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9 Rousseau at Harvard

John Rawls and Judith Shklar on realistic utopia

Céline Spector

What remains today of Rousseau's theory of political justice? As a precursor of the Kantian concept of autonomy, Rousseau seems to be one of the main inspirations for John Rawls' *A Theory of Justice* and *Political Liberalism*.¹ As Rawls put it, "Kant's main aim is to deepen and justify Rousseau's idea that liberty is acting in accordance with a law that we give to ourselves."² The original position, which conceives of all people as morally free and equal, can be traced back to Rousseau through Kant, who "sought to give a philosophical foundation to Rousseau's idea of the general will."³ In his stated wish to round off the tradition of Locke, Rousseau, and Kant, Rawls also cites the *Social Contract* as one of the sources for his theory of a "well-ordered society," arguing that it opened the way for him to combine a contract-based theory of justice with a reflection on the stability of a just society.⁴

In *A Theory of Justice*, Rousseau's contractualism is instrumental in clarifying how the concept of *equality* is bound up with the concept of *liberty*; it accounts for the formation of the motives that will enable

¹ John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1972), henceforth *TJ*; *Political Liberalism*, expanded edition (New York: Columbia University Press, 2005). In *Au prisme de Rousseau. Usages politiques contemporains* (Oxford: Voltaire Foundation, 2011), I devote a chapter to the profound engagement with Rousseau in Rawls' major works. See also John C. Hall, *Rousseau: An Introduction to His Political Philosophy* (Plymouth: Macmillan, 1973), 140–146; Patrick Neal, "In the Shadow of the General Will: Rawls, Kant, and Rousseau on the Problem of Political Right", *The Review of Politics* 49.3 (1987), 389–409; Johnny Goldfinger, "Rawls and Rousseau's Political Projects: Two Sides of the Same Coin?", Paper presented at the annual meeting of the Midwest Political Science Association, Chicago, 12 April 2007 (www.allacademic.com/meta/p197887_ind ex.html); Grace Roosevelt, 'Rousseau versus Rawls on International Relations', *European Journal of Political Theory* 5.3 (2006), 301–320; Robert Jubb, "Rawls and Rousseau: Amour-Propre and the Strains of Commitment", *Res Publica* 17.3 (2011), 245–260; Christopher Brooke, 'Rawls on Rousseau and the General Will', in *The General Will: The Evolution of a Concept*, ed. David Lay Williams and James Farr (Cambridge: Cambridge University Press, 2015), 429–446.

² *TJ*, 256. ³ *Ibid.*, 264.

⁴ On the contractualist interpretation of Rousseau, presenting him as a liberal, see B. Barry, *Political Argument* (Berkeley: University of California Press, 1965); Hall, *Rousseau: An Introduction (op. cit.)*.

institutions to survive in the long term. Rawls does not merely fasten onto Rousseau's idea that the "basic structure" of society lies in its economic, social, and political institutions: he partly situates the origins of his theory of the "sense of justice" (which enables reasonable agents to understand and follow principles of justice) in *Émile*.⁵ Far from being a source of totalitarianism or a gravedigger of liberty, as he was depicted in a certain Cold War liberal tradition,⁶ Rousseau thus appears as the advocate of a just and stable society, conceived as the essential prerequisite for true freedom. For the first time in the history of political thought, Rousseau is considered by Rawls as a forerunner of political liberalism.⁷ Rousseau's definition of autonomy as obedience to law that one has laid down oneself is at the heart of modern political theory.

But one needs to be clear as to *which* Rousseau is the ally of Rawls' political liberalism. This chapter will focus on the reading outlined in Rawls' *Lectures on the History of Political Philosophy*, given to Harvard undergraduates between the second half of the 1960s and the second half of the 1990s, and more precisely on the final version (1994) edited by Samuel Freeman in 2007.⁸ In these synoptic courses, covering the period from Hobbes to Marx (taking in Locke, Hume, and Mill, and a few variants), Rawls ventures a bold interpretation of Rousseau in terms of "realistic utopianism";⁹ the *Social Contract's* well-ordered society is not a mere utopia but a "realistic" one. Following Judith Shklar, his colleague and friend at Harvard who inspired his reading of Rousseau,¹⁰ Rawls

⁵ *TY*, §69, 462.

⁶ See especially Isaiah Berlin, *Freedom and Its Betrayal*, ed. Henry Hardy (London: Pimlico, 2003), 27–49; J. L. Talmon, *The Origins of Totalitarian Democracy* (London: Secker & Warburg, 1952); L. Crocker, *Rousseau's Social Contract: An Interpretative Essay* (Cleveland: Western Reserve University Press, 1968). On this tradition, see also Christopher Brooke's contribution in this volume (Chapter 8).

⁷ "This concept of justice [as fairness] is closely related to the theory of the social contract; in particular there are close similarities, as I have only recently come to realize, to Rousseau's concept of the general will in *Le Contrat social*." (J. Rawls, "Constitutional Liberty and the Concept of Justice", *Nomos VI: Justice*, ed. C. Friedrich and J. Chapman (Atherton Press, 1963), 100, n. 1, in *Collected Papers*, ed. S. Freeman (Cambridge, MA: Harvard University Press, 1999), 74.

