

Rousseau's The Social Contract

Key Questions and Considerations

Does the social contract reconcile security with self-governance and freedom? The existence and nature of the general will. Is the general will sovereign? Does Rousseau's Direct Democratic Procedure work?

Summary of the Text

According to Rousseau, the fundamental problem is that, against the backdrop of interdependence, we must find a political association that advances the security of each individual, and that this authority is legitimate if and only if each individual in such a society still "nevertheless obeys himself" and remains "as free as before". Essentially, we need to reconcile the security-preserving authority of the state with the retainment of self-governance and freedom of individuals. Rousseau's answer to this problem is a contractarian one: that through direct, democratic procedure we find a general will that advances interests fundamental to everyone, and that the advancement of this general will is the only legitimate expression of sovereign authority because it preserves the autonomy of the citizens.

Miscellaneous points involve: the structure of the purely administrative government as separate from the sovereign with no legislative power, the lawgiver as the initial bedrock of society, the denaturing of man from the state of nature

Summary:

Rousseau's solution

- Aims to reconcile full autonomy with the authority required for personal security, and full autonomy with equality and community
 - Under conditions of social interdependence, we achieve full autonomy or self government only by living in a community of equals
 - Requirements of equality do not stand as limits on free association, but instead are both ingredients of and preconditions for such an association
- Rousseau's solution is his ideal of a **free community of equals**
 - Free because it ensures full political autonomy of each member
 - A community because it is organised around a shared understanding of and supreme allegiance to the common good
 - A community of equals/a democratic society because the content of that understanding reflects the good of each member

2 lenses to assess Rousseau's solution through

- Motivational possibility: Are we able to overcome humanity's widespread vice such as pride and jealousy such that the happiness of another compromises our own happiness? Our self-government inherently leads to us diminishing the security and freedom of others (Hobbes would have raised this objection). We do not have the

motivations to achieve a shared understanding of the common good; reconciling political disagreement

- So commitment to treating one another as equals has no basis in human psychology; thus autonomy is not in human cards → Rousseau's solution seems objectionably utopian
- We have predispositions to achieve "relative advantage" over other humans
- Institutional possibility: we need to understand how in a workable political society, people might come to acquire a general will, with its characteristic regard for others as equals and associated concern for the common good
 - How might members come to assign the general will priority in public decisions? How the general will might regulate the terms of cooperation and retain this regulative role despite a range of pressures from self-interest or particular wills
- Rousseau's solution to the first motivational possibility is his account of intrinsic human goodness
 - Rousseau thinks that there is an inherent human goodness
 - Rousseau advances an account of human nature organised around the contention that human beings are naturally good, but that "society depraves him and makes him miserable"
 - Outside the social contract: "There is no original perversity in the human heart. There is not a single vice to be found in it of which it cannot be said how and whence it entered" → true autonomy is expressed by freeing oneself from these corrupting effects
 - However, we cannot merely show that a free community of equals is motivationally possible → we need to show that it is socially and politically possible. (where institutional possibility comes in)

Key arguments and Quotes

The State of Nature and the move to Civil Society

The State of Nature

- The State of Nature is utopian in Rousseau's view: humans are "born free"
 - The problem comes to the fore when we consider the notion of interdependence and civil society
- Interdependence is a problem due to "The Right of the Strongest" (the State of Nature transforms as people start to live together)
 - Transformation of the State of Nature: "Men reach a point where their obstacles to their preservation in a state of nature prove greater than the strength that each man has to preserve himself in that state"
 - "Primitive conditions cannot endure"

- Rousseau denies that such a right, as enforced via physical superiority, can “produce morality” and thus has any legitimacy → it is an “act of necessity, not of will” and thus cannot be a “moral duty”
- “Force compels obedience” so there is no “duty to obey” and thus when force “ceases to compel obedience, there is no longer any obligation”
 - So Rousseau does a definitional analysis, arguing that since the obligation is wholly contingent on force, the use of the word “right” is meaningless because there is no additional obligation and hence there is no real (moral obligation) “right” produced by the strongest
- So “might does not make right, and that duty of obedience is owed only to legitimate powers”
 - The strongest man is thus an ephemeral master, not a permanent sovereign or “master of all time”
 - A conqueror of man would never create an association because he will merely be a “master” to his “slaves”, exacting his authority by force → no common good and the master will always advance his private interest → the union will dissolve immediately after his death
- Concludes that the social order is predicated on the social contract: “no man has any natural authority over his fellows and since force alone bestows no right, all legitimate authority among men must be based on covenants”
- Rousseau: “[We need to] find a form of association that will defend and protect the person and goods of each associate with the full common force, and by means of which each, uniting with all, nevertheless obey only himself and remain as free as before” (SC 1.6.4)
 - What kind of society ensures that the individual members of society are both secure — protected in their person and goods by the collective power of society — and also fully autonomous — each a self-legislating member, obedient only to him or herself

