

ROUSSEAU'S AMBIVALENT PERSPECTIVE ON POPULAR SOVEREIGNTY: A RE-EXAMINATION OF THE SOCIAL CONTRACT

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Abstract: *The Social Contract* by Jean-Jacques Rousseau is frequently identified as a pivotal work on the concept of popular sovereignty. This paper explores the nuanced nature of Rousseau's perspectives on popular sovereignty, arguing that his views are multifaceted and, at times, conflicting. We delve into two primary perspectives on the power of the people found within Rousseau's work. According to the first, often dominant interpretation of Rousseau's *Social Contract*, the people is presented as a sovereign power, bound only by their decisions and actions. The second perspective, however, presents the people as significantly less empowered, subject to numerous substantial restrictions. This article systematically reconstructs these two viewpoints, compares them, and scrutinizes the tensions and contradictions they generate. Our analysis proposes an interpretive framework for the coexistence of these divergent perspectives, advancing our understanding of Rousseau's complex political thought. Moreover, we highlight how these insights into Rousseau's concept of popular sovereignty shed light on contemporary political phenomena and contribute to ongoing debates in political philosophy.

Keywords: Rousseau, *The Social Contract*, Sovereignty, State, People.

Introduction

This paper aims to critically re-evaluate Jean-Jacques Rousseau's complex and ambivalent notion of popular sovereignty. It not only situates this notion within the broader context of Rousseau's



contemporaneous contractual theories but also extrapolates its implications to the current political discourse. By exploring the enduring significance of Rousseau's thoughts on popular sovereignty, this paper seeks to contribute to the discourses on democratic theory, political power limitations and evolving sovereignty conceptions.

Jean-Jacques Rousseau's *The Social Contract* (1762), the cornerstone of political philosophy, is an authoritative text about popular sovereignty and a foundational reference book for modern democratic thought. Ch. Bertram, in his extensive analysis of *The Social Contract*, argues that Rousseau's work significantly deviated from the prevailing sovereignty discourses of the time, laying the groundwork for future democratic theories (Bertram, 2012). However, this paper suggests that Rousseau's advocacy of popular sovereignty and related democratic principles and values may not appear as absolute or unreserved as commonly perceived.

A close reading of *The Social Contract* uncovers a complex view that contradicts the mainstream interpretation. This paper seeks to illuminate the nuances and potential contradictions inherent in this seminal work. Our goal is not to overturn the prevailing interpretation, but to reveal its one-sided nature. By faithfully adhering to the spirit of the thinker and the text, we aspire to provide an enriched, more productive and accurate perspective.

Full appreciation of Rousseau's political philosophy requires its contextualisation within the Enlightenment, a period marked by the upheaval of traditional authority and the emergence of innovative ideas about democracy, individual rights and political power. This paper explores Rousseau's position regarding contractual theories and political processes of his time while concurrently examining the historical ambivalence towards popular sovereignty. It positions Rousseau's ideas alongside those of notable thinkers such as Hobbes and de Tocqueville, thereby establishing dialogue between their respective thoughts.

1. The Evolution of Sovereignty: Contextualising Rousseau and his Legacy

Understanding Jean-Jacques Rousseau's notion of sovereignty requires an exploration of the concept's historical evolution. This approach frames Rousseau's ideas within their broader intellectual context and highlights their ongoing influence.

During the Middle Ages, the concept of sovereignty was predominantly interpreted within theocratic and monarchical contexts. Thinkers such as Thomas Aquinas in *Summa Theologica* (1485) and John of Salisbury in *Policraticus* (1159) articulated the concept of sovereignty as the divine right of a monarch. These foundational perspectives on sovereignty gradually eroded during the Renaissance and the Enlightenment.

The Enlightenment brought about a significant shift in sovereignty discourse, pivoting towards the “social contract” theory, which grounded political authority on the consent of the governed. Theorists such as Thomas Hobbes in his seminal work *Leviathan* (1651) and Jean Bodin in *Six Books of the Republic* (1576) were instrumental in this shift. While Hobbes postulated the “sovereign” as a mutually agreed entity ensuring social peace, Bodin delineated sovereignty as the absolute and perpetual power vested in a commonwealth, an idea that further problematized the “divine right” theory. M. L. Frazer (2018) provides an illuminating extension to this discussion, deeply contextualizing Rousseau’s thought within the Enlightenment moral and political philosophy where reason and sentiment were seen as the key drivers of justice.

