate and fixed rule of administration, taking men as they are and laws as they can be.<sup>2</sup> I shall, in this inquiry, always strive to reconcile what right permits with what interest prescribes, so that justice and utility may not be divided.

I broach the subject without giving proof of its importance. I shall be asked if I am a prince or a lawmaker, since I am writing on politics. I answer that I am neither, and that this is precisely why I am writing on politics. If I were a prince or a lawmaker, I would not waste my time talking about what ought to be done; I would either do it or remain silent.

I was born the citizen of a free state and a member of the sovereign, and, however feeble an influence my voice may have in public affairs, my right to vote on them suffices to make it my duty to inform myself on such matters. I am always happy, whenever I reflect upon the nature of government, to find in my inquiries new reasons for loving that of my own country!

### CHAPTER 1 THE SUBJECT OF THIS FIRST BOOK

Man is born free, and everywhere he is in chains.<sup>3</sup> Anyone who thinks himself the master of others is no less a slave than they. How has this change come about? I do not know. What can make it legitimate? I believe I can resolve this question.

If I were to consider only force and its effects, I would say that as long as a people is compelled to obey and does so, it does well; as soon as it can shake off the yoke and does so, it does even better, for, either this people, in recovering its liberty by the same right as the one by which it was stolen, is entitled to regain it, or no one was entitled to take it away. But the social order is a sacred right which serves as the basis of all the others. Yet, this right is not derived from nature; it is, therefore, founded

2. Rousseau is not concerned with the administrative function of government, as the phrase "rule of administration" might suggest. His subject is basic constitutional arrangements.

3. This sentence distills two of Rousseau's claims in the *Discourse on Inequality*: that social life robs us of our natural freedom, and that this loss is irreversible. Rousseau will argue in the eighth chapter

of this book that in a just society a new sort of freedom is attained. In the present chapter and the three that follow, he rejects four traditional tests for a state's legitimacy: Neither familial descent, nor physical prowess, nor military success, nor ownership of slaves gives a ruler the right to be obeyed.

upon agreements. It is a question of knowing what these agreements are. Before coming to that, however, I must prove what I have just asserted.

#### CHAPTER 2 ON THE FIRST SOCIETIES

The oldest of all societies and the only natural one is that of the family. Even so, the children remain bound to their father only as long as they need him to survive. As soon as this need ceases to exist, the natural bond is dissolved. The children, free from having to obey their father, and the father, free from having to care for his children, return all alike to a state of independence. If they continue to remain united, they do so not naturally but voluntarily, and the family itself is maintained only by agreement.

This common liberty is a consequence of man's nature. His first law is to see to his own preservation; his first concerns are those he owes to himself, and, as soon as he reaches the age of reason, being then the sole judge of the proper means of preserving himself, he thereby becomes his own master.

The family, therefore, is, if you will, the first model for political societies: the leader is like the father and the people like his children; and all, having been born free and equal, alienate their liberty only for their own advantage. The main difference is that, in the family, the father's love for his children repays him for the care he provides them, whereas in the state, the pleasure of commanding replaces a love that the leader does not feel for his peoples.

Grotius denies that all human power is established for the benefit of those who are governed; he cites slavery as an example.<sup>4</sup> His most usual manner of arguing is always to establish rights on the basis of fact.<sup>5</sup> It is possible to argue in a more consistent manner, but not in one more favorable to tyrants.

It is therefore uncertain, according to Grotius, whether the human race belongs to a hundred men or so, or whether these hundred men or so belong to the human race, and, all through his book, he appears to lean towards the first view; this is also Hobbes's opinion. Thus, we find the human race divided into herds of cattle, each with a leader who keeps watch over it in order to devour it.

Just as the herdsman is superior by nature to his herd, so the shepherds of men, who are their leaders, are superior by nature to their peoples. In Philo's account, the emperor Caligula reasoned in this manner and concluded appropriately enough for this analogy that either kings were gods or that peoples were beasts.<sup>6</sup>

4. Hugo Grotius (1583–1645) was a Dutch jurist and statesman. Rousseau refers here and elsewhere to his *De jure belli ac pacis* (On the Law of War and Peace), first published in 1625.

5. "Scholarly research in public law is often only the history of former abuses; and anyone who takes the trouble to study it too deeply is misguidedly obstinate." (*Treatise on the Interests of France in Relation to Her Neighbors* by the Marquis

d'Argenson, printed at Rey publishers in Amsterdam). This is precisely what Grotius did\* [Rousseau's note, with 1782 correction].

\* All of Rousseau's notes to *On Social Contract* have been included. His additions to the 1782 edition are also indicated by date.

6. Philo Judaeus (25 B.C.–A.D. 54) was a Jewish philosopher from Alexandria, who offered his readers an outsider's view of Rome.