Value of freedom

- Instrumental: freedom is a fence to my preservation + if I give up my freedom, everything else would be taken away → a primary instrument of preserving myself
- Rationality argument: Rousseau wants something stronger than the instrumental argument in arguing that freedom is itself the noblest faculty and most precious of all gifts + supreme value. To alienate freedom is to relinquish authority over one’s own conduct to trade a greater for a lesser value
 - Completely irrational but depends on the (disputed) **substantive value of liberty**
- Moral nature argument: Rousseau thinks that it is impossible to completely alienate one’s freedom. Consider one being in control of you and forcing you to commit a crime. Rousseau makes a crucial assumption in that I cannot absolve myself of

responsibility for the conduct or avoid the sense of guilt for having done it. This guilt shows that I attribute the conduct to myself and hold myself responsible for it rather than to the agent who ordered it. I cannot escape by submitting myself to another person and therefore that my effort to alienate my freedom is unsuccessful

- My thoughts: Surely this appeal to emotions is a bad argument because we often think ourselves guilty of things we have no responsibility in doing/not at fault for/things are not in control of (like not preventing someone's death)
- Moral nature + rationality argument work together: if alienating freedom is irrational, then agreements to alienate are void (if freedom is of supreme value). But I am committed to taking freedom as of supreme importance because freedom is required for acting on standards to which I take myself — as my moral feelings indicate — to be supremely bound
 - My thoughts: While it may be true (it is not) that the moral nature argument is sufficient to show freedom is, *ceteris paribus*, of qualitatively supreme value to other values, if we were to organise our value of things along some cardinal scale, then some quantity of lower value goods would definitely exceed freedom's individual supreme value

The role of civil society

- Impose a social order to preserve security and promote the common good, while retaining the freedom of individuals
 - "It puts justice as a rule of conduct in place of instinct, and gives his actions the moral quality they previously lacked" → "voice of duty has taken the place of physical impulse"
- Elevates the nature of human beings → Rousseau also focuses on development
 - "[Civil society has] lifted him for ever from the state of nature and from a stupid, limited animal made a creature of intelligence and man"
- Overall, beneficial in terms of civil liberty and legal right of property to what he possesses when we "draw up the balance sheets" to compare the gains and losses
 - "What man loses by the social contract is his natural liberty, and the absolute right to any thing that tempts him and that he can take; what he gains by the social contract is civil liberty and the legal right of property in what he possesses"
 - Natural liberty → limited by physical superiority of others; civil liberty which is limited by general will
- Rousseau on civil religion (a lot of attacks on him for this): state should promote the virtue of being a citizen
 - Isn't there a need for citizen virtues? Is he not right for this? Importance of virtue look at the contemporary US: key virtue is about accepting when you lost politically fundamentally destabilises democracy

- Doesn't necessary follow that the state could legitimately push them on citizens

Rousseau's assumptions about humanity and Human Nature

- Self-love/rationality: given basic human nature, people are motivated by self love, rationality and a concern for their own good in terms of self-preservation and personal security, and for the goods required for individual well-being
- Interdependence: humans are interdependent (and recognise their interdependence + the dangers of not coordinating): our self-preservation and security depends on how others act
 - The nature of interdependence is also how there exists uncoordinated interaction, with each acting on a separate plan, leaves each person less well-off: What Rousseau calls the 'will of all' —> distinct from the general will
 - This will is particular in the sense that the aims that are regulative for it in practical deliberation is aggregative and detached from the common good
- Vague views/intuitions about justice: humans have rough notions about justice and the claims they can legitimately make on one another and these views tend to be in conflict; conceptions of justice and entitlement tend to be highly contested
- Autonomy of humans: Rousseau thinks that the capacity to choose — involving the capacity to suspend the impelling force of inclinations, reflect and act guided by evaluative judgements — is distinctive to human beings among all animals and is the source of our special worth

The Fundamental Problem

- The combination of self-love, interdependence and the capacity for and importance of freedom leads to the fundamental problem: "to find a form of association that will defend and protect the person and goods of each associate with the full common force, and by means which each, uniting with all nevertheless obey only himself and remain as free as before"
 - The aim for Rousseau is to show that "a certain form of political association is legitimate by showing that *individuals would themselves agree to that form*, where those individuals are understood to be interdependent, aware of their interdependence, endowed with the capacity to distinguish just from unjust arrangements, and endowed with a capacity for freedom"
 - 2 strands of legitimacy for the SC
 - Contractual legitimacy: legitimacy arising from autonomous and voluntary consent to the contract
 - Transcendental legitimacy: legitimacy arising from the social contract aligning with the transcendental general will which requires us to place communal reasons over self-interested ones

Difficulty of the solution

- Notions of possibility: the solution may rest on
 - Value incompatibility: Values that simply **cannot be jointly realised** under any conditions
 - Human incompatibility: values whose **realisation is incompatible** with **human nature**
 - Lack of realism: embrace an ideal that cannot be realised by a social trajectory that begins from current conditions unless we start anew
- Paradoxical
 - Prima facie, accepting authority appears to be a matter of letting oneself be ruled by the decisions of others: How can self-government — the moral freedom or autonomy that consists in giving the law to yourself — be reconciled with these bonds of political autonomy?
 - Rousseau's solution is obviously that the general will is the rule of law and thus wanted by each individual and hence "self-legislated"
 - Dispelling the idea that authority is letting oneself be ruled by others: the general will
 - In the society of the general will, citizens share an understanding of the common good and that understanding is founded on members' commitment to treat one another as equals by refraining from imposing burdens on other citizens that they themselves would be unwilling to bear
 - The recognition of the common good reflects an equal concern for the good of each citizen — this shared understanding is the ultimate basis for their political deliberations → enters the laws which are set by their community
 - Rousseau: "the social pact establishes...an equality such that all commit themselves under the same conditions and must all enjoy the same rights"

