

## THE SOCIAL CONTRACT THEORY IN THE VISION OF JEAN-JACQUES ROUSSEAU

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**ABSTRACT.** *The social contract theory in the vision of Jean-Jacques Rousseau.* Man is not social by nature, becoming social only under the influence of society. In the state of nature, man is solitary, autonomous, his own master. His only worry is to preserve his own life, to assure his necessities of living. With the formation of the first social groups (family), man no longer lives alone, starts to build a roof over his head, to assume certain responsibilities, to enter into communication with those around him, perfecting his language and improving his way of life. With such progress, self-esteem is born, pride, the need to be recognized by others as being superior. Differences in status tear apart the previous equality and lead to conflicts between individuals. Each desires what the other desires to have, not for the sake of that good's intrinsic value, but only because the other desires it. Therefore, in order to assure their own safety, as well as that of their property, men will form a covenant – the social contract.

**Keywords:** *social contract; state of nature; man in society; sovereign; general will; common good*

### Introduction

Jean-Jacques Rousseau presented his social contract theory through two works, the *Discourse on the Origin and Basis of Inequality Among Men* (1755) and, respectively, the *Social Contract* (1762). Rousseau begins the exposition of his theory by presenting the characteristics pertaining to man living in a hypothesized state of nature prior to the existence and influence of society, an influence that – he infers – would have brought with it deep alterations to the nature of man by transforming him into a social being. Rousseau here uses what will become our common usage of the term “nature”, natural being that which is innately given, and not the classical Aristotelian conception of nature as finality: the vision about man

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as a political animal should be read in light of the immediately previous “[...] if the earlier forms of society are natural [the family, the village], so is the state, for it is the end of them, and the [completed] nature is the end. For what each thing is when fully developed, we call its nature, whether we are speaking of a man, a horse, or a family.”<sup>1</sup> A finalist conception of nature is inherently conservative – one may have argued that absolutist monarchy was natural because ordained by God – and this may be the reason for which Rousseau had to use the modern conception, refined through the development of natural law. The state of nature is an essential element of Rousseau’s political theory, used in evaluating the actual state of society.

The social contract is defined as “the means through which individuals, already possessing some rights and goods, constitute themselves into a sovereign body of citizens, whereby their rights and properties are being assured on a firmer basis, of a different nature”.<sup>2</sup> The distinct individuals unite their particular wills into a general will<sup>3</sup> in order to protect their existence and the property on which their particular existence is sustained.

Rousseau’s theory is centered on the analysis of the legitimacy of political authority, a legitimacy derived from the mandate given through the social contract in order to safeguard the natural freedom of the citizens, a right to freedom justified on basis of natural law. The fundamental question is: “Man is born free, and everywhere he is in chains. Here’s one who thinks he is the master of others, yet he is more enslaved than they are. How did this change come about? I don’t know. What can make it legitimate? That’s a question that I think I can answer.”<sup>4</sup> Pierre Manent synthesizes Rousseau’s thought on human nature with the following paragraph: “I am a man, therefore I am weak, I wish for a society in which doing good would come as naturally as feeding oneself; instead, I am seeing, in horror, a society where the only aspiration aims towards the human virtues, by which I mean the easy ones; whereas I dream of Sparta and Brutus.”<sup>5</sup>

### **Man in the state of nature**

The starting point of the exposition of the social contract theory is represented by the definition and analysis of the state of nature and of the psychology of natural man, man living in such a state. Man is not social by nature, becoming

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<sup>1</sup> Aristotle, *Politics*. 1252b8-9.

<sup>2</sup> Boucher (2008), 218.

<sup>3</sup> The general will is “an ambiguous concept, created in order to reveal the real will of the citizens, transcending their selfish interests.” Boucher (2008), 218.

<sup>4</sup> Rousseau (2008), 47.