⁸ Rawls, *Lectures on the History of Political Philosophy*, ed. S. Freeman (Cambridge, MA: Belknap Press, 2007), 140, 152, 155 (henceforth *Lectures*). The text was also intended as a historical introduction to Rawls' *Justice as Fairness: A Restatement* (Cambridge, MA: Belknap Press, 2001). Rawls stopped teaching in 1995.

⁹ See Rawls, "Some Remarks about My Teaching", quoted in "Editor's Foreword", *Lectures*, xii–xiv. See M. Frazer, "The Modest Professor", *European Journal of Political Theory* 9.2 (2010), 218–226.

¹⁰ Rawls's heavily annotated copy of Shklar's *Men and Citizens* is in the Harvard Archives (HUM 48.1 Box 9). These notes and Rawls's reaction to Shklar's book – evidence of a lively dialogue – require further investigation. I am grateful to David Armitage for this insight.

denies the opposition between “realism” and “utopianism.”¹¹ But contrary to her, he insists on the procedural dimension of Rousseau’s theory of justice. The result is a Kantian reading of the *Second Discourse* combined with an ultra-rationalist interpretation of the general will in the *Social Contract*, which in the end lay some of the conceptual foundations for *A Theory of Justice*.

I A Kantian reading of the state of nature

As a Harvard professor, Rawls devotes several masterful lectures to Rousseau, who is presented as a turning point in modern political philosophy after Hobbes, Locke, and Hume. Rawls does not conceal his admiration for the *Social Contract*, presenting it as the key work in French, comparable in significance to the *Leviathan* in English. Indeed, Rousseau’s work is regarded as being unequaled in its combination of speculative power and literary talent.¹² Rawls discusses two fundamental texts: the *Discourse on Inequality* (*Second Discourse*) and the *Social Contract*. His course naturally had to fulfill the pedagogic function of introducing Rousseau’s political thought to students within the wider framework of an introduction to modern political philosophy. Therefore, the sequence from the *Discourse on Inequality* to the *Social Contract* is reduced to a sketch – one of the aims of the course being to resolve the apparent contradiction between the pessimistic picture of social oppression in the first text and the utopian optimism in the second.

Rousseau’s account of the state of nature is the first highlight. Mainly inspired by N. H. Dent’s work after its publication in 1988, Rawls distinguishes between two senses of self-love: a broad *desire for recognition* and a narrower *desire for preference*.¹³ The bare concept of *amour propre* is simply the demand for recognition and acknowledgment as a being of

¹¹ Political theory had a strong tradition in Harvard, represented by Judith Shklar, Harvey Mansfield, and Michael Walzer in the Government Department, and in the Philosophy Department by John Rawls and Robert Nozick. The intellectual relationship between Rawls and Shklar has yet to be studied. See Bernard Williams, *In the Beginning Was the Deed: Realism and Moralism in Political Argument* (Princeton: Princeton University Press, 2005), chap. 5; Seyla Benhabib, “Judith Shklar’s Dystopic Liberalism”, *Social Research* 61.2 (1994), 477–488; Shaun Young, “Avoiding The Unavoidable? Judith Shklar’s Unwilling Search For An Overlapping Consensus”, *Res Publica* 13.3 (2007), 231–253; Katrina Forrester, “Judith Shklar, Bernard Williams, and Political Realism”, *European Journal of Political Theory* 11.3 (2012), 247–72.2

¹² Rawls, *Lectures*, 191.

¹³ Rawls had previously been relying mainly on the idea of natural goodness of man. See the hand-written text of a lecture from the 1979 course called “Rousseau: His Aims + View of Society” in the Rawls papers at Harvard’s Widener Library; Brooke, “Rawls on Rousseau”.

intrinsic worth. Whilst this demand may be manifested as a desire to prove one's worth by establishing one's superiority over others and eliciting their admiration and esteem, this is not the only form it can take. There is also, according to Dent, a "positive and constructive" form of *amour propre*, which can be opposed to the "competitive" and "aggressive" one.¹⁴ This is not a minor distinction: its effect is to highlight, beneath the corrupt self-love geared toward exclusive preferences, a natural self-love that pursues equal recognition of our needs and desires. This original self-love, unlike its corrupt form, is compatible with equality and reciprocity. Rawls is aware that he holds a "strong" interpretation, which "rescues" the consistency between Rousseau's two major works.¹⁵ If it is the case that only the second guise of self-love is perverted, then the politics of the *Social Contract* can fit with the anthropology of the *Discourse on Inequality*. Since self-love originally involves a desire for equality, because it is compatible with reciprocity and does not necessarily degenerate into vanity, scorn, and envy, it can be the foundation for a well-ordered society.