Caligula's reasoning comes down to that of Hobbes and Grotius.<sup>7</sup> Before any of them, Aristotle also had said that men are not naturally equal but that some are born to be slaves and others to be masters.<sup>8</sup>

Aristotle was right, but he mistook the effect for the cause. Every man born into slavery is born to be a slave; nothing is more certain. Slaves lose everything in their chains, even the desire to escape from them; they love their servitude as Ulysses's companions loved their brutishness.<sup>9</sup> If there are, therefore, slaves by nature, it is because there have been slaves against nature. Force created the first slaves; their cowardice has perpetuated their condition.

I have said nothing of King Adam or Emperor Noah, father of three great monarchs who divided the world among themselves, as did the children of Saturn, with whom they have been compared. I hope that my moderation will be appreciated, for, being the direct descendant of one of these princes, and perhaps of the eldest branch, how do I know whether I might not find myself the legitimate king of the human race through a verification of titles? Be that as it may, it cannot be denied that Adam was sovereign of the world, just as Robinson was of his island, as long as he was its only inhabitant, and what was most agreeable about this empire was that the monarch, secure on his throne, had nothing to fear from rebellions, wars, or conspirators.<sup>1</sup>

#### CHAPTER 3 ON THE RIGHT OF THE STRONGEST

The strongest man is never strong enough to remain forever the master, unless he transforms his might into right and obedience into duty. Hence, the right of the strongest, a right that is ostensibly understood ironically and actually established as a principle. But will anyone ever explain this word to us? Force is a physical power; I do not see what kind of morality can result from its effects. Yielding to force is an act of necessity, not of will; it is, at most, an act of prudence. In what sense could this be a duty?

Let us suppose for a moment that this alleged right exists. I say that nothing but inexplicable nonsense results from it, for as soon as might makes right, the effect changes along with the cause; any new force that overcomes the first also inherits its rights. As soon as it becomes possible to disobey with impunity, it is possible to disobey legitimately; and since the strongest is always in the right, it is only a question of behaving so that one may be the strongest. But what kind of right is one which perishes when the force behind it ceases to exist? If force makes it necessary to obey, it is no longer necessary to obey out of a sense of duty; if a person is no longer forced to obey, he is no longer obligated to do so.

7. Rousseau is a bit short with Hobbes, who thought men equal in the important sense that they are equally able to harm one another.

8. See Aristotle's (384–322 B.C.) discussion of slavery in *Politics* 1. 4–8, where he claims some men are slaves by nature.

9. See a short treatise by Plutarch entitled: *That Beasts Employ Reason* [Rousseau's note].

1. Rousseau is pointedly satirizing the doctrine of the divine right of kings espoused by royalists like Sir Robert Filmer, author of *Patriarcha*, or the *Natural Power of Kings* (London 1680), in which he defends absolute monarchy by tracing royal authority back to the domestic absolutism of Noah and Adam.

We can see, therefore, that this word right adds nothing to force; in this context, it means nothing at all.

Obeys the powers that be. If that means to yield to force, the precept is good but superfluous; I answer that it will never be violated. All power comes from God,<sup>2</sup> I admit, but every illness comes from him as well. Is this to say that calling a doctor is forbidden? If a thief surprises me in a corner of the woods, I am forced to give him my purse, but am I, in conscience, obligated to give it to him when I could hide it? For, after all, the pistol in his hand is also a kind of power.

Let us agree, therefore, that might does not make right, and that we are obligated to obey only legitimate powers. Thus, my original question always recurs.<sup>3</sup>

#### CHAPTER 4 ON SLAVERY<sup>4</sup>

Since no individual has natural authority over his fellow man, and since force creates no rights, agreements remain the basis of all legitimate authority among men.

If a private individual, says Grotius, can alienate his liberty and make himself the slave of a master, why could not an entire people alienate its liberty and make itself the subject of a king? There are a good many equivocal words in this statement which need explanation, but let us confine ourselves to the word *alienate*. To alienate means to give or to sell. Now, a man who makes himself another's slave does not give himself; at the very least, he sells himself for his subsistence, but for what purpose does a people sell itself? Far from furnishing his subjects with their subsistence, a king only derives his own from them, and, according to Rabelais, a king does not live on little. Do subjects, then, give up their persons on condition that their property will also be taken? I do not see what they have left to keep.

It will be said that the despot guarantees his subjects civil tranquillity.<sup>5</sup> That may be, but what do they gain by that, if the wars which his ambition brings upon them, his insatiable greed, and the vexations of his administration devastate them more than their own dissensions? What do they gain, if that very tranquillity is one of their miseries? Living in dungeons is also tranquil: is that enough to make them appealing? The Greeks confined in the Cyclop's cave lived tranquilly there while awaiting their turn to be devoured.<sup>6</sup>

To say that a man gives himself for nothing is to say something absurd and inconceivable; such an act is illegitimate and invalid, if only because

2. See Romans 13:1 and Paul's discussion of the secular government of Rome.

3. This question concerns the characteristics of a legitimate state, one that deserves to be obeyed.

4. The purpose of this chapter is less to attack slavery than to dispose of the argument, advanced above all by Grotius, that people who voluntarily agree to obey a state ought to obey it, even if it deprives them of their freedom.