<sup>5</sup> Manent (2008), 156.

social only under the influence of society. The concept of the state of nature designates an anterior epoch, before the advent of human society, where formative social influences would have been absent. The state of nature functions as “an idea on the basis of which one can evaluate the actual condition of society and of international relations”.<sup>6</sup> By analyzing man in the state of nature – from a physical point of view, and also metaphysically and morally – it may be revealed how he has evolved with the apparition of society, therefore the ways in which society influences the individual.

Natural man is considered by Rousseau as having been a “savage, robust man, agile and brave... armed with stones and sticks”<sup>7</sup> – a being completely distinct from his civilized counterpart. The paradigmatic type of the savage man is represented by the Caribbean native of the Venezuela (of Rousseau’s time), who although had no other weapons than the bow and arrows, was unafraid of wild beasts, threading the forests without fear. “The nature of man is intrinsically good”<sup>8</sup> – characterized him Rousseau from a moral point of view – society representing a corrupting influence. Man in the state of nature is described as possessing the traits of a normal human being, living in nature and contemplating it: always man has walked on two feet, had hands with which to interact with the world, eyes with which to “grasp with his sight the whole of nature, measuring the vast expanse of the sky”.<sup>9</sup> He lived a solitary life, amongst the animals of the wild, a lonely being in his autonomy,<sup>10</sup> depending on no one, recognizing no masters, having to care only for preserving his own life and to provide the necessities for it.

Natural man is described by Rousseau as “an animal less strong than some, less agile than others, but better organized than all. I see him appeasing his hunger under an oak, satiating his thirst with the waters of the first stream, finding his rest in the shadow of the tree that has nourished him; his needs have been fulfilled”.<sup>11</sup> His sight, hearing and sense of smell are well developed, the sense of touch and taste less so. Although man is considered as being an animal still, he is superior to all the others, a fact he himself realizes when he manages to capture and subdue or kill his quarry by using traps devised by his cunning.<sup>12</sup> In order to illustrate this superiority,

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<sup>6</sup> Boucher (2008), 220.

<sup>7</sup> Rousseau (1958), 82.

<sup>8</sup> Rousseau (1958), 18.

<sup>9</sup> Rousseau (1958), 80.

<sup>10</sup> “Each one may detach themselves from any others, without waiting on their consent.” Avramescu (1998), 162.

<sup>11</sup> Rousseau (1958), 80.

<sup>12</sup> “The savage man, living isolated amongst beasts and finding himself from early times in the situation of having to measure up with them, has soon realized the difference between him and the animals; seeing how he surpasses them more through cunning, cleverness, more than they surpass him through

Rousseau will highlight the differences between natural man and animal: man has cleverness, skill (contrary to the animal that only has strength), is ruled by both the self-preservation instinct and pity as fundamental principles informing his conduct even before having acceded to the possession and use of reason (whereas the animal only acts on instinct), has the capacity to better himself, is brave and does not easily shirk from fighting. The animals, although possessing greater strength, often choose to run away from a fight instead of facing their enemies, being dominated by instinct solely. The essential difference between man and animal is not that the former has the capacity to perfect himself, but that man has the freedom to choose whether to obey nature or fight it.<sup>13</sup>

Natural man is moved by desires and needs. These, as it was shown, are only those linked to the conservation of life, the acquiring of food and of the other necessities of living.<sup>14</sup> He does not know of death yet, his own finitude doesn't present itself as a problem to him, but he will know it once he enters into society. If his hunger is satisfied, natural man will not attack other men, and if he needs to fight them for food "he will not resort to blows without first assessing the difficulty of finding nourishment elsewhere; since pride takes no part in this fight, it is all over after some punches have been pulled: the victor gets to eat, the looser goes away to find his luck, and all is in order".<sup>15</sup> For procuring food, man practiced fishing and hunting, learning to become "an agile, quick runner, a virtuous fighter",<sup>16</sup> since he was competing against wild animals and sometimes other men.<sup>17</sup> Through such an evolution, man perfects himself, improving his lifestyle.