This interpretive choice reveals a deeper commitment to a Kantian reading of Rousseau: Kant is supposed to be "best interpreter of Rousseau."¹⁶ In order to justify his interpretation of self-love, Rawls hinges on a passage of *Religion within the Boundaries of Mere Reason* in which Kant distinguishes between a natural desire for equality and cultural ("diabolical") vices associated with competition.¹⁷ Kant mentions here a human predisposition to self-love, in the sense that man can consider himself happy or unhappy only in comparison with others. This generates a desire to be valued by others, which is initially a desire for equality, a wish not to be dominated or surpassed, but which gives rise to an unjust craving to gain superiority over others. Envy and rivalry

¹⁴ N. J. H. Dent, *Rousseau* (Oxford: Blackwell, 1988), chap. 3; *A Rousseau Dictionary* (Oxford: Blackwell, 1992), 33–36; both quoted in the bibliography of Rawls's *Lectures*, 212. See also J. Cohen, "The Natural Goodness of Humanity", in *Reclaiming the History of Ethics: Essays for John Rawls*, ed. A. Reath, B. Herman, and C. Korsgaard (Cambridge: Cambridge University Press, 1997), 102–139; F. Neuhauser, "Freedom, Dependence, and the General Will", *Philosophical Review* (1993), 363–395 (376 ff.), and *Rousseau's Theodicy of Self-Love: Evil, Rationality, and the Drive for Recognition* (Oxford: Oxford University Press, 2008).

¹⁵ Dent, *Rousseau*, 71.

¹⁶ Rawls, *Lectures*, 199–200. This reading is very different from other Kantian readings of Rousseau, such as Ernst Cassirer's or Andrew Levine's (*The Politics of Autonomy: A Kantian Reading of Rousseau's Social Contract* (Amherst: University of Massachusetts Press, 1976).

¹⁷ Rawls, *Lectures*, 199–200; Kant, *Religion within the Boundaries of Mere Reason*, ed. Allen Wood and George di Giovanni (Cambridge: Cambridge University Press, 1998), 51.

emerge in this way, and the greatest vices are grafted onto these negative passions.¹⁸

Rawls applies this distinction to the *Discourse on Inequality*: corrupt self-love is not grounded in human nature. Rather, it is a consequence of corrupt social relations, which account for the genealogy of cultural vices. It will also have decisive consequences for Rawls' interpretation of the *Social Contract*, where his scant attention to Books III and IV reveals his disregard for the *work of history* (the continuous striving of the particular will, the government's natural tendency to degenerate and usurp sovereignty). Yet the desire for preference remains at work in the "well-ordered society." By omitting the enduring tension between particular will and general will, Rawls therefore leaves out one of the main driving forces of the *Social Contract* which makes it something other than a utopian fantasy: namely, its remarkable way of handling the issue of evil in history.

In Rawls' *Lectures*, this Kantian vision of Rousseau provides the ground for an optimistic reading. Underlying his analysis is an *a contrario* argument that, unless self-love is interpreted as an original desire for equality rather than superiority, Rousseau's vision would be profoundly pessimistic, and the city of the contract completely utopian. Thus, the project of a just and stable society would fall apart unless the desire for equality has its roots in human nature. The analysis of the *Social Contract* keeps this premise in mind: its well-ordered society is not a true utopia but a "realistic utopia."¹⁹

Like Judith Shklar, Rawls does not think that the commonplace contrast between "realism" and "utopianism," between the practical and the impossible, is relevant to Rousseau.²⁰ According to Shklar, this opposition was only at work during the nineteenth and twentieth centuries. Rousseau provides an example of the use of utopia as a device to express such political ideas as "self-revelation" and "self-vindication." Utopia expresses the distance between what is and what ought to be: "Rousseau shared the typical utopian sense of the distance between the probable and the possible."²¹ Both the Spartan model and Clarens (in *La Nouvelle Héloïse*) offer the image of another possible world in order to inspire men to get rid of their chains. Utopia is just a fiction; it is not designed to be actually realized. It is conceived as a challenge to

¹⁸ On the complex issue of mutual social recognition in Rousseau and its interpretation in Kant's work, see also the chapters by Axel Honneth (Chapter 11) and Alexander Schmidt (Chapter 3) in this volume.

¹⁹ Rawls, *Lectures*, 193.

²⁰ J. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge: Cambridge University Press, 1969), 2.

²¹ *Ibid.*, 3.

corruption and to the fragility even of republican institutions: “Utopia is therefore a protest against history and a challenge to its madness, not in the name of eternity, but in response to the spectacle of unremitting human suffering.”²² According to Shklar, Rousseau – who was “the last of the classical utopists” – was also a political realist: even when he contemplated utopia, his wisdom was in resignation – or the acceptance of the limits of the possible.²³

Rawls shares this vision of Rousseau as a political realist. Yet he does not limit utopia to a “device for condemnation”: the ideal provided by the *Social Contract* is not only the “present political order reversed” – rather, it has a true normative value.²⁴ In *The Law of Peoples*, Rawls describes his “ideal theory” as an account of the world that is *utopian* in so far as it does not reflect existing social arrangements but envisions them as they ought to be, and *realistic* in so far as it does not contravene anything we know about human nature.²⁵ Following Rousseau’s opening thought in *The Social Contract*, Rawls assumes “that his phrase ‘men as they are’ refers to persons’ moral and psychological natures, and how that nature works within a framework of political and social institutions.”²⁶ To say that *human nature is good* (a proposition that Rawls himself endorses) therefore means that citizens who grow up under just institutions will act to make sure that their social world endures. Thanks to Rousseau, we know now that “the limits of the possible in moral matters are less narrow than we think.”²⁷

II From individual liberty to personal freedom: A reassessment of the general will

In this context, Rawls’ subsequent argument aims to show that the principles of justice operating through the mechanism of the general will are perfectly compatible with human nature and man’s “fundamental interests,” provided that these are also reflected in the “basic structure” of society and the legislator’s work.