The Sovereignty of the General Will

Distinguishing the general will from the will of all

- "The general will studies only the common interest while the will of all studies private interest, and is indeed no more than the sum of individual desires...if we take away...the pluses and minuses which cancel each other out, the balance which remains is the general will"
 - So crudely, the general will is the intersection of all individual desires → thereby the name, the "common" good

Constraints on the Common Good

- Non-aggregative: it is the promotion of shared ideals/human interests that are found in everyone's good like liberty and security
- Equality: equal consideration of each member
 - The social compact establishes a "condition equal for all, and since the condition is equal for all, no one has any interest in making it burdensome to the rest"
- **Content of interests (self-development and independence):** Rousseau seems to limit the range of common interests to interests in security of persons and protection of resources — that is, the very interest that he indicates as providing the foundation of the social contract
 - Almost Millian in nature → as the promotion of autonomy and liberty of thought/speech → basic interests rather than more extended interests
 - But even then, the social contract may need to specify further principles for what the "security of persons and protection of resources/freedom" means → principles regarding the poor (?)
- Baseline for the Common Good: Many different ways to promote the common good. Pareto-gain: we have an improvement for each, and thus the promotion of the common good, if and only if each person's interests are better served than they would be under some specified alternative condition (what the alternative condition is is the baseline we need to specify)
 - Rousseau often seems to preclude the existence of targeted policies like redistributive policies that promote the good for the least well-off → Rawls' difference principle → But Cohen thinks he does not incorporate such constraints, rather, Rousseau means that every genuine act of the general will must treat citizens as equals, as of equal importance and equally worthy of respect, when it imposes obligations or confers benefits, not that it must confer equal benefits on them
 - Rousseau rejects Hobbes's idea that subjects reserve natural rights to preserve themselves: possessors of property are "considered to be trustees of the public good" (SC 1.9.6) and that the "right every individual has over his own land is always subordinate to the right the community has over everyone" (SC 1.9.7)
- In sum: Rousseau endorses a substantive understanding of the general will, according to which the general will, by its nature, is directed to the common good construed in a non-aggregative way. For this reason, he thinks that citizens need not be protected from the general will since "the general will is always upright and always tends to the public utility" (SC 2.3, 1.7.5); it will never harm an individual
 - the supremely regulatory role of the general will advances the **basic interest** of each, taking a notional condition of equality as the baseline, while securing to members their independence in areas that do not bear the common good: "the sovereign power does not and cannot exceed the limits of the general

conventions, and...everyone may be fully dispose of such of his goods and freedom as are left him by these conventions" (SC 2.4.9)

Other features of the General Will (beyond Common Good)

- Priority condition: Hierarchy of the general will over the particular will → since an institution or law advances the common good provides citizens with a reason for supporting that institution of law
- Particular wills condition: Rousseau recognises that the common good is situated in a community of people with different wills and preferences
 - Rousseau talks about the private persons who constitute the public persona have a life and freedom that are naturally independent of it (SC 2.4.2)
 - So Rousseau does not present members of the society of the general will as having transcended conflicts between inclination and duty → rather, he thinks that we can control and reign over our passions and would (willingly) prioritise the general will over our particular wills (so constrained by the common good in our actions); **the general will is supreme but not exhaustive such that no one has their individual pursuits**
- Reasonable Confidence Condition: Citizens must have reasonable confidence that institutions conform to their shared conception of the common good and that these social institutions do in fact generally conform to it → everyone believes in the common good
 - Procedural condition

The notion of the Sovereign

- The Nature of the Sovereign as inalienable and indivisible
 - An action is sovereign if and only it aligns with the common good
 - Rousseau does not identify the sovereign with any particular or groups of persons: this includes the collection of all members of a political society.
 - Sovereignty lies in effect in the shared understanding of the common advantage in which the interests of each are taken into account
 - Rousseau remarks that the sovereign is **not a determinate individual or a determinate collection of individuals, but "a collective being"** (SC 2.1.2); an abstract being powered by the general will
 - So the Sovereign is inalienable in that it cannot be captured by some subset of society: "cannot be represented by anyone but itself – power can be delegated, but the will cannot be"
- The Sovereign cannot arbitrarily (without reason) infringe on personal liberty
 - What we need to consider is the standard of reason sufficient to infringe personal liberty
 - Regardless, we yield a version of what Habermas calls "the internal connection between popular sovereignty and human rights"

- We have the result that at least some minimal assurance of personal autonomy is built into a system of popular sovereignty
- At least some rights of private autonomy are presupposed because the outcomes or results of the exercise of popular sovereignty can extend no further than the common good, understood in terms of the basic interests of each