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strength, he has learned not to be afraid anymore." Rousseau (1958), 82. "The savage man is more resourceful, he knows how to procure his nourishment, to cover himself with the fur of an animal when it is cold, uses his hands to assure his defense and the satisfaction of their needs." Rousseau (1958), 86.

<sup>13</sup> "In any animal I see nothing other than an ingenious machine endowed by nature with sensibility in order that it may put itself in motion and defend itself, up to a certain point, from whatever tends to destroy or trouble it. In the human machine I see the same thing, with the difference that whereas in the animals' nature does all by itself, man takes a part in his own actions in his quality of free agent." Rousseau (1958), 87.

<sup>14</sup> "His desires do not surpass his physical needs, the only desires he knows in the world are nourishment, a female and rest, the only evils he fears are pain and hunger." Rousseau (1958), 91.

<sup>15</sup> Rousseau (1958), 170-171.

<sup>16</sup> Rousseau (1958), 119.

<sup>17</sup> "In the state of nature, man has a limited right to anything that attracts his fancy and which he intends to get." Boucher (2008), 230. "Along shores and rivers they have invented the fishing rod and the hook, becoming fishermen and fish-eaters. In the forests, they've made bows and arrows, becoming hunters and warriors." Rousseau (1958), 120.

Natural man is a sensitive being, letting himself be moved by a first natural humane feeling: pity. The sentiment of pity helps in the preservation of the species. It urges us to lend help to our peers and to give them no harm, lest they harm us back.<sup>18</sup> At its basis lies the principle: "Assure your own good by giving others the least possible harm".<sup>19</sup> This is the reason why in the state of nature there are no hectic quarrels between men and why each is concerned only by his own life. All the social virtues follow from pity – generosity, clemency, humaneness, goodwill – and communication between people is born out of it. The man that experiences pity suffers when he sees ill happening to another because he places himself in this other's place.<sup>20</sup> People in the state of nature are equal between themselves, and their actions are characterized by goodwill and innocence.

### **Man in society and the genesis of the social contract**

Society appears at the moment when man develops a taste for owning things, of wanting certain things to belong exclusively to him. Private property is the cause both for the destruction of the primordial equality between individuals and for the birth of civil society.<sup>21</sup> The birth of the desire and need for owning property is tied to the development of language. If at the beginning people used to communicate very little, through few sounds imitated after animal calls, in time, due to their increased proximity, their language started to develop.<sup>22</sup>

The formation of social groups and the development of living in common helped with the perfecting of articulate language and, simultaneously, led to the generation of a multitude of needs.<sup>23</sup> The family is "the oldest among the social groups and the only one that is natural".<sup>24</sup> It endures united through a voluntary

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<sup>18</sup> "... makes us run without thinking to help those we see suffering." Boucher (2008), 109.

<sup>19</sup> Rousseau (1958), 109.

<sup>20</sup> "Transposing us beyond ourselves by identification with the suffering other." Manent (2000), 176.

<sup>21</sup> "The first man who, having fenced in a piece of land, said »This is mine«, and found people naïve enough to believe him, that man was the true founder of civil society. From how many crimes, wars, and murders, from how many horrors and misfortunes might not any one have saved mankind, by pulling up the stakes, or filling up the ditch, and crying to his fellows: Beware of listening to this impostor; you are undone if you once forget that the fruits of the earth belong to us all, and the earth itself to nobody." Rousseau (1958), 118.

<sup>22</sup> "Men, who until now were wandering through the woods, by becoming more sedentary, slowly grew closer to one another, joining in different groups, and, at the end, formed in each land a distinct nation, united through habits and traits – not through rules and laws –, through the same way of life, mode of alimentation and the common influence of the same climate." Rousseau (1958), 125.

<sup>23</sup> In order to fulfill our needs we require other people, whereas in order to feel satisfied we only require ourselves (I really only wish for me to enjoy my victory, even if in gaining it I've needed the cooperation of others).