5. Rousseau disputes Hobbes's claims that an unlimited government is the best means of achieving domestic peace, and that such peace is the principle aim of the social contract.

6. Locke also develops this theme in *Two Treatises of Government*, II. xix. 228; both arguments are inspired by the Polyphemus episode in Book IX of Homer's *Odyssey*.

anyone who does such a thing is not in his right mind. To say the same thing of an entire people is to suppose a nation of madmen: madness does not make right.

Even if each individual could alienate himself, he cannot alienate his children, for they are born men and free; their liberty belongs to them, and no one has the right to dispose of it but they themselves. Before they reach the age of reason, the father can, in their name, stipulate conditions for their preservation and well-being, but he cannot give them to someone else irrevocably and unconditionally, since such a gift is contrary to nature's ends and exceeds the rights of fatherhood. In order, then, for an arbitrary government to be legitimate, the people in each generation would have to be free to accept or reject it, but, then, this government would no longer be arbitrary.

To renounce one's liberty is to renounce one's humanity, the rights of humanity and even its duties. No compensation is possible for someone who renounces everything. Such a renunciation is incompatible with man's nature, and to strip him of all freedom of will is to strip his actions of all morality.<sup>7</sup> In short, an agreement that stipulates absolute authority on one hand and unlimited obedience on the other is vain and contradictory. Is it not clear that one is not committed in any way to a person from whom one has the right to demand everything, and does not this single condition, this lack of equality or mutual obligation, suggest the meaninglessness of such an act? For, since all that he has belongs to me, what rights would my slave have against me, and, since his rights are mine, what sense is there in this idea that I have a right against myself?

Grotius and the others find in war another origin for this supposed right of slavery. Since the victor, according to them, has the right to kill the vanquished, the latter can buy back his life at the cost of his liberty, an agreement all the more legitimate because it is advantageous to both parties.

But it is clear that this supposed right to kill the vanquished in no way results from the state of war. If only because, living in their original state of independence, they lack the constant intercourse necessary to constitute either a state of peace or a state of war, men are not naturally enemies. It is the relation of things and not of men that constitutes war; and since the state of war cannot arise from simple personal relations, but only from proprietary relations, private war, that is, the war of man against man, cannot exist either in the state of nature, where there is no established property, or in the social state, where everything is under the authority of the laws.

Individual combats, duels, and encounters are acts that do not constitute a state of war, and, with regard to those private wars authorized by

7. Rousseau here grounds his argument against unlimited government on his commitment to the value of moral responsibility. Unlimited government is illegitimate because, by depriving us of

freedom, it deprives us of the responsibility for our acts, and, hence, of our very humanity. This same commitment to moral responsibility will be central to his defense of direct democracy.

the Establishments of Louis IX, king of France, and suspended by the Peace of God, they are abuses of feudal government, an absurd system if ever there was one, contrary to the principles of natural right and to every good political organization.

War is not, therefore, a relation of man to man but a relation of state to state, in which individuals are enemies only by accident, not as men or even as citizens,<sup>8</sup> but as soldiers, not as members of the homeland, but as its defenders. In short, the enemies of each state can only be other states and not men, inasmuch as true relations cannot be established between things of different natures.

This principle is even in conformity with the general maxims established in every age and with the invariable practice of all civilized peoples. Declarations of war are warnings not so much to the powers that be as to their subjects. Whether a king, a private individual, or a people, the foreigner who robs, kills, or detains the subjects without declaring war on the prince is not an enemy but a brigand. Even in open war, a just prince rightly takes possession of all that belongs to the public in the enemy country, but he respects the person and property of private individuals; he respects the rights upon which his own are founded. Since the purpose of war is the destruction of the enemy state, one has the right to kill its defenders as long as they bear arms, but as soon as they lay them down and surrender, ceasing to be enemies or instruments of the enemy, they become once again simply men, and no one has any further right over their lives. Sometimes it is possible to kill the state without killing a single one of its members, but war confers no right except that which is necessary to its purpose. These principles are not those of Grotius; they are not founded upon the authority of poets, but they are derived from the nature of things and are founded upon reason.

With regard to the right of conquest, it has no foundation other than the law of the strongest. If war does not give the victor the right to slaughter the vanquished, this right, which he does not actually possess, cannot be the basis of a right to enslave them. We have the right to kill the enemy only when we cannot enslave him; the right to enslave him does not, therefore, come from the right to kill him; it is, then, an unjust exchange to make him purchase his life, over which no one has any right, at the price of his liberty. In establishing the right of life and death upon the right of slavery, and the right of slavery upon the right of life and death, are we not clearly arguing in a vicious circle?