Rousseau’s works emerged in the midst of this vibrant intellectual evolution. His unique concept of popular sovereignty, which suggests that sovereignty inherently resides within the people, introduced a radical reconfiguration of political power and authority. To fully appreciate Rousseau’s ideas, it is crucial to consider their interpretations by modern scholars. Quentin Skinner in *The Foundations of Modern Political Thought*, elucidates how Rousseau both extended and challenged prevailing theories of sovereignty (Skinner, 1978). Separate from Skinner, Carl Schmitt, in his “Political Theology: Four Chapters on the Concept of Sovereignty”, spotlights the radical departure of Rousseau’s ideas from mainstream discourses, thereby offering a different perspective on Rousseau’s notion of sovereignty (Schmitt, 2005).

Rousseau’s writings have left an indelible imprint on the democratic theory. *The Social Contract* postulates that “sovereignty, being nothing less than the exercise of the general will, can never be alienated” (Rousseau, 2002: 170). This concept became instrumental in shaping theories of direct democracy and significantly influenced political philosophers such as John Rawls and his work *A Theory of Justice* (1971) and Jürgen Habermas and *The Structural Transformation of the Public Sphere* (1962). Rousseau’s emphasis on the collective will as the bedrock of democratic governance is echoed in their work. Indeed, J. Cohen and J. Rogers point out that Rousseau’s theories of direct democracy, epitomized by his focus on the “general will” as the cornerstone of democratic governance, have substantially influenced subsequent democratic theories (Cohen, J. & Rogers, J., 1983).

Moreover, the influence of Rousseau’s ideas can be compared and contrasted with other seminal thinkers, such as Alexis de Tocqueville. Tocqueville in *Democracy in America* (1835), offered a critical examination of the strengths and weaknesses of democracy, including the concept of popular sovereignty. He recognized the potential pitfalls of what he termed the “tyranny of the majority”, a concept that served as a counterpoint to Rousseau’s radical democracy. Tocqueville’s views help illuminate the complexity of the discourse around popular sovereignty and its potential implications. Drawing parallels and contrasts

between these two thinkers can further enrich our understanding of Rousseau's unique contribution to the concept of popular sovereignty.

The impact of Rousseau's ideas also permeated the realm of critical theory, particularly influencing Karl Marx's development of historical materialism. While Rousseau and Marx differed in their approach to class and economic relations, they both advocated self-determination of the masses. Rousseau's concept of the "general will" echoes Marx's idea of "class consciousness" – both hinting at collective empowerment as a path to societal transformation.

In addition to critical theory, Rousseau's concept of popular sovereignty significantly influenced political activism and constitutional law. His ideas echo in democratic constitutions and declarations, from the French Revolution's Declaration of the Rights of Man and Citizen (1789) to the United Nations' Universal Declaration of Human Rights (1948). D. L. Williams underscores that Rousseau's *The Social Contract* has been a fundamental text for democratic constitutions and declarations (Williams, 2014). His in-depth exploration of Rousseau's work allows us to draw clear connections between Rousseau's theories and the evolution of political activism and constitutional law. By mapping Rousseau's concept of sovereignty onto this larger intellectual and historical landscape, we can better appreciate its transformative potential and enduring relevance, setting the stage for a deeper exploration of Rousseau's unique conceptualization of popular sovereignty and its resonance in contemporary political discourse.

2. The Omnipotent People

We could commence by highlighting some innovative elements in Rousseau's thought that contribute to the enduring relevance of *The Social Contract*: "Man is born free and everywhere he is in chains" (Rousseau, 2002: 156). Rousseau's famous statement expresses an experiential judgement that encapsulates a political demand. Read in context, it implies that until now, political relations have been structured as nothing but a relationship of people's subservience to arbitrary powers. This must change and change radically: political relations must be re-constituted on the basis of freedom so as to appeal to human nature or human condition.

Rousseau's political philosophy stands in contrast to the Natural Law tradition. While he agrees with thinkers like Grotius that society is based on a contract, he diverges from them in his understanding of what underpins this foundation. For Rousseau, it is not an agreement between rulers and the ruled, but rather the act of the people constituting themselves as a political entity (Rousseau, 2002: 158). Key to Rousseau's stance is his belief in the inherent freedom of the people. He asserts this freedom as a *conditio sine qua non* for their existence as a political body. More importantly and radically, he posits the people

as the sole source of sovereignty. Unlike other political thinkers of his time, including the absolutist Pufendorf, Rousseau argues that sovereignty is inalienable, meaning it cannot be transferred or delegated under any circumstances (Derathé, 1950: 49).¹ Thus, in Rousseau's view, any contract transferring sovereignty to a ruler or governmental body is invalid. He contends that the people cannot surrender their sovereignty, as doing so would be equivalent to relinquishing their freedom, an intrinsic part of their humanity.