<sup>24</sup> Rousseau (2008), 48.

act (a convention): the children have to obey their father's authority until reaching adulthood, when they do no longer have need of paternal protection and become independent.<sup>25</sup> Rousseau considers that the state was modeled after the family: the sovereign embodying the image of the father, the people being as his children, needing his rule and protection. Nevertheless, he identifies a salient distinction between family and state: whereas, in the family, the father protects his children due to the love he feels towards them, in the state, the sovereign only acts favorably towards his subjects in order to continue enjoying the pleasure of ruling. Parental love emerges in the confines of the family, the habits are changing, as well as the way of life: the individual no longer has to face life alone, the man dealing with assuring nourishment, shelter, etc., while the woman usually raises the children.<sup>26</sup>

The development of articulated language and of tighter-knit relations between people enables the apparition of feelings of self-esteem, pride, the need to be watched with admiration by the others.<sup>27</sup> Concerns about status start to weigh down on people, destroying the natural equality between individuals.<sup>28</sup> From inequality<sup>29</sup> the passions are born: contempt, shame, envy, cruelty, desires for glory and wealth.<sup>30</sup> People are no longer content with themselves, with their life, they do not feel even alive unless someone provides them with recognition, with appreciation.<sup>31</sup>

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<sup>25</sup> "This common liberty is an upshot of the nature of man. His first law is to provide for his own preservation, his first cares are those he owes to himself; and as soon as he can think for himself he is the sole judge of the right way to take care of himself, which makes him his own master." Rousseau (2008), 49.

<sup>26</sup> "Each family has become as a little society, the more tightly knit the more reciprocal attachment and freedom constituted its only bonds. [...] Women have become more sedentary and used to guard the hut and the children, while the man was gone searching for the necessities of their common life." Rousseau (1958), 123.

<sup>27</sup> "Each one starts watching the others and wanting to be watched. Public esteem starts to be appreciated. The best singer or dancer, the most beautiful, most strong, most powerful, most skillful or most eloquent becomes the most esteemed." Rousseau (1958), 125.

"As soon as a man compares himself to the others, he necessarily becomes their enemy". Riley (2001), 30.

<sup>28</sup> "This is the first step towards inequality and, at the same time, towards vice." Rousseau (1958), 125.

<sup>29</sup> In *Discourse on the Arts and Sciences* (1750), Rousseau identifies in inequality the prime source of all evils, the gate through which they enter the world.

<sup>30</sup> "Similarly to the statue of Glaucus, which was disfigured by the weather, the sea, the storms to such a degree that it did no longer resemble a god but a fearsome beast, the human soul is altered inside society by thousands of causes that are ever born anew without respite... by changes happening to the constitutions of bodies and the continuous shock of passions, he is altered almost beyond recognition, and instead of a being that acts upon sure and immutable principles, instead of this celestial and majestic simplicity with which his creator has endowed him, we find nothing but the misshapen contrast of a passion that believes it can reason and of a delirious intellect." Avramescu (1998), 159. Society exerts a bad influence, man in society being under the sway of unbridled passions.

<sup>31</sup> "They become aware of their own existence only through appreciation by the others." Boucher (2008), 222.

Man becomes dependent on the opinions of others, internalizes them, stops using his own reason and falls prey to vices/passions.<sup>32</sup> Egoism, *amour propre*, the desire for recognition, the need to feel superior to the other, led to conflict between people and to the development of the sense of ownership, of a need to possess things in exclusivity. Man does not desire a thing for its inherent value, but because others want it too, in order to deny the others' desire and therefore to prove his superiority to them. Private wealth is an expression of such superiority, therefore is desired. Passions separate people, whereas need brings them closer to each other, because "the more we become enemies to our peers, the less we can dispense with them",<sup>33</sup> becoming dependent on them.