8. The Romans, who have understood and respected the right of war better than any nation in the world, carried their scruples so far in this regard that no citizen was permitted to serve as a volunteer without having expressly enlisted against the enemy, and specifically against such and such an enemy. When a legion in which Cato the Younger (Cato the Elder's son), took up his first arms under Popilius was formed anew, Cato the Elder wrote to Popilius that, if he was willing for his son to continue to serve under him, he would have to make him swear a new military oath, because, once

the first was annulled, he could no longer bear arms against the enemy. And the same Cato wrote to his son to take care not to present himself for combat until he had taken this new oath. I know that some will oppose my argument with the example of the siege of Clusium and other particular cases, but I am citing laws, customs. The Romans are the ones who have less often transgressed their laws than other nations; and they are the only ones who have had such fine ones [Rousseau's note, 1782].

Even assuming this terrible right to kill everyone, I say that a slave created by war or a conquered people is under no obligation of any sort toward a master, except to obey him as long as force makes it necessary. In taking the equivalent of a man's life, the victor has not really spared him anything: instead of killing him for no good purpose, he has killed him profitably. So far is he, therefore, from having acquired any authority over this slave other than that created by force, that the state of war subsists between them as before; their relationship is indeed the result of it, and the custom of the right of war presupposes no peace treaty. They have made an agreement, it is true, but far from putting an end to the state of war, this agreement presupposes its continuation.

Thus, however we view the matter, the right of slavery is invalid, not only because it is illegitimate but also because it is absurd and meaningless. These words, *slavery* and *right*, are contradictory; they are mutually exclusive. Whether spoken by one man to another or by one man to an entire people, the following statement will always be equally nonsensical: *I am making an agreement with you wholly at your expense and wholly for my benefit, which I shall observe as long as I please and which you will observe as long as I please.*

#### CHAPTER 5 THAT WE MUST ALWAYS GO BACK TO A FIRST AGREEMENT<sup>9</sup>

Even if I were to grant all that I have so far refuted, the supporters of despotism would not find their cause any further advanced. There will always be a great difference between subduing a multitude and governing a society. Where isolated individuals are successively enslaved by a single man, whatever their number may be, I see there only a master and his slaves, not a people and its leader; it is an aggregation, if you will, but not an association; in it, there is neither public good nor body politic. Even if such a man had enslaved half the world, he is still only a private individual; his interest, separate from that of the others, is still only a private interest. If this same man happens to die, his empire is left broken up and disunited after him, just as an oak disintegrates and falls into a heap of ashes after it has been consumed by fire.

A people, says Grotius, can give itself to a king. According to Grotius, a people is therefore a people before giving itself to a king. That gift is in itself a civil act; it presupposes a public decision. Therefore, before examining the act by which a people elects a king, it would be good to examine the act by which a people becomes a people, for, since this act is necessarily prior to the other, it is the true foundation of society.<sup>1</sup>

Indeed, if there were no prior agreement, why, unless the election were unanimous, would the minority have an obligation to submit to

9. The previous three chapters have refuted some standard views of what makes a state legitimate. In this chapter, Rousseau introduces his contractualist claim that in a legitimate state, obedience is based on free and rational agreement.

1. In this paragraph, Rousseau announces a theme that grows in importance as he proceeds. It is the relations among the members of society, rather than their relations to officials, that are crucial for the legitimacy of a state.

the choice of the majority, and why do a hundred men who want a master have the right to vote on behalf of ten who do not? The law of majority rule is itself established by agreement and presupposes unanimity on at least one occasion.

#### CHAPTER 6 ON THE SOCIAL PACT

I assume men to have reached the point at which the obstacles to their preservation in the state of nature have a resistance greater than the forces each individual can use to maintain himself in that state.<sup>2</sup> At this point, that primitive state could no longer subsist, and the human species would perish if it did not change its way of living.

Now, since men cannot engender new forces but merely unite and direct the existing ones, they have no other means of preserving themselves than to form by aggregation a sum of forces that can overcome this resistance, bring them into play by means of a single motive power, and make them act in concert.

This sum of forces can arise only from the cooperation of several men, but since each man's strength and liberty are the primary instruments of self-preservation, how will he commit them without harming himself and without neglecting the care he owes himself? This difficulty, in relation to my subject, can be set forth in these terms:

"To find a form of association that defends and protects the person and possessions of each associate with all the common strength, and by means of which each person, joining forces with all, nevertheless obeys only himself and remains as free as before." Such is the fundamental problem to which the social contract furnishes the solution.

