

LECTURE NOTES **PHILOSOPHY 166**
JEAN-JACQUES ROUSSEAU, *THE SOCIAL CONTRACT*, BOOK I

Postscript on Rousseau, *Discourse on the Origin of Inequality*.

Rousseau versus Locke. Part II of the *Discourse on the Origin of Inequality* opens with the observation that the human race would have been spared great misery and crimes if the first person who claimed to have appropriated a plot of land as his private property had been exposed as an imposter and not allowed to maintain his appropriation. Rousseau adds that by the time this event occurred it was probably already too late to stop the inexorable forces that caused the rise of social inequality. But two pages later Rousseau states that only some “fatal chance happening” could have led to the demise of primitive society with no significant social inequality.

On page 69 Rousseau reiterates the assertion that appropriations purporting to establish justified private ownership do not succeed. Even if the appropriation is not simply a taking by force, but rests on industry, it is not morally valid, because an appropriation of an unowned part of the earth is an appropriation of what belongs to all in common and would be valid only if the appropriator first obtained the consent of all mankind before claiming private ownership. In the absence of such unanimous consent, laboring industriously on land no more makes one deserving of special reward than would laboring industriously on already owned land without the owner’s consent. Locke explicitly denies that the consent of all mankind is a necessary condition of justified appropriation of unowned land or chunks of the earth. How else might Rousseau support the contention that all claims to justified private appropriation misfire?

Locke (roughly) holds that under conditions of nonscarcity, one legitimately acquires private ownership of an unowned plot of land by laboring on it and claiming it as property, provided one does not let the land go to waste and one leaves “enough and as good” for others. Under scarcity, one legitimately acquires private ownership of an unowned plot of land in the same way, provided that one’s appropriation either satisfies the conditions just listed for nonscarcity or leads to no waste and does not harm nonappropriators relative to the baseline of continued free use. Locke also holds that large inequalities in possessions arise only with the use of money, and since money is conventional, and has value only so long as people accept it as having value, we all consent to the use of money and so consent to its consequences, including inequality. Such consent is reasonable, according to Locke. He notes that the worst off individual, the poorest day laborer in a money exchange economy such as that in England, is better off than the best off individual, a chieftain, in a society lacking money exchange such as a North American native tribe. (So far as I can see, in the absence of money and tacit consent to it, inequality of possessions would still be morally permissible according to Locke provided the no waste and no harm to nonappropriators conditions are satisfied.)

Disagreeing, Rousseau might be read as holding one or more of the following positions:

- (1) He accepts the consent test but holds that the use of money and the rise of inequality of possessions does not in fact gain unanimous voluntary consent. People do consent, but their consent is either given under duress (there is no real choice) or is given under substantial ignorance of the implications and consequences of what they are consenting to.
- (2) He accepts the harm test for justifiable appropriation under conditions of scarcity, but disagrees with Locke that the test is generally satisfied. In fact, the worst off in a money exchange economy are materially worse off than they would have been under a common use or free use system. The North Americans are better off than the poorest day laborers in England cited by Locke.
- (3) He accepts the harm test (appropriation is unjustifiable if it makes nonappropriators worse off) but thinks it is not generally satisfied in fact, even if we are all materially better off under a money exchange economy. To apply the test, Rousseau might hold, we must take into account the psychological and cultural as well as the material effects of inequality. In the England/North America comparison, even if the poorest day laborer in England is materially better off than the North Americans, he is far worse off than they in overall well-being, because he is living “outside himself,” seeking the regard of others in ways that undermine his integrity and ruin his well-being.
- (4) He denies that the harm test is a sufficient test for justified appropriation. Appropriation of unowned land under conditions of scarcity might leave no one worse off than she would have been under continued free use, but free use is so economically inefficient that this is not the morally relevant comparison. If one is made worse off by an appropriation by another than one would have been under a system that is better

for oneself and unfair to no one, then one has a justified complaint against the appropriation, one might hold.

The issue would then be whether the text of the *Discourse* warrants the attribution of any of (1) through (4) to Rousseau and whether Rousseau or Locke has the better of the argument regarding justified appropriation and private ownership.