The Social Contract intends to set the principles for building and maintaining a state that aims to balance justice and efficacy. The concept of freedom is supplemented and bolstered by the notion of equality. Without it, if unequal relationships exist, freedom would be compromised: initially for those subordinate to others, but ultimately for the more powerful as well, as they too would inevitably become part of a dependency relationship, reverting to a state of nature. Therefore, the State in *The Social Contract* is composed of equal and free human beings – more specifically, citizens – since each participant relinquishes their “natural rights” to the community that transforms them into political rights, granting the same status and the same rights and obligations to all. As a member of the state, everyone is considered primarily as a citizen, since it is the political relationship that establishes his/her existence and relationships with others. Rousseau postulates that individuals voluntarily enter into the contract. Any form of coercion would result in undesired subjugation, a situation Rousseau consistently repudiates.²

To summarize, the State in *The Social Contract* is a community of free and equal citizens who are not subject to any higher or external authority, but practice self-government. This is realised through the collective and equal participation of citizens in the general assembly, which, as the sole authority, makes political decisions. When the people, as a united and indivisible political body, convene in the general assembly, they operate and act as the Sovereign and as a result, the general assembly is the place of sovereignty. Sovereignty manifests itself in the passage of laws that are generally characterized by their abstract nature vis-à-vis their object, the common good, and universality in terms of implementation, that is, the laws do not discriminate or exclude certain citizens or groups of citizens. One distinguishing factor between Rousseau and Bodin, and an inspiration for Kant, is Rousseau's concept of autonomy. This involves citizens' independent drafting of laws and wilful adherence to them.

1 For an overview of the notion of sovereignty and the impact of Rousseau on its development, see also Lloyd (1991).

2 Rosenfeld (1987) raises concerns about the political status of those who decide not to participate in the social contract but remain under the rule of the established state.

The concept of freedom is thus inseparable from the concept of will. In the absence of any external authority, whether excessive or not, the subject is free only if he/she expresses him/herself and acts according to his/her will. In particular, the famous “general will”³ through which the Sovereign presents itself has as its exclusive principle the common good, which, by definition, can only be desired by every citizen precisely because he/she considers him/herself an indivisible part of the whole, that is, of the state. Thus, Sovereignty is separated from the government. The latter is a separate body that does not have any sovereignty at all, as it is entirely subjected to the Sovereign. It is the executive body that is committed to implementing and specializing laws, as well as managing administrative tasks.

3. The Incapacitated People

This paper has so far outlined the key arguments of *The Social Contract* emphasizing pertinent passages while highlighting the work’s radical and progressive nature. Although the above interpretation is valid, this paper also considers it to be somewhat limited and one-sided. We now delve into the reservations rooted in Rousseau’s own text that challenge this interpretation’s validity.

a. Prohibitions

Rousseau suggests that since the establishment of the social contract, every citizen should equate their personal interests with public interests, and their individual will with the general will. However, he does not assume that this will always happen in practice. He states:

“It does not mean that the decisions of the people are always correct [...] The people are never corrupted, though often deceived, and it is only then that they seem to will what is evil” (Rousseau, 2002: 172).

To address the issue of political deception, Rousseau puts forth certain restrictions, notably barring the formation of separate citizen associations and prohibiting communication between citizens before the general assembly. He justifies these restrictions as protective measures for the state. His primary concern is the fragmentation of the people into factions which would then compete for their individual interests at the expense of the common good. If this were to happen, the general will would be corrupted, reduced to the “will of all” – an

3 For a discussion of the theological origin of the idea of the general will, the sources from which Rousseau drew it and the particular importance he attributed to it, thus connecting it primarily with his own work, see a detailed presentation in Shklar (1973).

aggregate of individualistic, self-serving interests. The prevention of organized groups and pre-assembly communication, in Rousseau's view, safeguards against such a scenario.