The clauses of this contract are so determined by the nature of the act that the slightest modification would render them null and void, so that, although they have never perhaps been formally enunciated, they are everywhere the same, everywhere tacitly admitted and recognized, until the social pact is violated, and each person regains his original rights and recovers his natural liberty, losing the civil liberty for which he renounced it.<sup>3</sup>

Rightly understood, these clauses can all be reduced to one alone, namely, the total alienation of each associate with all his rights to the whole community.<sup>4</sup> For, in the first place, since each person gives himself entirely, the condition is equal for all, and since the condition is equal for all, no one has an interest in making it burdensome for the others.

2. The dire conflict to which Rousseau alludes here is described in the *Discourse on Inequality* as arising from the competition engendered by social life. Rousseau's concern in that work is to show how existing states control this struggle by depriving subjects of their freedom. In this case, however, his aim is prescriptive: to show how a state should be organized to make its subjects free as well as safe.

3. Note that for Rousseau what makes a state legitimate is not that its subjects expressly agree to

the terms of this contract, but that it abides by these terms, whether they expressly agree to them or not.

4. Taken alone, this sentence makes Rousseau sound like a partisan of intolerable tyranny, but the elaboration of this sentence in this and the next two paragraphs shows that he envisages nothing sinister when he calls for total alienation to the community. The community to which we should submit turns out to be a democratic community of equals in whose operation each has an equal and effective share. Cf. below, Book II, chapter 4.

Furthermore, since the alienation is made without reservation, the union is as perfect as it can be, and no associate has anything more to claim. For, if some rights were left to private individuals, and there were no common superior who could decide between them and the public, each person, being in some respects his own judge, would soon claim to be so in every instance; the state of nature would subsist, and the association would necessarily become tyrannical or ineffectual.

Finally, each person, in giving himself to all, gives himself to no one, and as there are no associates over whom he does not acquire the same right as he concedes to them over himself, he gains the equivalent of all that he loses and more force to preserve what he has.

If, then, we eliminate whatever is not essential to the social pact, we shall find that it can be reduced to the following terms: *Each of us puts his person and all his power in common under the supreme control of the general will, and, as a body, we receive each member as an indivisible part of the whole.*<sup>5</sup>

In place of the private person of each contracting party, this act of association at once produces a collective and artificial body, composed of as many members as the assembly has votes, which receives from this same act its unity, its collective self, its life, and its will. This public person, which is thus formed by the union of all the other persons, formerly took the name of *city*<sup>6</sup> and now takes that of *republic* or *body politic*, and its members call it a *state* when it is passive, a *sovereign* when it is active, and a *power* when comparing it to others of its kind. As for the associates, they collectively take the name of the *people*, and, individually, they are called *citizens*, when they participate in the sovereign authority, and *subjects* when they are subject to the laws of the state. But these terms are often confused and mistaken for one another; it is enough to know how to distinguish them when they are used with absolute precision.

#### CHAPTER 7 ON THE SOVEREIGN

This formula shows that the act of association includes a reciprocal commitment between the public and the private individuals composing it, and that each individual, contracting, so to speak, with himself, finds

5. Ought we obey the general will, as Rousseau recommends? No answer is possible until we learn more about the nature of the general will and about how to know what it prescribes. Much of Book II of *On Social Contract*, as well as chapters one to three of Book IV, give the information needed for an intelligent response.

6. The true meaning of this word has been almost entirely effaced among the moderns; most take a town for a city, and a townsman for a citizen. They do not know that houses make the town but that citizens make the city. This same error formerly cost the Carthaginians dearly. I have not read that the title of *cives* has ever been given to the subject of any prince, not even formerly to the Macedonians, nor, in our times, to the English, although

they are nearer liberty than all the rest. Only the French construe this term *citizen* quite loosely, because they have no real idea of its meaning, as we can see in their dictionaries; otherwise, they would, by usurping this word, fall into the crime of high treason; among them, this name expresses a virtue and not a right. When Bodin endeavored to speak of our citizens and townsmen, he committed a gross blunder, by mistaking the former for the latter. Mr. D'Alembert was not mistaken, and, in his article *Genève*, properly distinguished the four orders of men (even five, counting simple strangers) in our town, of which two alone compose the Republic. No other French author, as far as I know, has understood the real meaning of the word *citizen* [Rousseau's note].

himself committed in two ways: namely, towards private individuals as a member of the sovereign, and towards the sovereign as a member of the state. But the maxim of civil law that no one is bound by commitments made to himself cannot be applied here, for there is a great difference between being obligated to oneself and being obligated to a whole of which one is a part.

It should further be noted that the public decision which can obligate all the subjects toward the sovereign, because of the two different relationships in which each of them is envisaged, cannot, for the opposite reason, obligate the sovereign towards itself, and that, consequently, it is contrary to the nature of the body politic for the sovereign to impose upon itself a law that it cannot break. Since the sovereign can only be considered in one and the same relationship, it is then in the position of a private individual contracting with himself; hence, we see that there is not, nor can there be, any kind of fundamental law binding on the body of the people, not even the social contract.<sup>7</sup> This does not mean that this body cannot perfectly well commit itself towards others in anything that does not violate this contract, for, with regard to foreigners, it becomes a single being, an individual.

