

Rousseau's Legacy in Two Conceptions of the General Will: Democratic and Transcendent

Christopher Bertram

Abstract: This paper explores the contrast between two conceptions of the general will to be found in Rousseau's work, especially in the *Social Contract*. The first of these identifies the general will with the decisions of the sovereign people as they legislate together; the second conceives of the general will as a transcendent fact about the society which may or may not be reflected in actual legislative decisions. Though these conceptions may be capable of reconciliation in Rousseau's own work, the tension remains and is reflected both in Rousseau's own ambivalence towards democracy and in the different ways his thought has been received and adapted in philosophy and politics.

Introduction

The central concept of Rousseau's political philosophy is the general will. Rousseau claims that a legitimate political order is one where the sovereign people are governed by their own general will: where the people are both rulers and subjects at the same time. This sounds like a radically democratic conception of the political order and Rousseau has, indeed, been an inspiring figure for proponents of direct and deliberative democracy through the years. Yet Rousseau's own treatment of the concept, principally in the *Social Contract* (SC), is apparently marred by a serious ambiguity. This ambiguity partly accounts for the breadth of Rousseau's influence—since subsequent thinkers can take what they find attractive and ignore what is inconvenient—as well as a good deal of the passion surrounding his thought. The ambiguity in question is between two conceptions of the general will. According to one understanding of it, the general will is simply the decision that the people make together in their legislative assembly. The votes are tallied and the successful proposition embodies the general will of the sovereign. But according to

Christopher Bertram is Professor of Social and Political Philosophy, Department of Philosophy, School of Arts, University of Bristol, 43 Woodland Road, Bristol, UK BS8 1TB (C.Bertram@bristol.ac.uk).

another interpretation, which also gets powerful support in Rousseau's texts, the general will is something that transcends the popular decision, that exists even when nobody discerns it, and that can contradict the empirical judgment of the citizens. In addition, the democratic reading of Rousseau is in tension with other commitments that Rousseau expressed in his writings and pursued in his life. The powerful role that Rousseau accords to the government and its magistrates in his theoretical account of the legitimate state and his own troubled relationship to the oligarchic politics of Geneva pose problems for the image of Rousseau as democrat that flows from the democratic interpretation of the general will.

In what follows I first explore the textual basis for these apparently contradictory conceptions of the general will before suggesting a way in which they can be reconciled in Rousseau's own thought by seeing democratic decision, at least when conducted against a favorable background of objective and subjective conditions, as a plausible mechanism for discovering and tracking the common interest citizens have in fair terms to live together and their shared interest in freedom. Democracy, for Rousseau, on this account is a necessary, though not sufficient, component of the legitimate state. Second, I concede that a view of Rousseau as democrat must nevertheless contend with his awkward and inconclusive theory of the relationship between sovereign and government. Rousseau's willingness to entertain a highly dominant executive weakens his democratic credentials, as does his failure to confront sufficiently the oligarchic politics of his native Geneva. Finally, I remark on some of the ways the ambiguities of Rousseau's general will have played out in his ideological legacy, suggesting that a purely abstract and formal development of the general will, as found in the Kantian tradition that continues in the work of John Rawls and his followers, is lacking something when it neglects the democratic spark that was also present in Rousseau and that continues to find an echo in the politics of our own age.

Two Conceptions of the General Will

What, then, is the textual warrant for saying that Rousseau has two conceptions of the general will? Let us take the "democratic" conception first. Rousseau clearly envisages that the citizens of a legitimate state assemble together in person to legislate and he identifies their legislation with the general will. At the beginning of book 2 of the *Social Contract*, Rousseau explicitly rejects the idea that sovereignty can be "alienated" and thereby vested in some person or persons other than the sovereign people as a whole. Whereas for Hobbes—probably the intended target of Rousseau's thought here—the right to legislate can be placed in the hands of some person or body other than the whole people and yet be taken to be their will, since they are the "authors" of what the sovereign decides (he bears their person and is

authorized by them), Rousseau rejects any such arrangement.¹ This is because in giving such general authorization, a people simply loses its ability to govern itself, loses its moral quality of collective free agency, and reduces itself to a condition of mere slavery, contrary to the essential nature of man.²

Later on in the *Social Contract*, we see that the very mechanisms by which laws in conformity to the public interest emerge depend for their functioning on the existence of actual democratic mechanisms. So, for example, in book 2, chapter 4—“Of the Limits of Sovereign Power”—Rousseau explains that the reason why the general will is always “upright” is that in voting, each citizen is constrained by the nature of the act to “appropriate the word *each* to himself, and think of himself as he votes for all.”³ This is because “the equality of right and the notion of justice which it produces follows from each one’s preference for himself and hence from the nature of man; ... the general will, to be truly such, must be so in its object as well as its essence, ... it must issue from all in order to apply to all.” The quality of impartiality, which is essential to the law, emerges because citizens are placed in a position where they have actually to consider laws that apply to everyone, and hence to themselves. They are drawn out of themselves and their selfish or parochial concerns by this process of participation and decision and compelled to adopt an impartial standpoint, at least with respect to the common affairs of their own community. For Rousseau, then, the forum of democratic decision itself plays the role that the device of the original position plays for John Rawls in *A Theory of Justice*: it is a procedure that redirects self-interest and thereby inclines people (and the people) to justice.⁴