As far as the contract is concerned, Rawls situates Rousseau’s theory within a rational choice paradigm (the one that Rawls himself adopts in *A Theory of Justice*).²⁸ The contract specifies the terms of the cooperation,

²² *Ibid.*, 12. ²³ *Ibid.*, 1. ²⁴ *Ibid.*, 8.

²⁵ See again J. Cohen, “The Natural Goodness of Humanity”.

²⁶ J. Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 7.

²⁷ *Ibid.*; see Rousseau, *SC*, 110; *OC* III, 425.

²⁸ See also Joshua Cohen, “Reflections on Rousseau: Autonomy and Democracy”, *Philosophy and Public Affairs*, Summer 1986, 275–297 (esp. 276–279); *Rousseau: A Free Community of Equals* (Oxford: Oxford University Press, 2010). On neo-contractualist

which are to be enshrined in the institutions of society. Such cooperation in no way sacrifices the interests of the members of society: on the contrary, the idea is to enable each person's "fundamental interests" to be satisfied as well as possible, that is, in a way that is both reasonable and rational. This distinction between *the rational* (referring to instrumental rationality, structured in accordance with interests or preferences) and *the reasonable* (including a disposition to equitable cooperation) is crucial: it accounts for the union of interest and justice in the category of "fundamental interests," which are not the interests of actual individuals in a society corrupted by inequality but the natural interests of man.²⁹ By contrast to Hobbes, Rousseau does not identify these interests with the drive for self-preservation and acquisition, nor does he identify them with property (goods, life, and liberty), in contrast to Locke. According to Rawls, both *amour de soi* and *amour propre* can find optimal expression in society, not in the sense that individuals can achieve the maximum of well-being (Rawls excludes such a possibility), but in the sense that both freedom and perfectibility (on the *amour de soi* side) and the egalitarian desire for recognition (the *amour propre* aspect) can develop within it.³⁰ A society based on the social contract promotes the flourishing of the intellectual and moral capacities specific to humanity. It enables people driven by uncorrupted self-love to find satisfaction, while allowing others what they wish for themselves. Finally, the well-ordered society encourages people to accept the necessary restrictions required by social life, so long as others consent to them too. Unlike Hobbes' view, for Rawls the *mutual* and *reciprocal* character of social cooperation espoused by Rousseau is thus rooted in man's original predispositions.³¹

The consequence of this move is both interesting and problematic. In Rawls, Rousseau's politics are incorporated and translated into a new terminology. For instance, it is now because all agents have an equal capacity for and an equal interest in liberty (understood as a capacity to act freely for "valid reasons," according to what they think best in terms of their own ends) that the social contract offers them the best possible – the most rational and the most reasonable – solution.

In his *Lectures on the History of Political Philosophy*, Rawls thus takes a strong stand against the liberal anti-totalitarian reading of Rousseau. In his view, the "problem" addressed in the *Social Contract* is how *not* to sacrifice our freedom, i.e. how to satisfy our fundamental interests under conditions that provide for the development of our civil and moral

readings of Rousseau, see Lélia Pezzillo, *Rousseau et le Contrat social*, (Paris: Presses Universitaires de France, 2000), 40–53.

²⁹ Rawls, *Lectures*, 226. ³⁰ *Ibid.*, 217–218. ³¹ *Ibid.*, 87, and cf. 66.

freedom. Rousseau's solution is encapsulated as follows: given the fact of social interdependence, a form of association must be sought in which it is both reasonable and rational for equal persons driven by *amour de soi* and *amour propre* to consent to it. Hence the contract by no means supplies the premises for a totalitarian society; the "total alienation" of the agent and all her rights to the community does not presuppose the sacrifice of her interests or the complete regulation of social life. All that is required for the stability of society is a "sense of justice," which is a capacity to understand and to follow the principles of justice based on the contract.³² This dimension was missing in Hobbes' analysis, whereas Rousseau, without resorting to a Lockean "natural law," offers the best way of conceiving it (according to Rawls).