But, the body politic or sovereign, deriving its being only from the sanctity of the contract, can never obligate itself, even towards others, in anything that violates this original act, such as alienating some portion of itself or submitting to another sovereign. To violate the act by which it exists would be to annihilate itself, and that which is nothing produces nothing.

As soon as this multitude is thus united in one body, no one can offend any of its members without attacking the body, much less offend the body without the members feeling the effects. Thus, duty and interest equally obligate the two contracting parties to help each other, and the same men must seek to unite, in this double relationship, all the advantages that depend upon it.

Now, the sovereign, formed solely by the private individuals who compose it, neither has nor can have any interest contrary to theirs; consequently, the sovereign power has no need to give a guarantee to the subjects, because it is impossible for the body to want to harm all its members, and we shall see hereafter that it cannot harm any one of them as an individual. Merely by virtue of its special nature, the sovereign is always everything that it should be.<sup>8</sup>

7. No state is legitimate for Rousseau unless its citizens have the right not only to make, but also to change or repeal, all of its laws, including those, such as a constitution or bill of rights, which limit and direct it. By giving citizens control of all legislation, Rousseau exposes himself to the charge of showing reckless disregard for political stability. This was one aspect of his doctrine that led Rousseau's native Geneva to condemn *On Social Contract* as "destructive of all governments." Yet, much of the work, above all the second half of Book III, is devoted to showing how the kind of direct democ-

racy Rousseau deems legitimate can be preserved. Although he insists on granting citizens an unlimited right to legislate, Rousseau encourages them to exercise this right with care and moderation.

8. The last declaration in this paragraph is bound to astonish the reader who has yet to be told very much about the nature of Rousseau's sovereign or about the general will which it expresses. The next book of *On Social Contract* gives reasons why the laws and policies of a democratic state that meets his criteria for legitimacy are sure to serve the common interest.

But this is not true of the subjects in relation to the sovereign, which, despite the common interest, could not rely upon their commitments, unless it found the means of insuring their fidelity.

Indeed, each individual can, as a man, have a particular will contrary to or different from the general will he has as a citizen. His private interest may speak to him quite differently from the common interest; his absolute and naturally independent existence may make him envision what he owes to the common cause as a gratuitous contribution, the loss of which will be less harmful to others than its payment is burdensome to him, and, considering the artificial person that constitutes the state as an imaginary being because it is not a man, he would enjoy the rights of a citizen without wanting to fulfill the duties of a subject, an injustice that would bring about the ruin of the body politic, were it to spread.

In order, therefore, that the social pact may not be an empty formula, it tacitly includes the commitment, which alone can give force to the others, that anyone who refuses to obey the general will shall be compelled to do so by the entire body; this means nothing else than that he will be forced to be free, for such is the condition which, by giving each citizen to the homeland, protects him against all personal dependence, a condition which determines the workings of the political machine, and which alone renders legitimate civil commitments, which would otherwise be absurd, tyrannical, and subject to the most enormous abuses.<sup>9</sup>

#### CHAPTER 8 ON THE CIVIL STATE

This passage from the state of nature to the civil state produces a most remarkable change in man, by substituting justice for instinct in his conduct, and giving his actions the morality they previously lacked. Only when the voice of duty succeeds physical impulse and right succeeds appetite does man, who had until then considered only himself, find himself compelled to act on different principles and to consult his reason before listening to his inclinations. Although in this state he denies himself several of the advantages he owes to nature, he gains others so great—his faculties are exercised and developed, his ideas are extended, his feelings are ennobled, his whole soul is so uplifted—that if the abuses of this new condition did not often degrade him beneath the condition from which he emerged, he would constantly have to bless the happy moment that tore him away from it forever, and made a stupid and shortsighted animal into an intelligent being and a man.

Let us reduce this entire balance to terms that can easily be compared. What man loses by the social contract is his natural liberty and an

9. It is easy to see why a recalcitrant citizen in Rousseau's legitimate democracy may be rightfully forced to obey a law. Since all laws in such a democracy serve the common interest, anyone who breaks one takes unfair advantage of his fellow citizens. What is less obvious is why the coercion

imposed on the lawbreaker makes him free. It does so because it protects him from dependence on the arbitrary wills of other individuals and preserves his opportunity to enjoy the civil and moral liberty which the next chapter describes.

unlimited right to everything that tempts him and to everything he can take; what he gains is civil liberty and the ownership of everything he possesses. In order to avoid being mistaken about these compensations, we must carefully distinguish between natural liberty, which is limited only by the strength of the individual, and civil liberty, which is limited by the general will, and between possession, which is only the result of force or the right of the first occupant, and ownership, which can be based only on a real title.