Some caveats are required. Democratic procedure is not *in itself* sufficient to ensure the emergence of laws that are genuinely in the public interest. In a society that is too unequal or too culturally heterogeneous, or where people are too mired in their private concerns and lack a minimal sense of membership in a collective greater than themselves, mere compliance with procedure will not be enough. Because of these social and psychological obstacles to upright collective decisions, Rousseau gives much attention to the problem of getting the collective to the point where it has a sufficient sense of shared identity to act rightfully and then to keeping it there. The implausible figure of the Lawgiver has the job of molding a people into citizens, something that is necessary because, at the initial stages of state formation, individuals have not yet acquired the skills and habits of character that are the

¹Hobbes’s authorization argument is found in chapter 18 of *Leviathan*.

²See SC I.5, “Of Slavery.”

³Quotations from the *Social Contract* are from Victor Gourevitch, ed., *Rousseau: The Social Contract and Other Later Political Writings* (Cambridge: Cambridge University Press, 1997).

⁴For a very clear account of the role of self-interest in guiding the general will, see Gopal Sreenivasan, “What Is the General Will?,” *Philosophical Review* 109, no. 4 (2000): 545–81.

consequence of deliberating, legislating, and living together under self-chosen laws. The provisions of the civil religion are also there to foster this sense of common identity and fellow-feeling. And, of course, Rousseau pays great attention to the need to prevent the emergence of factions or states within the state—almost certainly based on divisions of wealth and income—that subvert a sense of common interest and that capture the state for their own sectional interests. In order to counter such threats, Rousseau deplores the formation of “partial societies”⁵ and looks to promote an ethos according to which all the citizenry are actively, fully, and permanently engaged in the business of legislation, rejecting the idea that they could delegate this function to representatives,⁶ since representation is a device whereby the citizens end up being dominated by finance.

This ultrademocratic conception of sovereignty is, however, accompanied in the text by an alternative according to which the general will amounts to a transcendent fact of the matter concerning the common interest of the people that is quite independent of any opinion they might happen to have on the subject. A number of well-known passages illustrate this alternative conception. The most famous of these are contained in book 2, chapter 3, “Whether the General Will Can Err.” In that chapter Rousseau contrasts the general will, which is “always upright and always tends to the public utility,” with “the people’s deliberations,” which do not. He goes on to remark on the “considerable difference between the will of all and the general will,” declaring that “the latter looks only to the common interest, the former looks to the private interest, and is nothing but the sum of particular wills.” Further support for the notion of a general will that is independent of the actual opinions and votes of the citizens comes at the beginning of book 4, in its first chapter, “That the General Will Is Indestructible.” There Rousseau considers the case of the state that is in decline, where “the general will is no longer the will of all” and where “the general will grows mute” and “iniquitous decrees with no other goal than particular interest are falsely passed under the name of Laws.” He asks, “Does it follow that the general will is annihilated or corrupted?” and answers: “No, it remains constant, unalterable, and pure.”

This contrast between democratic and transcendent conceptions of the general will raises questions not only about Rousseau’s own thought but also about politics and philosophy in general. Where Rousseau himself is concerned, the immediate issue is one of coherence. Is there a way of understanding Rousseau’s apparently contradictory statements and commitments on the subject of the general will so that the appearance of contradiction disappears and we are left with a reading that is independently interesting and plausible? A secondary issue for Rousseau scholars is the relationship between the

⁵SC II.3.

⁶SC III.15.

democratic/transcendent tension and other questions of Rousseau interpretation. Specifically, it seems right to mention two related but distinct matters: the issue of how democratic Rousseau's view of an ideal political order is, and the issue of how "totalitarian" and illiberal he is. While these are matters primarily for the historian of ideas, there are also questions for the political scientist and democratic theorist of today—specifically, the question whether the distinction between democratic decision and transcendent public interest implicit in Rousseau's writing tracks something that is an important feature of the world and is therefore a distinction we should hold on to, irrespective of whether Rousseau's thought can be made coherent. Finally, there is the problem of Rousseau's reception in the history of philosophy and political theory. Quite apart from the question of which reading of the text makes the most sense is the matter of how subsequent thinkers have read Rousseau and how what they have done with Rousseau has been read in its turn. Even if the "correct" understanding of the general will turns out to be a thoroughly democratic one, it may be that a "misreading" of the general will as quite distinct from the empirical will of the people has been more influential.