Rousseau is explicit that he does not insist on a strict egalitarianism that would require that all possessions and privileges be held equally by all. At the end of the *Discourse* (page 81) Rousseau writes, “moral inequality, authorized by positive right alone, is contrary to natural right whenever it is not combined in the same proportion with physical inequality.” Rousseau might be saying that social inequality in honor, possessions, or privileges is morally legitimate just in case it corresponds to inequalities in people’s genuine merits. For example, the “moral inequality” authorized by convention that consists in the awarding of a substantial prize to the winner of a foot race, is justifiable just in case the physical attribute of being the fastest runner merits the prize. There must be due proportionality between the social inequalities that society dispenses and the genuine merits of the people who get the long end or the short end of the inequality. (For example, if all the runners finish almost at the same moment, there is a huge cash prize to the winner, and no prizes for finishing second, third, and so on, one might argue that due proportionality is not observed.) The same would go for other worthy accomplishments and activities. If the social inequality of great prestige accrues to the best scientist who makes the most creative discoveries, that inequality would not be contrary to natural right according to Rousseau. In short, the proposal would be that social inequality is justifiable just in case the unequal rewards and remuneration are proportioned to the true merits of the recipients.

Notice that Locke will disagree with this proposed test for justified inequality. According to Locke, if Smith legitimately appropriates land, works hard, and leaves an estate to his daughter Sheila, then Sheila may be no more deserving or meritorious than Sally or Ann, who receive no inheritance (their fathers perhaps through bad luck or lack of industriousness built up no comparable estates). In this case the inequality in possessions between Sheila on the one side and Sally and Ann on the other is not deserved or merited, but is morally OK nonetheless. Sheila is entitled to her inheritance; her ownership of it violates no one’s Lockean natural rights.

THE SOCIAL CONTRACT, BOOK I.

Comments by Rousseau in the Dedication to the *Discourse on the Origin of Inequality* anticipate the themes of the *Social Contract*. In the Dedication Rousseau writes that he wants to live in a country where “the interest of the sovereign could not be separated from that of the subject.” When this condition holds, the movements of the political machine, Rousseau says, would always tend “only to the common happiness.” This condition only obtains when “the people and the sovereign were one and the same person” (p. 26), which means the government must be a democracy. In the next paragraph Rousseau writes that if he could have chosen his birth place, “I would have wanted to live and die free, that is to say, subject to the laws in such wise that neither I nor anyone else could shake off their honorable yoke.” Here we get in a nutshell the themes of *The Social Contract*. They are puzzling. How does the existence of democracy guarantee that the interest of the individual subject and the interest of the sovereign law-making authority always agree? Why does being subject to the laws of a democracy qualify as being free?

In Book I, chapter 1, Rousseau announces his project: “Man is born free, and everywhere he is in chains. He who believes himself the master of others does not escape being more of a slave than they. How did this change take place? I do not know. What can render it legitimate? I believe I can answer that question.” In other words, although man is not born naturally in subjection to others, we in fact observe ongoing political societies, which issue commands backed by dominating force. Rousseau is going to characterize the conditions that render the exercise of this political authority by governments morally legitimate.

What does Rousseau mean by saying that the self-described master of others is more of a slave than they? Notice that one who rules others by force and threats would seem to have the natural freedom that the individual in the state of nature as characterized by Rousseau enjoys. He is not subject to the will of others; others are subject to his will. Whatever exactly Rousseau means here, this is a hint that several different

notions of freedom or liberty will be in play in this discussion, and we will need to keep straight what these different notions of freedom are and which ones Rousseau thinks are worth caring about.

One might have the idea that Rousseau's project is to see whether in society we can somehow recapture as much as possible of the freedom that individuals enjoy in the state of nature. Book I, chapter 8 makes it plain that this is not at all what Rousseau is up to. The state of nature is irrevocably past, we cannot return to it. Nor should we want to. In the state of nature man is a beast, happy perhaps, but a beast. In society man becomes capable of morality and capable of a kind of freedom that amoral animals cannot enjoy.

Rousseau also makes it clear at the outset that the project is not to describe a utopia—an ideally desirable condition that humans cannot reach. Rather we are inquiring whether there can be a legitimate form of civil order, and in this inquiry we are “taking men as they are and laws as they might be.” We want to describe a social order that is desirable for humans like us, not angels.