Private property, which has given birth to society, besides being a source of conflict between individuals, also leads to the formation of social classes (rich and poor)<sup>34</sup> and of the institution of slavery: the wealthy want to have dominion over society, to have power, while the poor are condemned to "toil, slavery and misery".<sup>35</sup> Slavery appeared because people became dependent on the opinion others had on them, and hence became easy to manipulate. Accepting to be a slave, a man renounces his freedom, thereby becoming less than human: he "renounces to his quality of being human, to the rights belonging properly to humanity and to the duties that accompany them".<sup>36</sup>

In order to protect his freedom, the individual will have to enter into a covenant with the other citizens of the state.<sup>37</sup> This convention, in which the citizens enter freely, is the social pact or social contract.<sup>38</sup> The social contract is "a form of association that defends and protects with all the common force the person and property of every

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<sup>32</sup> "The sociable man, always outside of himself knows how to live only in the opinion of others; and it is so to speak, from their judgment alone that he draws the sentiment of his own existence." Riley (2001), 66.

"In this context, men and women, driven by pride, acquire the character traits and values of those with whom they live together in society, being unable to reach awareness of their own inclination towards virtue and morality. Reason and conscience are unable to influence the formation of their character, letting them fall victims to the general egoism." Boucher (2008), 223.

<sup>33</sup> Manent (2000), 169.

<sup>34</sup> "Some toil, while others rule: it is the nature of things." Geledan (2007), 359.

<sup>35</sup> Boucher (2008), 222.

<sup>36</sup> Rousseau (2008), 55.

<sup>37</sup> "The primitive state cannot exist anymore, and the whole human race would perish if it doesn't change its way of life. And, as men cannot create new forces, and only one rules those existing, they have no other means to preserve themselves than to form through aggregation a sum of forces capable to defeat the resistance, to put them into motion through a sole mobile and to make them work together. Such a sum of forces cannot be generated but through the union of many." Rousseau (2008), 61.

<sup>38</sup> "The social contract is a synthesis of force and freedom, a synthesis that has become necessary due to the pressure of natural necessities." Manent (2000), 188.

associate, and which, while uniting all, enables everyone to remain as free as before, obeying only his own will”<sup>39</sup>. Through the institution of the social contract, the individual who becomes thus citizen, cedes his initial rights (thereby all becoming equal with regards to their individual condition, each having the same rights and duties as any other),<sup>40</sup> his natural freedom, gaining instead a conventional type of freedom, and a guarantee for the protection of each individual's person and property. Although he gives up on certain advantages (as is his natural freedom, the fact of being one's own master, not depending on any other), he gains others instead: security, protection, equality in rights and duties, civil freedom, the guarantee of the right of property over his possessions,<sup>41</sup> moral freedom. The purpose of the contract is “the preservation of the contractors”,<sup>42</sup> their protection, the elimination of conflict between them, and also the finding of a form of association that preserves the freedom of people while also protecting them and their property. The essence of the social contract is the commitment, assumed by each person taking part in it, to “place in common his person and all his power under the supreme command of the general will; and we shall recognize each member as an indivisible part of the whole”.<sup>43</sup>

With the forming of the social contract and of society as such, the individual passes from the state of nature into the civil state, becoming a member of the political body and, therefore, lending morality and rationality to his actions.<sup>44</sup> The general will<sup>45</sup> is formed by the consent through which the citizens are uniting their wills. It becomes the fundamental law, considered always right, and all people are obliged to respect it.<sup>46</sup> Obeying the general will means obeying one's own will, since the general will is the resultant of the particular wills of all the citizens aiming towards

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<sup>39</sup> Rousseau (2008), 17.

<sup>40</sup> “They all commit under the same conditions and must enjoy the same rights.” Rousseau, (2008), 81.

<sup>41</sup> In order to be able to claim the right of property over some piece of land, one must be sure that that land was previously free, unoccupied, it must not be extremely large, and the most salient criteria is that the individual claiming the land be able and willing to work it.