The Coherence of Rousseau's Own Thought

With respect to Rousseau's own thought, specifically in the *Social Contract*, there are two issues: first, the immediate tension between the democratic and transcendent understandings of the general will, and second, whether any resolution of this tension is consistent with other elements of his political philosophy. The first constraint on any interpretation of the general will is that it ought to pass a threshold of plausibility as an answer to Rousseau's central announced goal in the *Social Contract* of finding

a form of association that will defend and protect the person and goods of each associate with the full common force, and by means of which each, united with all, nevertheless obeys only himself and remains as free as before. (SC I.6)

Neither the democratic nor the transcendental conception is without problems as a response to this objective, but the ones faced by the latter look far more formidable than those faced by the former. The difficulty faced by the democratic conception is the familiar one of the democratic individual faced by a collective decision of which he or she does not approve. How can such individuals be understood to be as free as they were before the act of association, when they are now bound to obey a decision that they voted against? Additionally, how can such individuals be understood to obey only themselves? Construing obedience to oneself as a constraint distinct from remaining free is important here, because such a constraint should disqualify solutions that hinge on highly inventive redefinitions of freedom.

Two passages in the *Social Contract* are particularly relevant here. The first is the notorious one in book 1, chapter 7, where Rousseau uses the expression “forced to be free.” Although Rousseau’s love of paradoxical formulations has generated much overheated commentary, his meaning is clear. Rousseau understands freedom as nonsubjection to the will of a particular other.⁷ Its opposite, unfreedom, is the condition of the Roman slave who is bound to act according to the will or whim of his master. The status of citizen under the law guarantees to each member of the state an equal freedom to others, whereas, according to Rousseau, a lawless condition would render individuals both materially and psychologically dependent on other individuals. Obedience to the law restricts the freedom that individuals have to act in ways that impinge on the freedom of others, but in thus restricting them it also frees them from being subject to the arbitrary will of others (as those others are freed in their turn). Equality, reciprocity, and freedom turn out to be mutually necessary and mutually reinforcing.

The second passage comes in the second chapter of book 4. Here Rousseau raises the question of democratic minorities directly:

Yet the question is raised how a man can be both free and forced to conform to wills which are not his own. How are the opponents both free and subject to laws to which they have not consented?

His answer has two components. The first echoes the “forced to be free” passage: the general will is the condition for citizens to enjoy their free and equal status. The second relies on a conception of democracy as an epistemic device to discover the common interest. Citizens, in voting, are expressing an opinion about a fact of the matter, and the democratic process is a normally reliable method for discovering that fact. According to this account, citizens permanently will the conditions for their mutual association as free and equal, because of the fact that this status protects them from individual subordination to the particular will of others as only a just civil association can. The laws, which constitute the terms of this civil association, are the immediate aim of the collective decision. But they are the objects of judgment by individuals rather than objects of will: citizens *will* the conditions under which they can coexist as free and equal, they *judge* that such and such a law is a component of those conditions. In the event that some other law turns out

⁷Although Rousseau has some remarks on the proper definition of freedom in the *Social Contract*, most notably in I.8, arguably his clearest statement of freedom as non-domination is found in the Eighth of the *Letters from the Mountains* where he writes, “Liberty consists less in doing your own will than in not being subject to the will of another; it consists further in not subjecting another’s will to your own” (*The Indispensable Rousseau*, ed. John Hope Mason [London: Quartet Books, 1979], 246). The usual translation of the *Letters* has their place of composition as singular, following the French *montagne*. But it is clear that they refer to a general area, to be contrasted with the country (*campagne*), so I have preferred the plural.

to be the one that best realizes those conditions, the citizen wills its implementation and enforcement, even though that individual had made a mistaken judgment about its objective character.⁸

Many people will find Rousseau's argument here strained. After all, if I judge that some law would be in the common interest, yet find that the majority chooses otherwise, it does indeed seem that I am being forced to obey a will that is not my own. Yet there are arguments on the other side. As a citizen, my primary interest is in finding an arrangement under which to live with others on terms of equal freedom. For many matters it will be more important to me that we find a rule by which we all can live rather than that my own opinion on the best rule should prevail. Where the purpose of rules is straightforward coordination, this looks unproblematic. If we hold a vote on whether we should drive on the left or the right and I favor the left, I may end up in the minority, but I still end up getting what matters most to me, because what matters most is that we all do the same thing and not that I get to drive on the left come what may. More controversial will be cases where substantive moral values are involved, but even here there is scope for some accommodation. For example, there may be a consensus that freedom of speech should be protected by law, a consensus that also incorporates a good deal of disagreement about matters such as the limits of what counts as speech. The precise law that gets voted by the assembly may not be the one that I favored, but I still will that there be protection and that, therefore, some such law is better than none. Additionally, there is the familiar fact that, as a member of a collective with a decision-making procedure in which I participate, I may identify with the decision even where I voted otherwise at the time it was taken. As a citizen, I have participated in the assembly in good faith according to procedures that I accept and agree with. In the event that my opinion prevails, I expect those fellow citizens who deliberated and chose with me, but chose differently, to accept the majority decision. Considerations of fairness and reciprocity require that in the event that I am in a minority, I accept the decision as I would expect others to accept it in the alternative. In this sense, as a majoritarian democrat, I will the implementation of the law that I am subject to, even in the case where I did not agree with the legislative proposal.⁹