In Book I, chapter 8, Rousseau notes that in the state of nature the human animal follows her inclinations unthinkingly. In the transition from the state of nature to the civil state there is a transformation: “Only then, when the voice of duty replaces physical impulse and right replaces appetite, does man, who had hitherto taken only himself into account, find himself forced to act upon other principles and to consult his reason before listening to his inclinations” (pp. 150-151). You might object that in the Rousseauian state of nature man is said to be moved by pity as well as self-love, so he does not only take himself into account in deciding what to do. But whether one acts from pity or self-regard, one is acting to satisfy one's strongest desire of the moment. Rousseau supposes that with moral notions in place for the individual trained in society, one can be moved to act on rules or principles one accepts even when their requirements oppose our desires and inclinations.

In leaving the state of nature by contract, one would lose “natural liberty and an unlimited right to everything” one wants to take or do, and one would gain “civil liberty and the proprietary ownership of all he possesses” (p. 151). Civil liberty is the freedom to do what the laws specify is allowed, it is freedom limited by law. In the state of nature one has no moral ideas, hence one lacks the idea of anything belonging by right to one person or another. In civil society, one has moral notions, and can regard oneself as rightly owning things and others as under duties to respect one's morally justified possessions. In a crucial passage Rousseau adds that in civil society one for the first time gets “moral liberty, which alone makes man truly the master of himself. For to be driven by appetite alone is slavery, and obedience to the law one has prescribed for oneself is liberty” (p. 151).

Here is a reason for thinking the slavemaster may well be as much a slave, in an important sense, as the slave. Just acting on one's desires is slavery—you can be slave to your own desires. In contrast, moral freedom or autonomy is obedience to a rule or principle that you impose on yourself.

With this idea in hand, let's return to Book I, chapter 6, where Rousseau poses the “fundamental problem” of his book, the problem to which the social contract is the solution. The task is to “Find a form of association which defends and protects with all common forces the person and goods of each associate, and by means of which each one, while uniting with all, nevertheless obeys only himself and remains as free as before” (p. 148). The solution in capsule form is immediately given. The social contract must require “the total alienation of each associate, together with all of his rights, to the entire community. For first of all, since each person gives himself whole and entire, the condition is equal for everyone; and since the condition is equal for everyone, no one has an interest in making it burdensome for the others.”

Of course this sounds paradoxical. You turn your freedom over to the community, and remain as free as before. Giving up all rights to the state somehow ensures the protection of all one's rights.

Just to get all of the (apparent) paradoxes on the table, look at Book I, chapter 7. There Rousseau notes that each individual has private interests, which might lead her to act against the general will (the will of all citizens directed toward the common good). When you will to act on your private interests we can say you have a private will. Acting from my private will, I can act against the general will. What then? Rousseau writes that “in order for the social compact to avoid being an empty formula, it tacitly entails the

commitment—which alone can give force to the others—that whoever refuses to obey the general will will be forced to do so by the entire body. This means merely that he will be forced to be free.” But what exactly does it mean to be forced to be free? Is Rousseau making a good point or just playing fast and loose with the language of freedom? When the ruler orders me to give up all my property and I am coerced to obey, am I being forced to be free? Maybe if I violate just laws I forfeit my liberty and deserve to be put in prison, but why say in that circumstance that I am being forced to be free?

Suppose my self-imposed rule is to go on a low calorie diet, but I am tempted by heaping bowls of ice cream and piles of chocolate candy and other delicious foods forbidden by my diet. If I succumb to temptation, and pig out, I may be a slave to my appetites. In some circumstances I might welcome coercion—a friend who threatens me with a severe penalty in case I eat food forbidden by my diet. I am being forced to do what I reasonably choose to do. But in this case we might resist saying I am being forced to be free, and we might deny that acting in conformity with my diet under threat is obedience to self-imposed law and should qualify as exemplifying moral liberty or autonomy.