Besides the preceding, another benefit which can be counted among the attainments of the civil state is moral liberty, which alone makes man truly his own master, for impulsion by appetite alone is slavery, and obedience to the law that one has prescribed for oneself is liberty. But I have already said too much on this point, and the philosophical meaning of the word *liberty* is not part of my subject here.<sup>1</sup>

#### CHAPTER 9 ON REAL ESTATE

At the moment the community is formed, each member gives himself to it, just as he is at the time, himself and all his forces, which include the goods he possesses. It is not that by this act what one possesses changes in nature by changing hands and becomes property in the hands of the sovereign, but, just as the forces of the city are incomparably greater than those of a private individual, public possession is also, in point of fact, stronger and more irrevocable, without being more legitimate, at least for foreigners. For, with regard to its members, the state is master of all their possessions through the social contract, which serves as the basis of all rights within the state, but, with regard to other powers, it is master only through the right of first occupancy which it derives from private individuals.

The right of first occupancy, although more real than the right of the strongest, becomes a true right only after the establishment of the right of property. Every man naturally has a right to everything he needs, but the positive act that makes him the owner of a piece of property excludes him from all the rest. Once he has his share, he must limit himself to it, and he has no other claim against the community. That is why the right of first occupancy, which is so weak in the state of nature, deserves the respect of every civilized man. In this right, we respect not so much what belongs to others as what does not belong to us.

In general, to sanction the right of first occupancy to any piece of land

1. This chapter enumerates the values to which Rousseau appeals in arguing for the merits of a democratic community of equals. Besides the morality and rationality mentioned in the first paragraph, which Rousseau seems to attribute more to social life in general than to a specially democratic way of life, the other, more specifically democratic values are civil liberty, the freedom from government to do anything not prohibited by laws which serve the common interest, and moral liberty, the freedom to make and follow one's own

rules. Kant, for whom self-legislation is so central to morality, revered Rousseau as the Newton of the moral universe.

The contrast in this chapter between the advantages of life in the natural and civil states should be compared to the similar one at the end of Book II, chapter 4, and the quite different assessment of the two ways of life in the *Discourse on Inequality*. (See the *Second Discourse*, pp. 25–26, and the ninth note to this discourse, pp. 17–18.)

whatever, the following conditions are necessary: first, this land must not yet be inhabited by anyone; secondly, one must occupy only the area one needs to subsist; thirdly, one must take possession of it not by a vain ceremony but by labor and cultivation, the only sign of ownership that, in the absence of legal titles, should be respected by others.

Indeed, in granting the right of first occupancy to need and labor, are we not taking it as far as it can go? Is it not possible to establish limits to this right? Will it suffice to set foot on a piece of the common ground to claim all at once to be master of it? Will it suffice to have the strength to throw other men off it momentarily to take away forever their right to come back to it? How can a man or a people seize a vast territory and deprive the entire human race of it other than by a punishable usurpation, since such an act robs the remaining men of the dwelling place and food that nature gives them in common? When Nuñez Balboa, standing on the shore, took possession of the South Seas and all of South America in the name of the crown of Castille, was that enough to dispossess all the inhabitants and to exclude all the princes of the world? On such a footing, these ceremonies multiplied vainly enough, and the Catholic King had only to take immediate possession of the entire universe from his chambers, afterwards eliminating from his empire what was previously possessed by other princes.

It is easily understood how the adjoining properties of private individuals are united and become public territory, and how the right of sovereignty, extending from the subjects to the land they occupy, becomes at once real and personal; this places the landowners in greater dependency, and makes their strength itself the guarantee of their fidelity. Ancient monarchs do not appear to have been well aware of this advantage, for, only calling themselves kings of the Persians, the Scythians, the Macedonians, they seemed to regard themselves as leaders of men rather than as masters of countries. Today's monarchs more cleverly call themselves kings of France, Spain, England, etc. By thus holding the land, they are quite sure of holding its inhabitants.

What is remarkable about this alienation is that far from robbing private individuals by accepting their property, the community only assures them of legitimate possession, and changes usurpation into a genuine right and possession into ownership. Therefore, since owners are considered depositaries of the public wealth, and since their rights are respected by all members of the state and upheld against foreigners with all its forces, they have, so to speak, acquired everything that they have given up by a transfer that is advantageous to the public and still more so to themselves. This paradox is easily explained by the distinction between the rights that the sovereign and the owner have to the same piece of land, as we shall see hereafter.<sup>2</sup>

2. The alienation of possessions described in this chapter is an aspect of the benign total alienation mentioned above in the sixth chapter. The community to which individuals alienate their possessions, being a democratic community of equals, assures a safe, fair allocation of public as well as

private property. Private property has an important place in Rousseau's legitimate state, provided that, as he insists in his own note to this chapter (p. 98), it is not too unequally distributed. See also Book II, chapter 11 and *On Political Economy*, (pp. 75–83).