Political liberalism can, therefore, lay claim to the authority of Rousseau. Rousseau's definition of autonomy as obedience to a law that one has laid down oneself is at the heart of modern political theory. Rousseau understood that dependence on society is required while dependence on other individuals gives rise to servitude. Only total dependence on the body politic makes it possible to escape dependence on particular agents.³³ In this view, by establishing equal conditions and equal respect for all, the contract is far from an unnatural device; it corresponds to the fundamental human yearning for autonomy. Consequently, the resulting society does not frustrate individual interests; rather, it corresponds to the fundamental interests of the individual as a *person*. Conversely, citizenship in society makes it possible to pass from instinct to morality, forming human beings with the capacity to obey the laws that they institute for themselves.³⁴ Not only does the social compact provide the essential social background conditions for civil freedom ("assuming that fundamental laws are properly based on what is required for the common good, citizens are free to pursue their aims within the limits laid down by the general will"),³⁵ it accounts for our moral freedom, since the general will is our own will, our true will. In this context, the fact that "each of us places his person and all his power in common under the supreme direction of the general will" does not entail either that we dissolve into an organic whole or that we give up our true *individual* freedom; it means that we give ourselves the capacity to fulfill our *personal* freedom.³⁶

In this powerful line of interpretation, Rawls seems to share much with Judith Shklar's influential reading. For Shklar, the general will is first and foremost a faculty which frees men from the evil of *amour propre*:

³² Ibid., 219. Shklar too mentions this "sense of justice" (*Men and Citizens*, 178–180).

³³ Rawls, *Lectures*, 222. ³⁴ Ibid., 219.

³⁵ Ibid., 235; cf. Rousseau, *SC*, 49–51; *OC III*, 360–62. ³⁶ Ibid., 235.

The general will, like any will, is that faculty, possessed by all men, that defends them against the dangers of *amour-propre*, the empire of opinion and institutionalized inequality. Everyman's overriding self-interest is to prevent inequality and his will is pitted against all these forces within and outside itself that promote it.³⁷

Shklar dismisses some of the usual criticisms against Rousseau: far from ignoring individual feelings in order to promote public ends, *The Social Contract* takes into account the people's interests. The good of the whole is related to the well-being of its members.³⁸ If Rousseau's new vision of the social world starts from the deprived, its politics are not totalitarian: the general will pursues "nothing but a hard personal interest," even if it is an interest that all citizens share. Nor is its content vague: it always tends to equality. In other words, the general will "is general because the prevention of inequality is the greatest single interest that men in society share, whatever other ends they might have."³⁹ Its aim is to promote the interest of man in general against those "particular" wills that lead men to seek privileges. Finally, the general will is the will of "man in general," a will to impersonality and to fairness toward all.⁴⁰

Yet Rawls brings back into the picture the constructivist and procedural dimension of the general will: the general will is based upon deliberation among individuals, conducted under conditions of fairness (the general will must spring from all and apply to all).⁴¹ For sure, the general will is understood as abstracted from any particular determination or interest. That is why the general will wills justice: "equal rights, and the notion of justice they produce, derive from the preference that everyone accords to himself: hence, from the nature of man."⁴² As in Shklar, the general will wills equality first, because of the nature of our fundamental interests, including our interest in avoiding the social conditions of personal subjection (equality is necessary for liberty). But *pace* Shklar, it cannot be conceived without an institutional background: "only reasons based on the fundamental interests we share as citizens should count as reasons when we are acting as members of the Assembly in enacting constitutional norms or basic laws."⁴³ The people are not conceived any

³⁷ Shklar, *Men and Citizens*, 166. ³⁸ *Ibid.*, 16.

³⁹ *Ibid.*, 169; Shklar, "Rousseau" in *Dictionary of the History of Ideas*, ed. P. Weiner (New York: Scribner, 1973), quoted in Rawls's *Lectures*, 223. Besides Shklar, Rawls also cites Patrick Riley, *The General Will before Rousseau* (Princeton: Princeton University Press, 1986). For a thorough discussion of both views, see Samuel Affeldt, "The Citizen as Legislator: The Conversation of Constitution in Rousseau's *The Social Contract*", in *Constituting Mutuality: Essays on Expression and the Bases of Intelligibility in Rousseau, Wittgenstein, and Freud*, PhD Dissertation, Harvard University, 1996, and "The Force of Freedom: Rousseau on forcing to be free", *Political Theory* 27.3 (1999), 299–333.

⁴⁰ Shklar, *Men and Citizen*, 191. ⁴¹ Rousseau, *SC*, II, 4, 34; *OC* III, 373.

⁴² Rawls, *Lectures*, 232; see again Rousseau *SC*, II, 4, 34; *OC* III, 373. ⁴³ *Ibid.*, 230.

more as a passive body politic, consenting to the legislator's law.⁴⁴ Only deliberation leads to the formation of a general will among a people, by eliminating sources of individual bias or preference.⁴⁵ The fundamental interests take absolute priority over our particular interests when the people actually vote for fundamental laws and consider basic political and social institutions. In turn, these institutions will secure the social conditions necessary to realize their fundamental interests, on terms all would agree to.