Consider Uncle Tom, the hero of *Uncle Tom's Cabin*, the nineteenth-century antislavery novel by Harriet Beecher Stowe. Tom is described as a staunch Christian. His principles are those of the New Testament. He prefers, as he says, to be a free man and poor in Kentucky to being the slave of a rich man in Virginia, with access to the rich master's wealth. But, in conformity with his principles, he will obey whatever orders the slave master gives, so long as the orders do not violate his principles. When Simon Legree the slaveowner orders Tom to beat another slave, Tom refuses, for this assault would be contrary to his Christian principles. Simon orders Tom to be beaten and then chained in the cellar. Ordered again to comply with the order to beat an innocent slave, Tom again refuses. He stands fast by his principles, a man of integrity to the end. Question: Does Tom have moral freedom, autonomy, as conceived by Rousseau? We need to make a distinction Rousseau does not explicitly make. Let's distinguish autonomy of disposition (one is firmly disposed to act only according to self-imposed rules whenever one has the opportunity to do so) and autonomy of action (one has autonomy of disposition and in addition one has wide opportunities to act according to one's self-imposed rules). Bound from head to foot, Tom has no opportunity to act on his principles, so he lacks autonomy of action, but he is firmly disposed never to violate his principles, so he achieves autonomy of disposition. Given that Tom has autonomy of disposition, it is true of him, at the time he is tied hand and foot, that if he were untied and had the opportunity to act he would choose to act only according to his self-imposed principles.

When Rousseau says the social contract gives us moral freedom, he is thinking of autonomy of action. Autonomy of action can be had only if circumstances are favorable, and afford one freedom to act on one's principles. (There might be empirical connections between lacking opportunities to act as one chooses and the development of the character trait of autonomy of disposition. Perhaps slavery tends to produce slavishness, as Rousseau asserts.)

Notice also that nothing says the person who achieves autonomy must be acting on correct or plausible moral principles. The autonomous Nazi acts always on the self-imposed principle to promote the triumph of the Aryan race over all other races. He is autonomous, even if despicable.

Rousseau associates moral freedom or autonomy with democracy of a certain type. Rousseau is seeking to specify procedures of law-making that guarantee that, at least if the right sort of people are going through the procedures, the laws the government administers will be oppressive to no one and will work fairly for the good of all. Here each can accept the law in good conscience, and in obeying this ideal democratic law one is not succumbing to slavish appetite or cowardly inclination but is obeying laws that satisfy one's conscience, so one attains autonomy in conforming to law.

Are there such procedures? What does democratic equality, even if desirable for its own sake, have to do with autonomy? One might think that democracy is not necessary for autonomy, for if one is fortunate to be ruled by a good king, who enforces Lockean rights fairly, one can obey the king's laws without violating one's principles. One might also think democracy is not sufficient for autonomy: Democratic legislation passed by fair procedures might be substantively immoral, might enact tyranny of the majority,

for example. In such a case one could not, if one had reasonable moral principles, obey the law while acting only in conformity with one's principles.

One issue then is to get clear why Rousseau associates being a participating member of a social contract society, a political society whose policies accord with the general will, and being free in the sense of senses of freedom that matter to him.

Notice that besides the issue, whether Rousseau does successfully show that the form of democracy he embraces does guarantee individual freedom, there is also the issue, why being free as Rousseau conceives of it should have make-or-break significance. Why is the freedom Rousseau prizes a value that trumps all others?

In this connection one might hold that a society might trade off freedom for other benefits. One should also notice that there are conceptions of freedom that Rousseau does not appear to care about at all. Consider what I shall call *wide option freedom*. One has wide option freedom to the extent that one has the opportunity to choose among a larger, rather than smaller, set of diverse and valuable options. The larger the set of significantly different and valuable options any of which one can choose, the more wide option freedom one has. In a hunter gatherer with assigned traditional social roles, I might have no choice of occupation—I must be the maker of bows for hunting with bow and arrow, say. This might be an interesting and fulfilling occupation, but I have no other choice. In contrast, if I live in a modern big city, and could become either a baker, a butcher, a candlestick maker, a lawyer, a masseuse, an insurance underwriter, a carpenter, a hunting guide, a policeman, etc., etc, I have lots of wide option freedom (with respect to choice of occupation). Same goes, perhaps, for other dimensions of my life. I see no sign Rousseau places any value on wide option freedom. IF people have more wide option freedom in hierarchical Paris than in the austere city of Geneva, that is not for Rousseau an advantage on the side of Paris.