It may also happen that men begin to unite before possessing anything, and that, after appropriating land enough for all, they use it in common or divide it among themselves either equally or according to proportions established by the sovereign. In whatever way this acquisition is made, the right of each individual to his own piece of land is always subordinate to the community's right to everything, without which there would be neither solidity in the social bond nor real power in the exercise of sovereignty.

I shall end this chapter and this book with a remark that ought to serve as the basis of the whole social system; instead of destroying natural equality, the fundamental pact, on the contrary, substitutes a moral and legitimate equality for whatever physical equality nature had been able to impose among men, and, although they may be unequal in strength or in genius, they all become equal through agreements and law.<sup>3</sup>

#### END OF THE FIRST BOOK

### Book II

#### CHAPTER 1 THAT SOVEREIGNTY IS INALIENABLE

The first and foremost consequence of the principles established above is that the general will alone can direct the forces of the state in accordance with the end for which it was instituted, that is, the common good, for, if the opposition of private interests has made the establishment of societies necessary, the agreement of these same interests has made it possible. It is what these different interests hold in common that forms the social bond, and if there were not some point of agreement among them, no society could exist. Indeed, it is solely on the basis of this common interest that society should be governed.

I say, therefore, that sovereignty, being nothing more than the exercise of the general will, can never be alienated, and that the sovereign, which is merely a collective being, can only be represented by itself; power can indeed be transferred but not will.

In fact, if it is not possible for a particular will to agree on some point with the general will, it is at least impossible for this agreement to be lasting and constant, for the particular will tends by nature towards partiality and the general will towards equality. It is even more impossible to have any guarantee of this agreement, even though it should always exist; this would not be an effect of art but of chance. The sovereign may well say: "I now will what this man wills, or at least what he says he wills," but it cannot say, "What this man wills tomorrow, I too shall

3. Under bad governments this equality is only apparent and illusory; it only serves to maintain the poor man in his misery and the rich man in his usurpation. Indeed, the laws are always useful to those who have possessions and harmful to those

who have nothing; whence it follows that the social state is advantageous to men only insofar as they all have something and none of them has too much [Rousseau's note].

will," since it is absurd for the will to give itself fetters for the future, and since no will can consent to anything that is contrary to the good of the being who wills it. If the people, therefore, simply promises to obey, it dissolves itself by that act and loses what makes it a people; at the moment a master exists, there is no longer a sovereign, and from that moment the body politic is destroyed.

This is not to say that the orders of leaders cannot pass for expressions of the general will, as long as the sovereign, free to oppose them, does not do so. In such a case, the consent of the people must be presumed from universal silence. This will be explained at greater length.<sup>4</sup>

#### CHAPTER 2 THAT SOVEREIGNTY IS INDIVISIBLE

For the same reason that sovereignty is inalienable, it is indivisible, for the will is general,<sup>5</sup> or it is not; it is the will of the body of the people, or of only a part. In the first case, this declared will is an act of sovereignty and constitutes law; in the second, it is merely a particular will, or an act of magistracy; at the very most it is a decree.

But our political theorists, being unable to divide sovereignty in principle, divide it in its purpose; they divide it into force and will; into legislative power and executive power; into the rights of taxation, justice, and making war; into internal administration and the power of negotiating with foreigners; sometimes they mingle all these parts, and sometimes they separate them. They turn the sovereign into a fantastic being composed as a mosaic of inlaid fragments; it is as if they created man out of several bodies, one of which would provide the eyes, another the arms, another the feet and nothing more. The magicians of Japan, it is said, cut a child into pieces before the eyes of the spectators; then, throwing all the pieces into the air one after another, they make the child fall back to earth alive and completely reassembled. The juggling acts of our political theorists are more or less like this; after having dismembered the social body by a spell worthy of the fair, they reassemble the pieces, we know not how.

This error results from not having formulated an accurate notion of sovereign authority, and from having taken for parts of that authority what were only emanations of it. Thus, for example, the acts of declaring war and making peace have been regarded as acts of sovereignty, but they are not, since each of these acts is not a law, but merely an application of the law, a particular act which determines how the law applies to a particular case, as we shall clearly see when the idea attached to the word *law* has been defined.<sup>6</sup>

By analyzing the other divisions in a similar manner, we would find

4. See Book III, chapter 11 (p. 140).

5. For a will to be general, it is not always necessary for it to be unanimous, but all the votes must be counted; any formal exclusion destroys the generality [Rousseau's note, 1782].

6. See Book II, chapter 6 (p. 106), where Rousseau points to the generality of law as what distinguishes it from other kinds of governmental enactments. Sovereign and legislative authority are thus equivalent for Rousseau.