⁸Some commentators who have favored such an "epistemic" understanding of democratic choice in Rousseau have interpreted the final two paragraphs of SC II.3 as an anticipation of Condorcet's jury theorem. For reasons I explore in Bertram, *Routledge Philosophy Guidebook to Rousseau and "The Social Contract"* (London: Routledge, 2004), 109–10, the connection seems a tenuous one.

⁹The classic exploration of the difficulties of willing a substantive policy and a democratic decision that conflicts with it is Richard Wollheim, "A Paradox in the Theory of Democracy," in *Philosophy, Politics and Society*, Second Series, ed. Peter Laslett and W. G. Runciman (Oxford: Blackwell, 1962), 71–87.

The democratic conception of the general will, then, has some claim that it answers to Rousseau's stated aim in the *Social Contract* that citizens obey only themselves and remain as free "as before." They obey themselves at least as participants in making the laws they are subject to and those laws ensure their freedom from arbitrary domination by the private wills of others. A purely transcendent conception of the general will would face much greater difficulties. Arguably, a set of laws that were framed in accordance with the objective common interest would protect citizens from domination, but it is hard to see that obeying such laws could also count as an instance of citizens obeying themselves. An argument could be constructed that in obeying such laws they obey what they *truly* want—that is, to live with their fellow citizens on fair terms—quite irrespective of what any of them happen to think on the matter, but here we go too far down the road of redefining freedom as obedience to one's true interests and lose the subjective component of freedom entirely.

A further difficulty with the claim that the state should be ruled according to a purely transcendent or objective general will is the epistemic one. It may be that there is a fact of the matter about where the common interest lies, but in the absence of a reliable method for discovering where it lies, the claim that society should be ruled in accordance with this objective general will is empty. Certainly, there is no reason to suppose that we should take the claims of elites—perhaps elites armed with "science"—to discern that general will seriously. There is no warrant in Rousseau for the idea that a revolutionary vanguard or a Committee of Public Safety could rule legitimately according to a general will that they discern. Rather the contrary, given his insistence that the sovereignty cannot be alienated and placed in the hands of some person or body smaller than the people as a whole. In fact, the epistemic issue should bring us back to the contrast between the democratic and the transcendent conceptions of the general will in order to see that, for Rousseau, they fit together. Democratic choice of the laws is necessary for laws to be selected that serve the common interest of society. Only through the inclusion of all those subject to the laws in the decision-making process is it possible, he thinks, to fix on a set of associative terms that properly respect the interest of each person in nondomination. Each person is led, through the mechanics of the democratic procedure itself, to consider potential laws from an impartial perspective, to "appropriate the word *each* to himself, and think of himself as he votes for all."¹⁰ But clearly, to claim that democratic choice is a necessary condition for the discovery of the general will is not also to claim that it is a sufficient condition. Democratic choice can go wrong, and badly so, and this is what Rousseau has in mind in those passages where he contrasts the empirical popular will with a transcendent general will. The problem is that the choice of laws that track the objective

¹⁰SC II.4.

common interest is not ensured by the mechanics of democratic procedure alone, but also depends on other nonprocedural facts about a political community. In a society marked by acute divisions between rich and poor, it is no longer the case that in weighing the impact of a proposed law on himself, a citizen adopts the perspective of everyman, for the simple reason that the very same law can have very different effects on different citizens, depending on their wealth. Similarly, differences on other dimensions, such as culture and lifestyle, could undermine the procedural reliability of democratic choice. In addition to these objective factors, Rousseau also stresses cognitive and attitudinal obstacles to democratic choice: early in the lifetime of the republic, citizens may not yet have acquired the habits of mind necessary to think as a citizen; in a society that has become wealthy and used to “luxury” citizens may no longer care sufficiently about their citizen identity to participate properly in its democratic life. Size also matters: on the “objective” dimension, it is likely to be associated with cultural diversity; subjectively, a large and anonymous society is one where citizens are less likely to see one another as fellow participants in the same political project. In the case of a raw and unformed people—perhaps such as the people of eighteenth-century Corsica¹¹—Rousseau thought that with the semimiraculous lawgiver the people could get a just republic going, but his response to democratic failure due to inequality or luxury in an established people was not to suppose that anyone could substitute for the people by discerning and enforcing the general will for them. His attitude to such “societies,” which exhibit no real social unity, was one of despair and resignation. This would also, undoubtedly, have been his attitude to our own societies.