How does the general will solve the fundamental problem

- **Non-domination:** The Sovereign as the people achieves the authorship requirement of freedom as non-domination; this reconciles having a sovereign/social order with preserving freedom
 - People ought to be the author of their own laws → in this way, while they are subject to the laws from the authority of the sovereign, these laws are imposed onto them by themselves → so they remain free; They obey no one but only their own will: “they nevertheless obey only their own will” (SC 2.4.8)
- **Positive Freedom:** Given the general will as transcendent and “always rightful and always tend to the public good”, this is something that individuals would rationally want → “forced to be free”.
 - And thus impose these laws onto themselves if they were rational → so this circumvents their internal barriers of impulses and irrationality to allow them to achieve what they would want
- How advancing everyone’s shared fundamental interests reconciles freedom and security seems evident: **everyone has fundamental interest in their own security and self-preservation, and if the sovereign advances such ends, it is as if each individual imposes the law unto themselves which meets the condition for freedom.**
 - The content of the general will must be general enough to advance everyone’s shared interests and people must be moved to desire to advance the common good – otherwise, people would not be as “free as before”.
- Two features of the association ought to be accounted for
 - The association ought to advance the common good
 - The requirement that the association advance common interests flows naturally from the idea that everyone must agree to it and everyone is moved by self love and so cannot be indifferent to his own interest → so if there were no assurance that it would advance each person’s interest, some people would not agree to it
 - But why would this imply that members give priority to advancing it over their own good? → requires members to make the common good their own supreme aim

- Perhaps agreeing to making this one's supreme goal is the only way to achieve it (otherwise they would cascade back into a suboptimal place)
- Rousseau thinks a bit differently: the principal reason is that common allegiance to the common good would be the only way for people to secure their freedom under conditions of interdependence → otherwise Prisoner's Dilemma
- Imagine the case where political society advances the common interest and each person again is required to comply with the laws. What distinguishes it is that each also identifies with the goal of the association
 - Each judges that what is best is to associate under conditions that advance the common good. Assuming this identification with the associational goal (and that the associational goal takes priority over personal goals), when members comply with the laws they follow their own will.
- Hence, by sharing the conception of the common good that the laws are assumed to advance, they achieve, in complying with the laws, the autonomy that comes from acting on principles they recognise as their own, from "obedience to the law one has prescribed to oneself" .
 - For citizens to have the general will as a rule is for them to have "their own will alone as rule" and because they have their own will as a rule, "[the social contract] leaves them as free as before" (SC 1.8.3). So if the conditions of self-love and interdependence require an agreement to an order that advances common interests, then the only way to achieve self-rule given self-love and social interdependence is through an agreement that establishes a shared will to advance those interest
 - This vision of self-governance achieved through political community is Rousseau's distinctive contribution to political theory

Is the general will transcendent?

- The inconsistency/contradiction lies in the fact that while Rousseau speaks of the general will as "always rightful and always tends to the public good", as something which we "discern" and thus is objective and independent of us, he employs a democratic procedure to locate it, an inherently contingent procedure
- Rousseau thinks that the general will is a transcendent standard rather than contingent on democratic procedure

- Bertram argues that Rousseau believes that given a context of sufficient social homogeneity and material equality, if the sovereign assembly is properly constituted and its procedures are properly followed it will be fallible but **normally reliable** mechanism for determining where the common good lies
- Rousseau argues that the general will must be inherently general in both its “object” and its “essence”
 - What Rousseau is committed to is the infallibility of the general will, not the infallibility of the democratic procedure → this is why he argues against “sectional associations” to promote independent voting
 - “It does not follow that the deliberations of the people are always right”

Direct Democracy

Locating the Common good

- Bertram argues that Rousseau believes that given a context of sufficient social homogeneity and material equality, if the sovereign assembly is properly constituted and its procedures are properly followed it will be fallible but **normally reliable** mechanism for determining where the common good lies
 - An assembly of individuals partaking in democracy → so obviously requires a smaller state
- Condorcet Jury Theorems
 - Requirements of independence in voting and >50% chance in getting the answer correct → voting would lead to the right outcome most of the time
- Problems with Condorcet Jury Theorems
 - Limited because need judgements to be independent
 - How to assign judgemental competence to people (what basis we should adopt) or how we might revise such assessments in light of experience of past choices
 - My thoughts: If we are presupposing that people are competent, then we are saying that if the majority chooses X, X is correct → why can’t we directly access X as the common good anyway? But if X is a transcendental fact in the sense that it is true independent of whether people choose it, but only can be revealed by such collective choice, we have no way to independently verify that the choice they selected corresponds with this transcendental fact

Government

Distinguishing the government from the Sovereign; the function of the government

- The government has an executive function; that is, to execute and administer the will of the sovereign → no legislative authority
 - Achieved via magistrates; elected Aristocracy