Meanwhile, Rawls sketches an ultra-rationalist reading of the general will. The general will relies on a certain set of *valid reasons*, and what citizens deem to be valid reasons for their political decisions are the measures that best enhance the common good. A little later, the *Lectures* defines the general will from the point of view of "public reason." To vote in accordance with the general will means to accept as valid only a certain kind of reasoning in public deliberation, the kind that corresponds to Rawls' own conception of public reason: "Rousseau's view contains an idea of what I have called public reason. So far as I know the idea originates with him."⁴⁶ Building on these premises, the fact that the general will is always *straight, constant, unalterable, and pure* does not make it either a transcendental idea or a dictate of the sovereign power. The general will is conceived as a form of deliberative reason exercised by each citizen; it is what remains after we take away the particular interests which incline us to partiality.⁴⁷

Finally, Rawls makes it clear that Rousseau's analysis of the relationship between justice, equality, and freedom inspires his own theory of justice as fairness. Regarding the thesis that the particular will naturally tends toward preference whereas the general will tends toward equality, he contends that "this remark of Rousseau's is an ancestor of the first reason why, in justice as fairness, the basic structure is taken as the primary subject of justice."⁴⁸ The whole of his ensuing demonstration confirms the main interpretative guidelines analyzed above: the principles of justice are based on the contract; the contract implies that certain values have to be realized in the basic structure of society; and, in a

⁴⁴ Compare to Shklar, according to whom people's sovereignty "is a condition free from personal oppression" but "is not self-determination in a politically active sense" (*Men and Citizens*, 182).

⁴⁵ The deliberation may be understood as individual or collective. On the legacy of this argument, see C. Girard, "Jean-Jacques Rousseau et la démocratie délibérative: bien commun, droits individuels et unanimité", *Modernités de Rousseau*, ed. C. Spector, in *Lumières* 15 (June 2010), 199–221.

⁴⁶ Rawls, *Lectures*, 231. See also his *Political Liberalism*, 448f. ⁴⁷ *Ibid.*, 227.

⁴⁸ *Ibid.*, 234. Rawls makes reference here to his *Justice as Fairness*, §3, 4, 15.

well-ordered society, the interest in freedom and the interest in perfectibility are part of a people's fundamental interests.

III The lawgiver

Yet it might be objected that Rousseau's theory of the lawgiver provides evidence of his authoritarian, or even totalitarian, tendencies. Surprisingly, however, far from fearing that Rousseau's republicanism is destructive of freedom, Rawlsian political liberalism exonerates him of any such charge.⁴⁹ For Rawls, the legislator who dares to set about constituting a people is by no means the same as a demiurge creating a "new man" from scratch. The lawgiver makes it possible to express the social nature of human beings, and brings them to recognize the fundamental interests they have in common. Citing the controversial section of the *Social Contract* on the need to transform human nature, Rawls debunks the liberal "anti-totalitarian" interpretation.⁵⁰ The wish to shape human beings in conformity with the goals of society appears sound, since there really is a need to face the critical issue of stability in the just society, and therefore to shape the *social spirit* necessary for the institutions that apply its principles to survive in the long term.

In his comment, Rawls therefore pays a fine tribute to the "extraordinary" section in the *Social Contract* that used to fill liberals with such dread. Aware that the powers we acquire in society can be used only in society, and only in cooperation with the powers of others, Rousseau presents the legislator as the founding and mediating figure that comes forward at the moment required by society.⁵¹ There is nothing mysterious about this, nor anything destructive of freedom. Once again, Rawls comes quite close to Shklar's interpretation. For her, the legislator testifies to Montesquieu's influence on Rousseau: the character of a people must be taken into account for the sake of stability.⁵² Rawls takes the idea one step further: the legislator does not preclude political autonomy. To illustrate his point, Rawls even uses the example of the principles of equality, liberty, and tolerance that were established at the end of the European religious wars. Far from infringing on the liberty of human

⁴⁹ Michael Sandel reproaches Rousseau here mainly because of the spirit of unanimity required by the *Social Contract*. See Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, MA: Harvard University Press, 1996), 319–320. On this issue, see also Philip Pettit's contribution to the present book (Chapter 10).

⁵⁰ Rousseau, *SC*, 69; *OC* III, 381–82. On the indictments levelled at Rousseau by Berlin, Talmon, and Crocker, see Chapter II of Spector, *Au prisme de Rousseau*, and Christopher Brooke's contribution in the present volume (Chapter 8).

⁵¹ Rawls, *Lectures*, 240. ⁵² Shklar, *Men and Citizens*, 174.

beings, the legislator enabled it to become effective; and, in the historical sequel, the initial act of persuasion gave way to a stable balance of institutions. These political institutions were able to shape the people who would subsequently preserve and defend them.⁵³

Needless to say, Rawls' overly rationalistic interpretation of the role of the legislator in Rousseau's *Social Contract* also ignores the duplicity involved in the initial consent of the people to the laws. Rousseau is explicit that consent cannot be obtained at this founding moment on the basis of rational persuasion: the lawgiver presents the laws as emanating from divine authority. This manipulation should be troubling for a liberal reading of Rousseau.⁵⁴