However, we cannot help but observe that this introduces a fundamental doubt vis-à-vis the ability of the people for political action. The magnitude of the doubt is as great as the severity of the measures taken for its "protection". It appears that Rousseau's restrictions might limit people's independent thinking and curtail their power to enforce or remove measures according to their own will and judgment. Even though popular sovereignty is not formally suspended, as it is by definition exercised only during the general assembly meetings, could we argue that this is actually a limitation of popular freedom undermining the people's autonomy? It seems that Rousseau believes that, as long as such prohibitive measures are mutual and equally applicable to all, and thus all enjoy the same level of freedom, there could be no problem.

Concurrently, there is the concern of "adequate information" of citizens before the general assembly. However, this remains somewhat ambiguous as to who and how citizens are informed. The only answer that can be given from the text itself is that this role is taken on by the authority of the magistracy, that is, an institution that regulates public debate and common opinion (Rousseau, 2002: 240). Rousseau deliberately takes inspiration and refers positively to the Roman institution of the censor, especially in relation to those duties that refer to the care of morals. If the information is provided by a public institution that operates as a censor, it raises questions about the authenticity and impartiality of citizens' formed opinions.

b. The Absence of Deliberation in Rousseau's *The Social Contract*

After discussing the formation of public opinion, the paper will proceed to the activities of the general assembly. There, finally, we expect the existence of a deliberation procedure which will conclude with the decisions that will take the form of laws. However, Rousseau, having the idealised Swiss cities of his time as a benchmark, states the following:

"As long as a certain number of men consider themselves to be a single body, they have but one will, which relates to the common security and to the general welfare. In such a case all the forces of the State are vigorous and simple, and its principles are clear and luminous; it has no confused and conflicting interests; the common good is everywhere plainly clear and only good sense is required to perceive it" (Rousseau, 2002: 227).

"A State thus governed needs very few laws; and in so far as it becomes necessary to promulgate new ones, this necessity is universally recognized" (Rousseau, 2002: 227).

These quotes underscore several of Rousseau's crucial propositions. Firstly, the presence of few simple and stable laws is applauded as a guarantee of the power of the State, the alignment of interests and the harmony of its citizens. *En contraire*, the presence of many laws or frequent changes in them is considered a sign of decadence. This indirectly infers that legislating should ideally be minimized, for it is perceived as potentially unnecessary and even harmful. Could this not be perceived as a caution to the Sovereign — the people — who is the Sovereign solely during the act of legislating, to limit their overall activity?

Along the same lines, Rousseau argues in favour of a monological model⁴ with regard to the functioning of the general assembly, instead of a more inclusive model of dialogue and collective deliberation. Indeed, he suggests that:

“the first man to propose them only gives expression to what all have previously felt, and neither factions nor eloquence will be needed to pass into law what everyone has already resolved to do, so soon as he is sure that the rest will act as he does” (Rousseau, 2002: 227).

In order to be able to fully comprehend the nature of the previous quotes, we must highlight the way which Rousseau believes to be the most suitable for establishing the common will: every citizen approaches the general assembly after previously having reflected on it individually. There, someone — we will examine later who this can be — presents a proposal for a law. The rest of the citizens, providing all goes well, will identify with them, confirming the validity of the proposal, having individually perceived its necessity prior to the general assembly, mirroring the proponent's thought process. Therefore, this would involve one or more proposals for laws that, according to Rousseau, are so apparent that each citizen, applying their inherent good sense (*bon sens*), has already accepted them. Indeed, as he notes, “the common good is everywhere plainly clear and only good sense is required to perceive it” (Rousseau, 2002: 227).

In Rousseau's view, good sense as the logical ability, inherent and common to all people, is opposed to the sophisticated, philosophical reasoning (*raison*) of men of letters, which is not considered superior. Indeed, *raison* is discredited as a reasoning that, due to the lack of simplicity and its innate tendency towards the production of endless thoughts and arguments, often leads to confusion and uncertainty. Moreover, Rousseau considers *raison* to be susceptible to what we would today call instrumentalization. Contrary to *raison*, good sense is considered safer, as it is seamlessly connected internally with the

4 See Manin (1985: 80–83) for a concise discussion of where the monological view of Rousseau is contrasted with the equally monological model of individuals behind the veil of ignorance in Rawls's Theory of Justice.