- Rousseau calls the government “an intermediary body established between the subjects and the sovereign for their mutual communication, a body charged with the execution of the laws and the maintenance of freedom, both civil and political”
- Does the common good specify specific statutes of the law? Or does it outline constitutional principles, in which the government interprets and thus forms specific laws
 - What does Rousseau mean by legislative or by laws? Does it correlate with what we think of as legislative? Like is the common good the law (fundamental rules of association) and the particular policy is interpretation within the framework of the laws and rules that the sovereign has laid down
- In *Letters from the Mountain*, Rousseau argues that the **power to propose laws lies in the government; the sovereign merely checks whether such laws are aligned with the common good**
 - Rousseau says each time the assembly of the citizens meet (regularly), the first order of business is always are we satisfied with the current form of government + people in government the government is accountable to the people
 - So it is not all that clear that the government has zero legislative power/capacity
- Betram: Rousseau does not oppose representative government but sovereignty → the government represents people and acts on its behalf only in interpreting and enforcing the laws, not in making laws
- Importance of institutions
 - Not only must institutions be designed in such a way that the general will emerges reliably from their operation, if it is not to remain a dead letter, it also has to be possible to get everyone to act as the general will decides
 - If citizens are perfectly virtuous and well-informed, if they have a strong sense of belonging to the community, it will be easy to get them to conform to the general will
 - But to the extent to which citizens are alienated from the community and their fellows, there will be a problem about getting them to obey the general will (even when they can still formulate and recognise the will) → realise that people in big communities may not even recognise the general will
- Why we need a government
 - Efficiency
 - Anti-corruption → citizens will lose the capacity for detachment and impartiality → matters of legislation and interpretation/enforcement should be separate → but Bertram argues that this is naive since judges make law in

the process of interpretation and one needs to interpret the law in order to make it

- Rousseau's mathematical analogies to drive the point that the government must be given more power as the population size increases
 - $P \times R = Q^2 \rightarrow Q$ is the 'mean proportional' between the two extremes of population of citizens and the sovereign (so X:1)
 - There is a growing sense of dissociation and alienation from the collective means that citizens are less and less likely spontaneously to comply with the common good \rightarrow accordingly, to get them to comply with the law, more repressive force and the threat of such force is needed, and governments must be given more power

Rousseau's preferred mode of government

- Rousseau prefers an elected aristocracy (the wise and virtuous as administrators of the state) as the form of government
 - Difference between elected aristocracy and democracy: democracy's definition changes over time -- when Rousseau is talking about democracy, elections are less central (modern times), he is thinking about ancient Athens a lot of government posts and judicial posts were allocated by lot (all citizens participated and could be elected) Athenian election is not a democratic institution and instead aristocratic (shift in language of democracy); democracy is understood as lottery-based elections
 - "Democracy is a system of governance only for gods"

The Lawgiver

The importance of the Lawgiver

- When society first starts, it is *a collection of individuals rather than a people* and so there would be very little agreement on common interests + insurmountable problems of compliance: citizens would be tempted to advance their short-term goals at the expense of the whole \rightarrow no assurance of cooperation
 - We need the lawgiver because Rousseau is committed to the view that human character/motivation is shaped by social institutions \rightarrow need to overcome difficulties they face in common + lack of life shared together
- Qualities of the Lawgiver
 - Must know passions of man in order to judge successfully which laws correspond to our common interest but he must not be subject to those passions himself because he would form institutions to his particular will otherwise + must build everlasting institutions
 - Basically God
 - Extraordinary genius

- But Bertram thinks that we assume the law giver needs to be one person → it can be multiple reflecting on other's mistakes (Madison + Hamilton)
 - The task of the lawgiver is to frame a system of laws that will serve as a constitutional framework for the new political order
- Purpose of the lawgiver: "the engineer who invents the machine"
 - The lawgiver has no dominion or superiority over man since his office is "neither that of the government nor that of the sovereign...nothing to do with empire over man; for just as he who has command over man must not have command over laws...[and vice versa]"
 - "Thus the man who frames the laws has not nor ought to have any legislative right"
 - Persuade without convincing since the people are cognitively ill-equipped to receive such reasons
 - But is this not contrary to freedom because it manipulates people → basically persuading is not necessarily through reason
 - His need to manipulate their desires rather than appealing to the good reasons that apply to them, creates an obvious difficulty concerning freedom → although the laws must be "submitted to the free suffrage of the people" (2.7.7) so the people seem to choose the laws that are to govern their lives, the explanation for why they choose as they do is that the lawgiver has arranged matters so that they will
- The importance of the lawgiver on legitimacy and social unity (can look to this for further political disagreement)
 - To form a state successfully, individuals have to be capable of **transcending the narrow standpoint of the neo-Hobbesian individual**
 - Scott writes: For Rousseau, a legitimate state must rest upon **an effective cultural basis: a community of shared mores, customs and opinions** → but this does not mean that a community of shared mores is constitutive of a legitimate state — a state is legitimate if the people exercise sovereignty through the expression of their general will → then individuals must be capable of reasoning together
 - **A community of shared mores is a necessary, but insufficient, precondition for a legitimate state**
 - The ideal state combines individual autonomy and partial privacy on one hand with affective unity, a sense of commonality and patriotism on the other → each element needs the other → individualism without community results in the triumph of the will of all and the self defeating competition; while community without individualism would mean the engulfment of the individual in society and the loss of moral responsibility