As far as the social contract, the general will, or the fiction of the legislator are concerned, Rawls' analysis thus overturns the anti-totalitarian reading of Rousseau, which condemned him for wanting "to force men to be free."⁵⁵ In Rawls' view, once this phrase is placed in context, it gives no cause at all for indignation. On the contrary, it amounts to a commonsense notion that lies at the heart of a properly conceived theory of justice: if laws lacked the coercive power to command obedience, some people would be able to operate in society as "free riders," enjoying its benefits without making any contribution of their own. The point is that if people could enjoy their rights without fulfilling their duties, this would undermine the conditions for mutually advantageous cooperation and thereby compromise the liberty of all. Moreover, to force a recalcitrant individual to discharge public obligations while enjoying social benefits is in effect to *make him free*, where what is at issue is a moral freedom that goes beyond the satisfaction of instincts and reaches true self-mastery. Once again, Rawls follows closely Dent's interpretation: the concept of moral liberty enables us to understand Rousseau's claim that agents are as free after the contract as they were before it (albeit in radically different ways). To force agents to be free is to remove them from relations of domination and subordination and to place them within relations of mutual respect.⁵⁶

⁵³ Rawls, *Lectures*, 241. ⁵⁴ I would like to thank Ruth Grant for this insightful remark.

⁵⁵ *Ibid.*, 242–243. Shklar still has a negative vision of this phrase (in "Positive Liberty, Negative Liberty in the United States", in *Redeeming American Political Thought*, ed. Stanley Hoffmann and Dennis E. Thompson (Chicago: University of Chicago Press, 1998), 111–126, here 125). On the uses that the "humanist" republican tradition associated with Luc Ferry and Alain Renaut (and in a different register, with Tzvetan Todorov) has made of the passage in question, see J. T. Scott and R. Zaretsky, "Rousseau and the Revival of Humanism in Contemporary French Political Thought", *History of Political Thought* 24.4 (2003), 599–623.

⁵⁶ N. H. Dent, *Rousseau*, chap. 5.

IV From liberty to equality: The difference principle

There is another aspect of Rawls' interpretation of Rousseau worthy of consideration: overall, the liberal philosopher finds in him a major ally in his critique of utilitarianism. The "common good" that is the object of the general will concerns the social conditions underpinning the people's common interests; the aim in question here, therefore, is not "the greatest happiness of the greatest number," even at the price of sacrificing some members of society. Rawls recalls the passage in Rousseau's *Discourse on Political Economy* that refuses to accept the sacrifice of a single innocent person for the security of the whole.⁵⁷ Rather, the body politic is supposed to provide for the preservation of the humblest of its members with as much care as all the others.⁵⁸ Anticipating and rejecting the arguments of utilitarianism, Rousseau maintains that the fundamental laws of society do not rest upon a principle of interest aggregation; his distinction between the "general will" and the "will of all" involves a refusal to see the common interest as a sum of individual interests. The freedom of some cannot be subordinated to the happiness of others. Voting on the fundamental laws of the state means expressing one's opinion about the laws that will best establish the social and political conditions for everyone to advance, on a basis of *equality*, their shared fundamental interests.

For Rawls, then, Rousseau constitutes an integral part of the liberal tradition.⁵⁹ In the *Social Contract*, the "basic structure" of society is there to ensure both liberty and equality, the latter bolstering the former. This is why Rawls chooses Rousseau, rather than Locke, as his main source (with Kant) for contractual theory. Not only does his thought not endanger liberty, it conveys the idea of the reduction of social-economic inequalities as its indispensable foundation.

Finally, the *Lectures on the History of Political Philosophy* draw on Rousseau for the arguments justifying the difference principle. Since social inequalities give rise to dependence, fueling arrogance and scorn on one side and servility and deference on the other, they must be fought in so far as they do not strictly contribute to public utility. Shklar had put forward this dimension of Rousseau's political thought: the fight against inequality is at the core of a non-oppressive society. Compassion is thus transformed into a political force.⁶⁰ Without mentioning compassion

⁵⁷ Rousseau, *Discourse on Political Economy*, in *SC*, 17; *OC III*, 256.

⁵⁸ Rawls, *Lectures*, 229–230.

⁵⁹ This view is widely disputed: see, for example, Pierre Manent, *An Intellectual History of Liberalism* (Princeton: Princeton University Press, 1994), chap. 5.

⁶⁰ Shklar, "Jean-Jacques Rousseau and Equality", in "Rousseau for Our Time", *Daedalus* 107.3 (1978), 13–25, here 13. See also, in the same volume, Carl G. Hedman, "Rousseau on Self-interest, Compassion and Moral Progress", 181–198.