Despite the awkwardness of some of Rousseau’s formulations, then, the best way to see his two conceptions of the general will is not as alternatives, but as complements. For any proposed law that sets the terms of association among citizens, there is a fact of the matter, independent of what anyone happens to think, about whether that law is genuinely in their common interest, represents fair terms for them to live and work together, and safeguards the freedom of each of them. But democratic choice is an ineliminable element in the discovery of whether a proposal has those properties and will normally be reliable so long as the objective and subjective conditions for a well-functioning polity are in place. However, the essential role of democratic choice in this process does less to establish Rousseau as a proponent of radical democracy than might appear. This is because the setting of the laws by the people may play less of a role in the day-to-day life of a Rousseauvian society than it sometimes seems, and because the choice that the people make may be guided to a very large extent by the aristocratic element in Rousseau’s vision of the legitimate state: the magistrates.

¹¹SC II.10.

Rousseau's Theory of Government (and Geneva)

Rousseau's theory of the relationship between sovereign and government is open to a variety of interpretations and more or less democratic accounts can be produced, depending on which passages are emphasized and how much recourse we have to texts outside the *Social Contract*, such as the *Letters from the Mountains*, and to biographical facts about Rousseau's relationship with and attitude to his native city of Geneva. In the *Social Contract* itself, the functional division of labor between sovereign and government is clear, at least in its broadest outlines. The sovereign, composed of the citizenry as a whole, is the author of the laws, which are the expression of its general will. Those laws set terms of association for the citizenry, applying indifferently to all members of the state. The law comes from all and applies to all: it is general in its origin and in its object. Rousseau argues, however, that for the republic to function, it needs to apply the law in particular cases, to decide when a specific person has broken it, to decide what it means, to enforce and to punish. This task, of the routine application of the law, ought to be in the hands of a special body: the magistrates. Though he considers the case where the citizenry as a whole has this job—a form of government he calls democratic—it is clear that Rousseau's preferred solution is for the citizens to choose the best among them to serve as magistrates. In other words, Rousseau's ideal form of government is an elective aristocracy.¹²

When we try to imagine what a Rousseauvian society would be like, much depends on how we conceive of the relationship between sovereign and government working in practice, and on how extensive the laws are and how active the citizenry is in making them. Here, Rousseau appears almost willfully self-contradictory. On the one hand, it seems as if the laws will be simple and few in number and will merely set the constitutional framework within which citizens conduct their common affairs. A people, guided by the wisdom of the lawgiver, might set such a framework in place and then have very little to do. We find Rousseau hymning the simple state at the outset of book 4 of the *Social Contract* where, in a well-ordered society,

all of the springs of the State are vigorous and simple, its maxims are clear and perspicuous, it has no confused, contradictory interests, the common good is always fully evident, and requires only good sense to be perceived. ... A State thus governed needs very few Laws, and as it becomes necessary to promulgate new ones, this necessity is universally seen.¹³

Sovereign assemblies in this picture might be largely ceremonial affairs in which the citizens express their continued commitment to one another,

¹²Book 3 of the *Social Contract* contains most of his discussion of government.

¹³SC IV.1.

with little need for discussion or decision. But on the other hand, Rousseau often writes as if the sovereign is permanently active, with highly engaged citizens, gripped by patriotic fervor, rushing to participate: “in a well-conducted city everyone flies to the assemblies.”¹⁴ He goes on to remark there that “among the Greeks, all the People had to do, it did by itself; it was constantly assembled in the public square.” There really is no way of reconciling these images: both have an important place in Rousseau’s writing and neither can be dismissed as an aberration.

Similarly, Rousseau expresses apparently contradictory attitudes on the subject of whether the sovereign people or the government will be the actually dominant force in the state. In much of book 3 of the *Social Contract*, the magistrates are both an unfortunate necessity and a constant threat. A necessity, because the state needs a special body to apply the law in particular cases; a threat, because, as a corporate body within the state and, moreover, a relatively homogeneous and well-organized one, there is always the danger that the magistrates will substitute their own collective will for the genuine general will of the people and thereby terminate popular sovereignty. Yet at the outset of book 4, we appear to find Rousseau endorsing their dominance through control of the political agenda, when he writes of “the right of voicing opinions, proposing, dividing, discussing [motions], which the Government takes great care to allow only to its own members.”¹⁵