- Superior intelligence and the problem of equality
 - Inconsistent with Rousseau's rejection of natural aristocracy because he rejects "Caligula's reasoning" according to which "men are not naturally equal but some were born for slavery and others for domination" (SC 1.2.7)
 - A truly superior genius would not rule according to law simply because a law is general and thus misses the little nuances that shape particular instances

Rousseau's view of mankind and the necessity of the lawgiver

- The point of the lawgiver is also to "denature" mankind
 - "...must be ready...to change human nature, to transform each individual, who by himself is entirely complete and solitary, into a part of a much greater whole, from which that same individual will then receive, in a sense, his life and his being. The founder of nations must weaken the structure of man in order to fortify it, to replace the physical and independent existence we all have received from nature with a moral and communal existence"
 - "...each man must be stripped of his own powers, and given powers which are external to him, and which he cannot use without the help of others"
 - Powers external to him are the rights endorsed by the common will (the freedom to do what he would want in a situation of interdependence), and stripped of his own natural freedom
- So mankind in the state of nature is unsuited to exist in civil society
 - Must undergo an extensive change in terms of motivational structures

Miscellaneous points

Rousseau on Civil Religion

- Rousseau argues that the religion of humanity, "that of the Gospel" is "holy, sublime", inducing men to "look on all others as brothers, and the society which unites them is not even dissolved by death"
 - Rousseau's partiality towards Christianity was induced by the circumstances of his time, but his fundamental point seems to be correct – that we need to inspire civic virtue and political friendship → "It is very important to the state that each citizen should have a religion which makes him love his duty, but the dogmas of that religion are of interest neither to the state nor its members"
 - Civic education and not a religion → to inculcate basic virtues of civic friendship
 - Rousseau's opinion on civil religion is extreme for he posits that "For such a society to be peaceful...every citizen without exception would have to be an equally good Christian" but also argues that a Christian society would be conducive to tyrants since it is predicated on "servitude and submission"
 - Perhaps submission to the common good and general will?

- Rousseau recognises the problem with such religion is its disconnect with the body politic and laws → to connect religion with laws and combine divine worship with the love for laws is to “[deceive] men”
- Rousseau argues condition for the civil religion (which is obviously too partial towards religion)
 - “The existence of an omnipotent, intelligent and benevolent divinity...the life to come, the happiness of the just; the punishment of sinners; the sanctity of the social contract and the law...no intolerance”
 - We might adapt this in a more moderate form in today’s secular world and carry on virtues like no intolerance

Main Objections and Solutions

Legitimacy of the social contract: conflict between justifications grounded on rationality vs communitarianism

Conflict between justifications of legitimacy

- If we think of the parties to Rousseau’s social contract as moved solely by self-love, then there is — in a subtle way — a conflict between the idea that legitimacy is based on a collective choice and the conception of legitimacy is rooted in considerations of the common good
 - Rousseau may be considered a self-effacing Hobbesian in the sense that he supposes that individuals are initially motivated simply by their long term interests in protecting their persons and goods → as they become interdependent they recognise that mutually beneficial coordination is possible and that this is the best solution to securing long term self-interest
 - But as people form a political community, people no longer regard themselves as fundamentally self-interested (conflict would emerge between contractual legitimacy and the conception of legitimacy rooted in the general will if we think them as solely of self-interest)
 - Their chief allegiance has shifted fundamentally toward the common good (because that is the way to preserve their self-interest) → their practical principle for living in a political community is communitarian because self-interest would compromise their coordination (prisoner’s dilemma)
 - The general will consists in acknowledging that **self-interested reasons are not fundamental**: if they have a social contract justified by self interest, there is then no single point of view which embraces both the contractual justification and the general will; there is no perspective from which the general will can be regarded as the basis for political legitimacy because it would be agreed to
 - Since the general will is transcendent in nature and requires for us to acknowledge communitarian reasons as supreme reasons for action

because their chief allegiance has shifted towards the common good, but the social contract is justified on the basis of people voluntarily and thus self-interestedly entering the contract, then there is a conflict between legitimacy → we cannot simultaneously hold that an association is grounded on the general will and a rational entry into the contract

Cohen's proposed Solution: Entrance into contract is a **matter of political morality** (basically people can voluntarily enter into a contract for reasons *other than self-love/interest*)

- Denies that Rousseau was a self-effacing Hobbesian
 - Cohen thinks that Rousseau did not hold such a theory since he gives no evidence of believing that a contractual justification for the authority of the general will cannot be given to those who have such a will
 - The problem is not “what sort of society would rational, asocial, and purely self-loving individuals agree to” → instead it is “What form of association would socially interdependent individuals agree to, if they were interested in protecting their person and goods and in being as free as before — that is in expressing the freedom that belongs to their nature.”
 - We are free by acting from the moral law, using it as our supreme practical principle
 - Rousseau's view is that under the conditions of social interdependence that he is assuming to obtain as background to the social compact and the investigation of principles of political right, human beings animated by self-love can only express their free nature by having a general will and using it as the supreme guide to conduct
- Denies self-effacing Rousseauism (intensely communitarian line of argument)
 - The social compact plays no role in political justification: Self-effacing Rousseauism where the justification for living in a free community of equals with its concern for the common good of members — the fact that a free community of equals solves the fundamental problem by enabling people to protect their basic interests without being subject to a morally unacceptable subordination of will — would be unavailable to the members of such a community
 - Unavailable practically speaking, **because such members would understand themselves exclusively in national terms and need to understand themselves this way in order to be motivated to comply with the terms they would agree to as free agents facing conditions of interdependence**
 - Agreement would be intellectually intelligible to them but the fact that *free persons would make such an agreement would*