(which does not appear in *The Social Contract*), Rawls follows this line of interpretation. For him, Rousseau argues that social and economic inequalities should be limited to ensure the conditions under which citizens can be independent and the general will can achieve adequate expression: “does it follow that it [inequality] should not at least be regulated? It is precisely because the force of things always tends to destroy equality that the force of legislation must always ~~to~~ tend to maintain it.”⁶¹ Rawls takes this remark as an inspiration for his reasoning on why the basic structure of society is the primary subject of justice. The difference principle can find justification here, while assisting the principle of the maximization of equal liberties for all; the limitation of inequality is required to ensure both the conditions for liberty as well as the conditions for the highest level of *equal respect* are present. It is thanks to limits on social and economic inequality that citizens think of themselves as really equal; they are endowed with the same fundamental interest in ensuring liberty and pursuing their goals within the limits of the law, and with the same capacity for moral freedom. According to Rawls, Rousseau’s true originality is most apparent in this social dimension of his doctrine, drawing out the necessity of an *equal respect* to which material equality is supposed to be instrumental.⁶²

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Can Rousseau be saved from the liberal anti-totalitarian critique? This is one of the intentions underlying Shklar’s and Rawls’ approach to his work. According to a recent commentator, “what Shklar’s realism challenged was not utopia, nor hopeful politics, but the expansion of the realm of the possible beyond what we sensibly know to be true.”⁶³ The value of Rousseau’s theory of citizenship, in this respect, is immense. Consequently, Rawls shares Shklar’s admiration for Rousseau’s theory of autonomy, which can even correct some of the shortcoming of Kant’s idealism.⁶⁴ But where Shklar discarded the contractualist theory itself, Rawls puts it back in the forefront.⁶⁵ In Rawls’ view, *The Social Contract* develops a non-utilitarian theory of justice in which the common good results from seeing oneself as a member in a cooperative enterprise, rather than from incremental addition. It conceives of the well-ordered society

⁶¹ Rawls, *Lectures*, 233–234; Rousseau, *SC*, 79; *OC* III, 392.

⁶² Rawls, *Lectures*, 247–248.

⁶³ Forrester, “Judith Shklar, Bernard Williams and Political Realism”, 260.

⁶⁴ Neal, “In the Shadow of the General Will”.

⁶⁵ According to Shklar, “it is the ordinary people, ‘the all’ whose will rules, that matters most”; “sovereignty thus personifies the most important interest of all”; “the great question of politics is how to protect the people against its own incompetence, and against fraud and usurpation” (*Men and Citizens*, 177).

as protected from relations of dependence and domination. For these reasons, Rousseau is fully part of the liberal, egalitarian tradition into which *A Theory of Justice* is itself inserted. After all, Rousseau's conception of justice in the *Social Contract* is a freestanding view – not justified in terms of any particular religious or moral perspective. It is also a political, not a metaphysical conception of justice.

There is a risk, however, that in trying to paint Rousseau as a modern liberal one might distort his thought. In a sense, the special use that Rawls makes of Rousseau in *A Theory of Justice* is already contained *in nuce* in his *Lectures*. In his Kantian interpretation, Rousseau's positive vision of self-love prior to its corruption makes it possible to reconcile interest and justice, instrumental rationality and higher social goals. Yet Rousseau never offered such an optimistic vision of *amour propre*: as soon as human beings prefer one love partner to another, they too crave to be preferred, and this dynamic is a far cry from the wish to be treated equally. The competitive aspect of *amour propre* is central to Rousseau's account of socio-political decline and corruption, and is the ground for the deep pessimism emanating from his work in the eyes of critics. Besides, Rousseau also never thought that the tension between the particular will and the general will could be definitively overcome, or that the stability of society could be established once and for all on the ruins of the particular will. Rousseau's interest in *mœurs* and the "law of opinion" goes beyond any attempt to formalize the principles of justice and the legal institutions that would implement these principles. To take men *as they are* means to take into account their passions and beliefs, which cannot be reduced to their higher-order interests.⁶⁶

In his *Constitutional Project for Corsica* and in his *Considerations on the Government of Poland* (two works Rawls never mentions), Rousseau suggests institutional and moral devices to reshape human passions. To be sure, love of country is the end citizens should pursue; it can never be reduced to any reasonable and rational interest. In the *Social Contract* itself, citizens are not only motivated by their desire for freedom and perfectibility (which is unknown to them before the compact); they are primarily motivated by their desire to survive and to retain their agency. Yet after the society is born, the object of this desire becomes the motherland – an expansion of *amour de soi* to encompass the enlarged self of the country. The emphasis is put on national solidarity, an attachment to a distinctive way of life, and on the demanding requirements of civic

⁶⁶ See Axel Honneth's discussion of the same problematic issue in his contribution to this book (Chapter 11).

virtue.⁶⁷ Shklar, by the way, was fully conscious of this “Spartan” dimension of Rousseau’s thought.⁶⁸

Therefore, Rawls can pursue his ends only by endowing Rousseau with a particular, partly deformed face in order to make him an ally against the utilitarian mainstream. It is a Rousseau without passions, a Rousseau without tensions, who lays bare the depravities of society in order to offer a more rational path to a “realistic utopia.”⁶⁹

⁶⁷ J. Cohen tries to reconcile this “communitarian” line with the “liberal” strand of Rousseau; see his *Rousseau: A Free Community of Equals* (introduction).

⁶⁸ *Ibid.*, 12–21.

⁶⁹ Rawls, *The Law of Peoples*, 11f. For a discussion of this work, see G. Roosevelt, “Rousseau versus Rawls on International Relations”, *European Journal of Political Theory* 5.3 (2006), 303–322.