<sup>42</sup> Rousseau (2008), 84.

<sup>43</sup> Rousseau (2008), 62.

<sup>44</sup> “[...] from a stupid and limited beast [...] becomes an intelligent being and a man.” Rousseau (2008), 66.

“Each individual, as an indivisible part of the whole, continues to exercise his rights and to be subject unto no one but himself, without being under the tutelage of any higher power. As citizen, therefore as member of the political body, he is directly involved in the public problems.” Nay (2008), 339.

<sup>45</sup> Rousseau distinguishes between the general will and the will of all. General will intends to fulfill the common interest, representing the sum of differences between the opposing particular wills regarding the common interest, whereas the will of all represents the sum of particular wills that intend only their particular interests.

<sup>46</sup> “The pact is concluded between each one's freedom and the body that this pact is on the way of constituting, between the will of each and the general will.” Manent (2000), 188.



the common good. Only general will may enable a well-established society, aiming towards the fulfillment of the common good, utility and justice, “the common survival and general wellbeing”.<sup>47</sup> In their turn, the contractors have the duty of obeying the pact and the laws established by the general will. Failing to do so, they will be declared enemies, stripped of their citizenship, exiled or killed. Rousseau considers that the institution of the social contract enables society to become “free and equal”.<sup>48</sup>

Sovereignty is necessary for society, it is the key element of the pact, since “if there were no superior power to stand guarantee for the fidelity of the contractors and to force them to fulfill their reciprocal obligations, the contracting parties would have remained sole judges in their own causes and each would have had the right to unilaterally renounce the contract the moment it had the impression that another party had breached its conditions or when these conditions no longer suited its interests”.<sup>49</sup> The sovereign power must rule over the citizens, must settle the conflicts between them and must maintain the peace and safety of the society. The sovereign necessarily has an exterior position with regard to the citizens, in the sense that the sovereign does not constitute a party of the social contract, this enabling him to administer justice impartially, having no reason not to consider all subjects as equal among themselves. The sovereign is not a physical person, but the indivisible collective body (the political body), formed by the citizens and deriving its essence from the social contract to which they had agreed.

The sovereign does not have to offer any guarantee to its subjects, since “it is impossible that a body should harm all of its members”,<sup>50</sup> and his actions are directed entirely by the general will. Each citizen is a part of the sovereign. Its power, legitimized on the basis of the social pact, is “entirely absolute, sacred and inviolable”.<sup>51</sup> The main duties of the sovereign are: to consider all its subjects as equal, to use its power in the direction intended by the constituents of the social pact, to always aim towards the fulfillment of the general interest instead of any particular one.

The rights belonging to the sovereign include: the sovereign is above the law, it must apply the law, it has the right to punish those that break the law, to grant pardon or absolve from punishment; the will of the political body (the will of the sovereign) is to be considered as being always right, since it is the source of all right, the legislative will. The will of the sovereign is consubstantial with the general

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<sup>47</sup> Rousseau (2008), 165.

<sup>48</sup> Geledan (2007), 360.

<sup>49</sup> Rousseau (1958), 147.

<sup>50</sup> Rousseau (2008), 64.

<sup>51</sup> Rousseau (2008), 82.

will, being formed by the sum of the citizens' wills intending the common good.<sup>52</sup> There still arises an apparently paradoxical problem here – although the right over life and death is not transferable, nevertheless the sovereign has such a right: “We may ask ourselves how it is possible that particulars, whom themselves do not possess the right of disposing with their own life, may transfer to the sovereign this right they do not possess? The question seems difficult only because it is erroneously formulated. Any man has the right of risking his own life with the intention of preserving it”<sup>53</sup> (man indeed does not have right over life and death, but does have the natural right to protect his own life).