not provide them with considerations that they take to be reasons

- How this resolves the conflict
 - Because there are alternatives to the social arrangement, the allegiance to the common good is seen as simply one possible allegiance among many → they choose to work in service to the common good and thus are volunteers in that service
 - But this is insufficient: Rousseau supposes that a person who is self-consciously free **desires to act in ways that express that freedom** (through being moral). In view of that desire, the instrumental attitude is not satisfactory. For such a person wants more than the availability of alternatives within a system of laws and institutions that he/she views as constraints imposed by others
 - He wants instead to be able to regard those “constraints” as themselves conforming to their own judgments of what is right
 - No instrumental attitude which regards the social framework as constraining: the free person wants to affirm the framework of rules itself and have their “will alone as rule” (LM 232)
 - It is the primacy of moral reasons, rather than self-interests, as an expression of freedom, which moves the individual who desires to be free to voluntarily enter the contract
- Summary of Cohen’s solution: If we suppose that advancing the common good is a matter of political morality, we disentangle the two strands of legitimacy from being in conflict. So people would autonomously agree to the authority of a transcendent general will because advancing the general will is right. People express their autonomy via following what is morally right and thus the social contract can continue to draw its legitimacy from people autonomously agreeing to it and from its correspondence to the general will.
- Justification: The alleged conflict has two strands given that there are two interpretations of “based on considerations of the common good”
 - The first is to base legitimacy on such considerations is to accept the communitarian-relativist theory that the rightness of an action simply consists in its advancing the common good of the community to which the agent for whom the action is right belongs → this makes for a conflict between the general will (since the general will is a transcendent principle) and the idea of contractual legitimacy → but Rousseau’s endorsement of a contractual conception indicates that he did not think that this is the correct account of rightness
 - The second is to endorse the idea that legitimacy is based on considerations of the common good is to **endorse the substantive thesis that advancing the common good is right** — required as a matter of political morality — but not

to propose any view at all about what rightness is. But now the problem of conflict is no longer clear. To think that legitimacy is based on a contract among autonomous agents and that it is based on a general will focused on the common good is simply to think that the contract among members, understood as free agents, would issue in an agreement to the authority of the general will and to accept that authority in part because the contract would have that result → Cohen thinks that this is a plausible claim about the initial agreement and about the conditions of self government under conditions of social interdependence

- Basically, people want to achieve what is right → which is the common good → because political morality (as per Kant) is how they express their autonomy and true freedom. This entails a motivational structure that cannot be wholly animated by self-love/egoism
- Objection: Cohen's proposed resolution hinges on the generality of the general will, which once disputed, reveals the insufficiency of his supposed motivational structure to animate people to freely agree with the contract.
 - If people cannot agree on the general will, then people cannot agree on political morality

Nature of the General Will

Is the General Will General?

- Basically extensive Political disagreement: General consensus seems too implausible even in small groups → degree of implausibility and extent of these troubles depend on how much agreement he is supposing, or needs to suppose to make the account of the society of the general will work

Cohen's consistency reply

- Consistency of agreement on the ends of association (common good) with considerable factual disagreements about how best to advance those ends
 - Judgements on the appropriate form of government or about the level of revenue by the government to carry out its business — no answer to the question that applies across all circumstances
 - Basically, Cohen is proposing that differing particular conceptions of the good can be reduced to fundamental shared beliefs about the common good — such as advancing liberty or caring for human rights

Problem with Cohen's consistency reply: underestimates the degree of political disagreement

- From my essay: I think that this understates the nature of disagreement that occurs within political society. Just because person A thinks of his legislative proposal A1, as person B thinks of his legislative proposal B1, as advancing the same 'shared

fundamental interests', does not imply that their understanding of the same 'common good' precept is the same. In fact, it is often the case since that a specific piece of legislative opinion is a direct expression of my interpretation of the common good precept, any alternative legislative opinion seems, to me, to violate the common good.

- By way of example, consider people deciding the level of taxation. Everyone agrees that the common good would be best expressed through advancing liberty. Let us think that person 1 wants no tax and person 2 wants some tax and both think that they are preserving liberty. But despite both legislative opinions being rooted in the same precept, we can see how person 1 would think of person 2's taxation policy as a violation of liberty (if he thinks taxation is theft) and vice versa, and hence a *violation* of the common good. But it is not simply that an alternative legislative opinion is different from my own – it is in an adversarial relationship with my own interpretation of the common good. And since any exercise of the general will must commit itself to some particular interpretation of the general will through authorising legislative action, it seems difficult to think that the general will can truly achieve generality.
- The lack of generality within the general will reveals the insufficiency of Cohen's quasi-rational motivational structure in his notion of political morality mentioned earlier.
 - It is quasi-rational because people are not solely moved to accept the contract because of 'self-love' but also based on what they think constitutes the common good and political rightness.
- If we adopted the weak form of political disagreement as previously assumed, then because my legislative opinion is merely different from yours, even if your opinion prevailed in the (democratic) vote, I could still access rational reasons to think your opinion as constitutive of the common good.
 - But my legislative opinion is not *merely different* but *at complete odds* with yours, such that the prevalence of your proposal would violate my conception of the common good.
 - In this sense, our conceptions of the common good, despite being grounded on the same precepts, are actually incommensurate with one another. It becomes almost implausible that I can rationally accept reasons as to why your opinion advances the common good. In this way, the participants of the political community, in Rousseau's words, did not consent to 'wills that are not his own'
- Relation to Cohen's Political Morality solution to contractual legitimacy:
 - We can see how this undermines contractual legitimacy as a matter of political morality: the strand of contractual legitimacy derived from