Some of these tensions may have their roots in Rousseau’s uncomfortable relationship with Geneva, the city of his birth. Though Rousseau left the city at the age of seventeen, never to return except for fairly brief visits, he made a point of praising Geneva and its institutions in a number of places, perhaps most notably in the *Dédicace* to the *Discourse on Inequality*. Some scholars have seen Geneva as the model for the institutions of the *Social Contract*; others have been extremely skeptical.¹⁶ Eighteenth-century Geneva was a state where the people were nominally sovereign, but where actual power was exercised by a very small elite through a body, the *Petit Conseil*, dominated by a very few families. The contrast between a widespread ideology of popular sovereignty and an actuality of oligarchy led to intermittent clashes between the citizenry and their government ending in bloodshed and minor renegotiations of the constitutional relationship (in 1707, 1734–38, and 1768). The image of democracy versus oligarchy has to be viewed with some caution, though. The citizenry themselves were but a tiny fraction of even the adult male population of the city, so had they succeeded in imposing

¹⁴SC III.15.

¹⁵SC IV.1.

¹⁶The classic text denying a relationship between the historical Genevan institutions and Rousseau’s doctrines is John Stephenson Spink, *Rousseau et Genève* (Paris: Bovin, 1934). The modern work that most trenchantly argues for a connection (and one that undermines Rousseau’s democratic credentials) is Richard Fralin, *Rousseau and Representation* (New York: Columbia University Press, 1978).

themselves it would hardly have been the case that all those subject to the laws would have had a hand in making them.

The Genevan constitution bore little similarity *in reality* to the institutions Rousseau advocates in the *Social Contract*. However, there is a closer resemblance between Rousseau's ideal and the constitution as it was falsely imagined to be by the popular party. This resemblance lies in the combination of sovereign citizen legislative assembly with aristocratic executive. It is altogether unclear whether Rousseau, at the time of writing texts such as the *Dédicace*, was praising his home city while under a gross misapprehension of its constitutional actuality or, alternatively, was seeking to promote the democratic image as a covert critique of the real Geneva.¹⁷ Whichever of these views of Rousseau's stance is accurate, he was surprised and shocked by the manner in which the *Social Contract* was received by the government of the city on its publication in 1762. The book was banned and burned, and Rousseau was moved to renounce his own citizenship. The doctrines of the *Social Contract* were then subjected to a hostile examination by Jean-Robert Tronchin in his *Letters from the Country*. When Rousseau came to reply to these, in his *Letters from the Mountains* in 1764, it might have been expected that he would supply a trenchant defense of the democratic doctrines of the *Social Contract* against Tronchin's critique. In part, this is exactly what he did. In particular, the Seventh *Letter* contains a vivid description of the ways in which the government uses its position to undermine the sovereign authority of the people, a description that is highly reminiscent of his analysis in book 3 of the *Social Contract* (chaps. 10 and 11). Partisans of the "democratic" Rousseau are therefore often shocked to discover that on one of the central points separating the oligarchic and democratic parties, the right of citizens to initiate legislation in the assembly, Rousseau sides with the government by backing the constitutional settlement of 1738 known as the "Edict of Mediation."

The image of Rousseau as a consistent democrat and partisan of popular sovereignty receives a further blow when we consider his attitude to the majority of the Genevan population in subjection to its laws. Even leaving aside the question of female suffrage, a matter where the misogynistic Rousseau might be expected to disappoint, he appears to have shown no interest in extending political rights beyond the minority of hereditary citizens. The democratic principle of legitimacy that he endorses theoretically in the *Social Contract* appears to have had little practical impact on his attitude to the politics of his native country.

Rousseau's political caution with respect to the politics of Geneva therefore looks like an embarrassment for any interpretation of his thought that seeks to represent him as a radical democrat. But it is not clear how

¹⁷Among the advocates of the "covert critique" theory is Blaise Bachofen, *La condition de la liberté: Rousseau, critique des raisons politiques* (Paris: Payot, 2002), 240–48.

far we are entitled to impugn that theoretical commitment to democracy as a form of human association on the grounds of his conservatism and hesitancy in relation to practical matters of politics. There are, as it were, consequentialist, deontological, and psychological-biographical reasons why we should be reluctant to press these political matters as a guide to philosophical interpretation.

The first, “consequentialist” reason stems from Rousseau’s profound pessimism about human institutions, particularly modern ones. Though his aim in many of his writings is to show that human beings can achieve an existence, and a coexistence, as free and equal beings able to satisfy their *amour-propre* in non-self-defeating ways,¹⁸ he has little confidence that they will actually succeed in doing this. Radical political change is at least as likely, indeed probably more likely, to usher in a new regime of domination and oppression (perhaps garlanded with nice phrases about freedom and equality) as it is to bring about a new society governed democratically according to the general will of its sovereign citizens.¹⁹