The general will finds its application in the law. The law is an act of the general will, therefore the question of the possibility of an unjust law is irrelevant. Since the collective body of the citizens is sovereign, it is this body that generates the law, therefore doubting its justice means doubting our own will. Legislative power is defined as “the heart of the state”,<sup>54</sup> whereas the executive is its “brain”.<sup>55</sup> Without law there can be no civil association, no order in society. The object of the laws is always general: before the law all citizens should be equals and the law addresses them as an unitary whole. When a law is proposed, in the assembly of the people, it is the task of citizens to approve or reject it, deciding if it conforms to the general will.

Laws are necessary because common men, although always intending the common good, but living under the sway of passions, cannot clearly understand where exactly lies the common good, and hence they cannot, by themselves, fulfill the general will.<sup>56</sup> To address this issue, the action of a legislator becomes necessary. The legislator serves as a guide to the people, having the role to create the constitutional framework, to show the people the path towards the realization of the common good. The common good may be correctly identified by the correspondence with its two defining principles: freedom and equality.<sup>57</sup> In the state, the authority of the law – and hence also the prestige of the legislator – should be supreme, such as that of God, so that “people will feel, when subjected to the [authority of the] state,

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<sup>52</sup> “The constant will of all the members of the state is the general will; by virtue of it they are citizens and free.” Rousseau (2008), 170.

<sup>53</sup> Avramescu (1998), 201.

<sup>54</sup> Rousseau (2008), 149.

<sup>55</sup> Rousseau (2008), 149.

<sup>56</sup> “The people always intends well, but, after its strengths, it doesn't always discern right.” Rousseau (2008), 90.

<sup>57</sup> “No citizen should be so opulent that he may buy another, and no one so poor that he has to sell himself.” Rousseau (2008), 106.

that they obey a divine law”.<sup>58</sup> Before enacting a law, the legislator must first clearly establish its purpose and its basis, in order to preclude any possible confusions,<sup>59</sup> to verify whether the law truly corresponds to the general will, and whether the people are indeed able to uphold it. If a law is bad, the people, as sovereign, has the power to change it. All laws are divided into political laws, civil laws, penal laws and those laws that are imprinted in the hearts of the citizens. Political laws are the fundamental laws of the state, standing at the basis of the state-sovereign relationship and determining the form the government takes – these laws are the only ones that are relative according to Rousseau. Civil laws underlie the relationships the members of the political body have between themselves and respectively with the political body in itself: the citizens should be dependent on the state and independent with respect to each other. Penal laws underlie the relationship people have with the law as such, manifesting the sovereign, mandatory aspect of the law. The laws that are engraved in people’s hearts – morality, customs, public opinion – constitute the forces that ultimately shape the construction and destiny of the state.

Between the sovereign and its subjects there is an intermediate body, the government, whose purpose is to execute the laws and to safeguard civil and political freedom. The action of government is defined as the “supreme administration”,<sup>60</sup> “the legitimate exercise of executive power”,<sup>61</sup> “a moral person endowed with certain faculties, active as the sovereign, passive as the state”.<sup>62</sup> Its task is to transmit to the people the orders it has received from the sovereign, assuring their execution. Between sovereign and government there exists a clear hierarchy. The source of the government's power is the sovereign. In order to exist, the body of the government needs a representative, a head of government embodied in a single person, who is the prince. The government is composed from kings, governors, magistrates (civil servants). The magistrate body (the bureaucratic apparatus of the state) may be formed from a larger or smaller number of members, but the higher their number, the weaker is the state.

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<sup>58</sup> Boucher (2008), 227.

<sup>59</sup> “But if the legislator, having mistaken his purpose, adopts a different principle from that which flows from the nature of things, so that one tends towards servitude, while another tends towards freedom, one towards wealth, while another towards the increase of the population, one towards peace, while the other towards conquest, we shall see that the laws are gradually weakening, the constitution is altered, and the state is overtaken by turmoil, without respite, until either it is destroyed or changed, and invincible nature enters again in its sovereign rights.” Rousseau (2008), 108.