autonomous agreement would only be justified if everyone agreed on what the political right, as a result of a unified general will, was.

- But people hold incommensurate conceptions of the right, and since to exercise the general will requires us to express some particular conception of it through legislation, some people would think such actions to be simply wrong and thus would not be motivated to agree with it.
- And if people are not motivated to contract with one another, they no longer retain their status as free agents and cannot be said to impose the 'laws onto themselves'.
- Communitarian solution (too drastic?): The only way for us to resolve this, it seems to me, is to commit ourselves to the strongest communitarian tendencies in Rousseau, through some self-effacing Rousseauism, in that people above all else, prioritise cooperation because they think themselves 'exclusively in national terms' – the extremity lies in the fact that it does not even matter to them what they individually think the common good is.
 - So even if their conceptions of the common good are incommensurate, people willingly contract to some conception for the sake of cooperation. However, it is clear that such a motivational structure is too extreme and empirically far-fetched and thus cannot be accepted as descriptive of humans. There must be at least some element of self-interest that must be included in any human motivational structure.

Allen's Political Friendship and intertemporal common good

- Allen begins from the premise that sacrifice is a "necessary democratic fact", that our benefits we receive necessarily come at the "expense of others" even if society generally benefits
 - This results from the fact of fundamentally differing preferences and goods
 - Does not try to eliminate the notion of harm and sacrifice unlike Cohen
- Instead, Allen does not believe that democracy is a static game but rather iterative, repeated games → legislation is continuously repeating
 - So, the common good is necessarily intertemporal and not achieved at one point in time
 - Sacrifices can be "honoured" and "reciprocated" in the future by others
- Therefore, Allen espouses a culture of "political friendship" where the "burdens and benefits are shared equally" among individuals in the polity; there is mutual understanding of the need for sacrifice and emphasis on reciprocity
 - The common good is no longer so naive such that no one can lose out; it is the importance of self-authorship and freedom as non-domination that drives the common good → it evolves into a requirement of mutual acceptance and self-imposition by citizens

- Allen's political friendship is consistent with autonomy: by legitimate "sacrifice", Allen argues that it must be voluntary – one must not "be sacrificed". Further, sacrifice creates political/moral obligations in people: it is the recognition that sacrifices are needed for the common good that drives people to autonomously accept this moral burden onto themselves, with an underlying expectation that their sacrifices will be honoured and reciprocated
- Allen's political friendship is advantageous in that it allows us to admit that people lose out in particular democratic instances, but that through reciprocity, have their interests/conceptions of morality promoted overall
- Remains general in the sense that the common good benefits and costs each person equally (or insofar as it matters)

Stuart's View: Rousseau's social contract is just modern day democratic constitutionalism

- Rousseau's ultimate proposal is just is modern day democratic constitutionalism
 - Citizen assembly which chooses law (constitution) which constrain the government and the assembly selects the government → Underpins most democratic states 'We the people' is a popular sovereign
- The logical structure of government: then where do all our criticisms go?
 - Hinges on whether we think we are free today
 - My view: We need to disentangle between our notion of whether our current system is good governance vs whether it answers his fundamental question
 - So it is consistent to accept that modern day democratic constitutionalism is, for the most part, good but yet insufficient in answering Rousseau's question (cannot reconcile freedom and security → prioritisation of the good)
- Tutor: the democratic constitutionalism is necessary but not sufficient for freedom
 - Kind of agree actually
- We have great amount of factionalisation: so Rousseau may not think that today's system is akin to democratic constitutionalism
 - But can just give up party systems
- Rousseau has an affinity to reduce inequality
 - If you have an economy generating lots of class inequality then there may be no common good to identify (good point) since there is completely incommensurate aims of different classes

Freedom in Civil Society

Transgression of negative liberty/paternalism

- Rousseau's proposal is one of explicit paternalism: we can see this via the common good and disagreement → either "tyranny of the majority" by appeal to the fact that

X is desired by the majority or paternalism through justification via rationality (e.g. no smoking)

Response #1: The common good collapses into mere protections of security and autonomy of individuals + better off than the State of Nature

Response #2: Positive freedom is more important and thus paternalism is justified

- Thought experiments on the absurdity of Mill's complete anti-paternalist stance
 - There must be some admission that people must be prevented to do things even if everyone consents to it
- Still remain non-dominated