The second, “deontological” reason depends on a distinction between the right and the good. It is a familiar point, and one which we later see in Kant’s reaction to the French Revolution, that a state of affairs (including a political state of affairs) may be an immense improvement but, yet, there may be no morally permissible means to bring it about. That this may indeed have been Rousseau’s view gets support from the psychological and biographical evidence concerning his own attitude to conflicts in Geneva. An example is his self-reported reaction to the civil conflict of 1737, composed for a draft of the *Letters from the Mountains* but included in book 5 of the *Confessions*:

I was at Geneva when arms were taken up in 1737, I saw the father and the son leave the same house armed, the one to go up to the City Hall, the other to proceed to his district, certain of finding themselves face to face with each other two hours later, in danger of slaughtering each other. This horrible spectacle made such a keen impression on me that I swore never to be a party to any civil war, and never to uphold domestic freedom with arms, or my person, or my assent if I ever returned to my rights as a citizen.²⁰

¹⁸The pioneering text, at least in English, reading Rousseau in this way is N. J. H. Dent, *Rousseau* (Oxford: Blackwell, 1988); Frederick Neuhouser, *Rousseau’s Theodicy of Self-Love* (Oxford: Oxford University Press, 2008) deepens this reading, while adding some pessimism to the idea that Rousseau’s solutions would actually satisfy the demands of *amour-propre*.

¹⁹Such is, of course, the theme of Rousseau’s first two *Discourses*.

²⁰Jean-Jacques Rousseau, *The Confessions and Correspondence, Including the Letters to Malesherbes*, trans. Christopher Kelly (Hanover, NH: University Press of New England, 1995), 181.

Rousseau tells us later in the *Confessions* that this oath informed his attitude in the controversies at Geneva that followed the suppression of the *Social Contract*.

While it will always be possible, then, to read Rousseau against the background of Genevan politics and, hence, to stress the less democratic aspects of his theoretical writings in the light of that history, those who want to resist such reinterpretation are fully entitled to do so. Neither Rousseau's theory of government nor his political history need be fatal for the image of Rousseau the democrat. The democratic component of the general will, as an authentic aspect of Rousseau's thought, remains robust.

The Legacy of Ambiguity: The General Will after Rousseau

Though there are ways of reconciling the democratic and transcendent conceptions of the general will, the tension between them has influenced its after-life in both politics and philosophy, though the valence attached to it has been rather different. In politics, hostile commentators have seized on the fact that Rousseau sometimes contrasts the general will with the actual wants, desires, and choices of citizens and have invoked the specter of Robespierre or of Lenin and the vanguard party. On this reading, the seemingly democratic Rousseau actually provides justification for an elite to substitute themselves for the real choice of the people. By tying this thought together with other remarks in Rousseau's writings, on freedom (and being "forced to be free"), on the lawgiver, on civil religion, and on the total alienation of right, a picture can be painted of Rousseau as a "totalitarian democrat."²¹ How distant this Rousseau is from Rousseau the rather cautious and conservative critic of Genevan politics.

In philosophy, by contrast, the abstraction of the general will from the empirical desires of actual people has been seen not as a problem but as a feature. The influence of the transcendent general will here is clear and massive, most notably in the Kantian tradition. Kant adapted the idea of the general will in two ways. First, in his moral philosophy, in one of the formulations of the categorical imperative: the kingdom of ends formula. Here, Kant invites moral agents to consider themselves as legislating for a "kingdom of ends," where universal rules have to apply to a community of equally placed free and rational agents.²² In the political sphere, the idea of the general will again features in Kant's thought, though not as the democratic expression of the people. Rather, it has two "virtual" incarnations. First, the idea of an omnilateral will is central to Kant's theory of how it can be possible

²¹Most famously, of course, in Jacob Talmon's *The Origins of Totalitarian Democracy* (London: Secker and Warburg, 1952).

²²Immanuel Kant, *Groundwork of the Metaphysics of Morals* 4:434, in *Practical Philosophy*, ed. Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 83–84.

to place persons under a duty to one another, in particular to respect property rights. To insist that others respect my holdings in external property unilaterally would be to seek to subject them to my will, a restraint that they have not reason to accept. Only where rules concerning the determination, adjudication, and enforcement of property rights issue from a perspective that is common to all members of a community and that does not subordinate some to the wills of others, is property legitimate.²³ Second, the idea of the general will emerges as a theoretical test for the legitimacy of a regime: Are its laws such that it would be possible for them to be willed by a free people? Here, the idea of the general will is very distant from any democratic conception, appearing only as a weak hypothetical test (although Kant does give examples of laws that could not pass this test—such as a law to establish a hereditary ruling class).²⁴

This tendency to favor an abstract conception of the general will, unrelated to the actual choices that citizens make, is also found in Hegel, who rebukes Rousseau in his *Encyclopaedia Logic* for lapsing into a democratic conception despite having grasped the ideal that the general will could be distinguished from what the people actually want:

The distinction between ... what is merely in common, and what is truly universal, is strikingly expressed by Rousseau in his famous *Contrat social*, when he says that the laws of a state must spring from the universal will (*volonté générale*), but need not on that account be the will of all (*volonté de tous*). Rousseau would have made a sounder contribution towards a theory of the state if he had always kept this distinction in sight.²⁵

Hegel's relationship to Rousseau is, quite generally, a tricky interpretative question, and it is not entirely clear how we should take his efforts to distance himself from the Genevan. But the case of Kant is, at least in one respect, more straightforward. To allow the principles of either morality or political right to become infected with the messy empirical details of human psychology and individual desire (always a concern when what people actually want gets to count) would have interfered with the idea that principles of right establish what is objectively necessary for the mutual coexistence of free and equal beings. The fallible opinions of those finite beings on the issue of what rights anyone ought to have are really beside the point.

We see this Kantian development of the transcendent conception of Rousseau's general will continuing in our own day, particularly in the work

²³See Kant, *The Metaphysics of Morals* 6:256–58, in *Practical Philosophy*, 409–11. My understanding of Kant's invocation of an omnilateral will with respect to property has been shaped by Arthur Ripstein, *Force and Freedom: Kant's Legal and Political Philosophy* (Cambridge, MA: Harvard University Press, 2009), esp. chap. 6.

²⁴Kant, *Toward Perpetual Peace* 8:350, in *Practical Philosophy*, 322–23.

²⁵G. W. F. Hegel, *Hegel's Logic*, trans. William Wallace, 3rd ed. (Oxford: Clarendon, 1975), 228 (§163).

of John Rawls and his followers. Specifically, the idea that principles of justice can emerge from the consideration of self-interest, when that self-interest is considered under appropriately designed circumstances, is central to Rawls's *A Theory of Justice* and to the idea of the original position.²⁶ Just as Rousseauian citizens are obliged by the form of law, by its universal and general quality, to adopt the standpoint of everyone, and are drawn by their interest in not being subject to burdensome regulation to favor fair laws that burden all equally, so too the denizens of the original position are led to choose principles of justice. But while the Rousseauian citizens would not be biased toward themselves because legislating against a background of shared condition and culture, the parties to the original position require the hypothetical device of the veil of ignorance to screen them from tailoring their choices to suit their varied tastes, beliefs, and powers.

The Parallel Modern Existence of Rousseau's Two Conceptions of the General Will

This accentuation and development of one side of the general will—the transcendent one—rather than the democratic aspect leaves something important missing. This absence, the absence of the democratic citizenry who fly to the assemblies, the fact that all the important normative work is done by the theorist in his study (“monologically”) rather than by the citizenry together, is at the center of Jürgen Habermas’s critique of Rawls. In that critique, Habermas claimed that Rawls, though formally committed to the aspiration, which Habermas attributes to Rousseau (and Kant), of reconciling liberal rights of belief, conscience, and personal liberty with republican rights of participation, demotes, in practice, those republican rights to an inferior status. Habermas remarks of Rawlsian citizens:

They cannot reignite the radical embers of the original position in the civic life of their society, for from their perspective, all the *essential* discourses of legitimation have already taken place within the theory; and they find the results of the theory already sedimented in the constitution.²⁷

Rawls’s approach is all constructed using one voice, the voice of the philosopher, and its normative conclusions do not result from a genuine conversation among multiple voices, each bringing their separate perspective to bear on the determination of the general will. In short, we can say that Habermas thinks of Rawls as being insufficiently Rousseauian.

²⁶John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), chap. 3.

²⁷Jürgen Habermas, “Reconciliation through the Public Use of Reason,” *Journal of Philosophy* 92, no. 3 (1995): 128.

There are certainly things a Rawlsian might say in response to Habermas here. Other theorists, inspired by Rawls, have made significant contributions to the theory of deliberative democracy, so perhaps the gap is not unbridgeable. What the existence of the gap illustrates, however, is how, in the modern world, the two conceptions of the general will, as transcendent and as democratic, come apart. The determination of fair terms for free and equal people to associate together is the work of the theorist, the philosopher, and the lawyer; the life of the democratic people takes place within the terms of constitutional frameworks that already set boundaries to their collective willing. Whereas in Rousseau's ideal of a small civic utopia, we can make the two sides of the general will fit together and complement one another—and dispel the appearance of incoherence in his thought—in a large modern state we cannot. Rather these two dimensions of Rousseau's thought continue, with one ambiguous idea having many lines of continuation. Those lines of continuation include Rawls and Habermas, but also modern “republican” theorists, participatory democrats, and proponents of national self-determination. The general will of the people finds an echo in the Arab Spring, in the “Occupy” movement and in many other manifestations of popular engagement; the transcendent general will in constitutional design and theories of the public interest. The tensions in the idea of the general will mean that Rousseau has many children, not all of whom recognize him, or one another.