<sup>60</sup> Rousseau (2008), 112.

<sup>61</sup> Rousseau (2008), 112.

<sup>62</sup> Rousseau (2008), 115.

A magistrate embodies three kinds of wills: his own individual, particular will that aims towards the advancement of his personal advantage, the will that is common to the magistrate body that aims towards the advancement of the prince's advantage, and respectively the sovereign will of the people, that is the general will, which provides legitimacy to the actions of government. In an ideal government, particular will ought to have no place, the will of the magistrate body ought to be subjected to that of the government, and the general will ought to be supreme. By joining government with the legislative authority, the prince becomes sovereign, the citizens become magistrates, the will of the magistrate body becomes the general will and the particular will remains free. The magistrature links the prince to the sovereign, safeguards the law and the legislative power, without being a part of the state, without having either legislative or executive power – it owns nothing but may stop everything.

### Conclusion

Rousseau discussed the idea of the social contract in two of his works, in *Discourse on the Origin and Basis of Inequality Among Men* (1755) and, respectively, the *Social Contract* (1762). Their scope was to investigate the origin of right, to “clarify the problem of the nature and legitimacy of political power in general”.<sup>63</sup> Similarly with the approach adopted by Hobbes, in order to reach the stage where society and the social contract are formed, Rousseau starts his analysis from a state of nature, in which all individuals are equal. The state of nature constitutes the background against which the constituted society may be evaluated. Natural man, considered as being in his nature, is completely different from social man – society exerts strong influence on the character of the human being, altering it radically from what it was in the state of nature. In the state of nature, man is solitary, autonomous, completely his own master. His only worry is to preserve his own life, to assure his necessities of living, reason for which man becomes a fisherman or a hunter, evolution through which natural man begins to perfect himself. Rousseau considers that in the state of nature man was a sensitive being (altogether different from the brute envisioned by Hobbes), endowed with a first natural feeling, pity, which has a definite import in the conservation of the species. From pity the most noble of virtues will be derived: good will, generosity, humaneness.

With the formation of the first social groups (family), man no longer lives alone, starts to build a roof over his head, to assume certain responsibilities (the man had to provide the food necessary for the family, the woman to raise their children),

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<sup>63</sup> Rousseau (2008), 7.

to enter into communication with those around him, perfecting his language and improving his way of life. With such progress, self-esteem is born, pride, the need to be recognized by others as being superior. Differences in status tear apart the previous equality and lead to conflicts between individuals, driven by violent passions, all rooted in pride: desire for glory, for wealth, scorn and envy directed towards others. Chained by these passions, man becomes a passionate social being, losing his autonomy, his self-esteem in thrall to the opinion of others. Each desires what the other desires to have, not for the sake of that good's intrinsic value, but only because the other desires it. Obtaining that good before the other does, perhaps even succeeding to barr the other's access to it, will make him feel superior to the other. Property, besides leading, as it was shown, to conflict between people, also is the source of differentiation in social classes – the wealthy and the poor – and of slavery. Slavery is considered by Rousseau as unlawful, incompatible with human nature, because the natural human right to freedom is inalienable, man is always his own master, and without his consent no one has the right to claim him as slave.

Therefore, in order to assure their own safety, as well as that of their property, men will form a covenant – the social contract. The social contract is a form of association, intended to protect the individual and his property, man remaining as free as before, with the difference that now his natural freedom is replaced by a civil one. The social contract legitimizes property, the individuals becoming members of a political body, as citizens involved in the political problems of the state. The essence of this pact lies in the summation of the individual wills of the citizens, generating the general will, which all citizens are bound to respect. This will is the will of the sovereign – a collective, indivisible being, legitimated by the contract. The sovereign is necessary for maintaining peace and order in society. He is exterior to the contract, not being a party to it. The function of the sovereign is subsumed by his duties and rights: the obligation to consider all citizens as equals, the right to be above the law, the right of punishing those breaking the law.

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