innate source of justice that, according to Rousseau, all people possess and that can indicate what is correct and just⁵. Simultaneously, it guarantees the authenticity of the subject's will, as it originates from its own inner being. This notion strengthens Rousseau's preference for simplicity in both institutions and laws. The simpler they are, the more effectively good sense can be applied, and vice versa, the better good sense is applied, the more efficiently the simplicity of laws and institutions is maintained.⁶ Here, it would be appropriate to note Hannah Arendt's objections concerning the inherent uncertainty and unpredictability of guided human thought, rather than focusing solely on "good sense". She did not consider it absolutely certain that people, even if they had identical interests, would arrive at the same conclusion on the same issue, without this meaning that they would act irrationally. Neither did she consider it possible to predict what results would ultimately be produced by the adoption of a certain action. Arendt believed that human plurality should not be eliminated – nor, accordingly, the need for deliberation through which individual opinion is formed – via the substitution of a collective, indivisible body.

This is why Rousseau also dismisses the use of *eloquence* and rhetoric. Because the use of rhetoric implies that things are not obvious and clear – or even if they are, a clever orator may attempt to present them otherwise – resulting in the activation of a process of argumentation that will include persuasion techniques. Consequently, Rousseau finds that if such processes were initiated, they would inevitably lead to orators attempting to mislead the people and to the formation of opposing factions fighting over their egoistical interests.

“The more that harmony reigns in the assemblies, that is, the more the voting approaches unanimity, the more also is the general will predominant; but long debates, dissensions, and tumult announce the ascendancy of private interests and the decline of the State” (Rousseau, 2002: 228–229).

“But when the social bond begins to fail and the State is weakened, when private interests begin to make themselves felt and small factions to exercise influence on the State, the common interest is harmed and finds opponents; unanimity no longer reigns in the voting; the general will is no longer the will of all; opposition and debates arise, and the best advice is not accepted without disputes” (Rousseau, 2002: 227–228).

The intent here is not to trace a direct causality between the evolution of individual interests and the surfacing of disagreements

5 The notion of the innate sense of justice is found elsewhere in Rousseau's *oeuvre*, but is more systematically discussed in the fourth book, *Emile* (1762).

6 See an analytical discussion in Canovan (1983).

within the general assembly. Instead, the relationship is more about mutual dependence and complementarity. It is crucial to note that any emerging differences and animosity cannot be effectively addressed within the general assembly. Once doubt, disagreement and differentiation emerge, they invariably escalate into a state of irreconcilable conflict. In essence, Rousseau reignites the traditional philosophical bias against the Athenian-style democracy. Succinctly put, his apprehension lies in the potential disintegration of the people's unity into competing factions susceptible to manipulation by demagogues.

Hence, within the general assembly, the unrestricted and free presentation of varying opinions and arguments is neither welcomed nor anticipated to function in a synthetic, corrective capacity for the shaping of the general will. Furthermore, the attainment of consensus is not deemed essential if it implies partial compromises or concessions (Ogrodnick, 1999: 120). For Rousseau, the scenario is thus deemed irreversible. The division is considered an established fact and the general will is seen as in a state of decay, descending into the "will of all".

c. Voting and the Elevation of the Government

This aversion to consultation, dialogue and argumentation culminates in a rigorous measure within the general assembly, echoing the earlier prohibition against pre-assembly communication. It relates to the reduction of the citizens' participation into the simple right to vote (Rousseau, 2002: 229–230). The power to take the legislative initiative belongs exclusively to the government.

"I might at this point make many reflections on the simple right of voting in every act of sovereignty — a right which nothing can take away from the citizens — and on the right of speaking, proposing, dividing, and discussing, which the government is always very careful to leave to its members only" (Rousseau, 2002: 228).

Here, Rousseau maintains the stance he established in his *Discourse on Inequality* (1755). He reiterates his argument for the right of all citizens to legislate but narrows down this right to the simple approval of laws.

"Above all, I would have fled from a republic, as one necessarily ill governed, where the people, believing themselves able either to do without magistrates altogether or to allow their magistrates only a very precarious authority, foolishly kept in their own hands the administration of civil affairs and the execution of their own laws. Such must have been the primitive constitution of the first governments which emerged immediately after the state of nature; it was also one of the vices which ruined the city-state of Athens. I would have chosen a republic where the individuals, being content with sanctioning

the laws and making decisions in assemblies on proposals from the leaders on the most important public business, had established courts, distinguishing carefully between the several parts of the constitution and elected year by year the most capable and the most upright of their fellow citizens to administer justice and govern the state” (Rousseau, 1984: 52–53).

Here we observe a seemingly contradictory series of limitations imposed on the power of the people, starting from prohibiting their actions outside the general assembly to later extending them even within the assembly itself. What makes this scenario particularly distinct is the challenge to the fundamental idea that the people alone hold sovereignty. The government, which was initially just a tool for execution without any sovereignty, suddenly assumes a role of managing the legislative process. It oversees the initiation of laws and their public discussion, thereby gaining a significant role in the exercise of sovereignty which is only expressed through legislation.

d. The Question of Voting

A further decrease in the citizens’ power is worth noting — a point often overlooked in the relevant literature. The citizens approach the general assembly without prior communication, see their legislative rights reduced to merely approving or rejecting proposals without public debate, and are not directly asked “what they want”:

“When a law is proposed in the assembly of the people, what is asked of them is not exactly whether they approve the proposition or reject it, but whether it conforms or not to the general will, which is their own; each one in casting his vote expresses his opinion thereupon; and from the counting of the votes is obtained the declaration of the general will” (Rousseau, 2002: 230).

Although it may appear as nit-picking or pedantry, we are dealing with an unconscious yet fundamentally important shift here, because the question confronting the citizen transforms from “what do I want?” into a cognitive question: “Do I believe that the proposal to be approved aligns with the general will or is compatible with the common good?”. W.T. Jones argues that Rousseau was possibly the first to grasp the importance and extent to which the formulation of the question determines the answer, something arguably obvious today (Jones, 1987). Further indication of this interpretation is found when Rousseau concludes the following:

“When, therefore, an opinion opposed to my own prevails, that simply shows that I was mistaken, and that what I considered to be the general will was not so. Had my private opinion prevailed, I would have done

something other than I wished; and in that case I would not have been free” (Rousseau, 2002: 230).

In conclusion, we can argue that Rousseau's concept of the general will bears a significant drawback. The tautological nature of its construction renders it unattainable, and the requirement for individuals to accept the outcome of a vote as reflecting their true desires, regardless of their actual beliefs or preferences, raises concerns about the limitations imposed on freedom and autonomy.

e. Silent Sovereignty

The passages mentioned above present a contradictory image. On the one hand, we see citizens gathered in the public space of the general assembly, anticipating to make autonomous political decisions. This gathering, on the other hand, although it carries symbolic and perhaps even festive elements and strengthens political bonds and the sense of belonging to a political community, is hindered by the procedural provisions we have previously examined. These provisions resist unrestricted, active and full participation of the people in the legislative process. It is essential, therefore, to reconsider the ban on public debate at this point. Rousseau distinctly expresses his opposition to representation, especially in relation to the general will:

“I say, then, that sovereignty, being nothing but the exercise of the general will, can never be alienated, and that the sovereign power, which is in fact a collective being, can be represented only by itself; power indeed can be transmitted, but not will” (Rousseau, 2002: 170).

Rousseau's viewpoint becomes even more pronounced when he remarks that the English people lost their freedom the moment they elected members of parliament (Rousseau, 2002: 221). For Rousseau, direct political action is the true guarantee of freedom and authenticity, serving as an indispensable condition for the formation of a legitimate political entity.

Nevertheless, the question that arises is the following: how is this direct political action expressed? Through speech, i.e., the use of voice, precisely because Rousseau adopts the traditional philosophical idea that the voice is an instrument that is closer to the soul and therefore comes in an authentic and unmediated way from the inner world of the subject. As Rousseau noted in his *Essay on the Origin of Languages*:

“Now, I say that every language with which one cannot make oneself understood by the assembled people is a servile language; it is impossible for a people to remain free and speak that language” (Rousseau, 1998: 332).

In this context, the voice is a symbol of an individual's active conscience. However, during the general assembly, only the voices of the government representatives proposing the laws are heard, effectively silencing the citizens. Ideally, these voices should represent common sentiment and strive for universality and authenticity. However, they inevitably end up replacing the diverse voices of the citizens (Abizadeh, 2001). Even more so, the opposite of voice – silence – is taken as evidence of consent to the government's initiatives:

“This does not imply that the orders of the leaders cannot pass for decisions of the general will, so long as the sovereign, free to oppose them, refrains from doing so. In such a case the consent of the people should be inferred from the universal silence” (Rousseau, 2002: 170–171).

However, the people do not have legal avenues to voice their views – and consequently their potential objections to the government – outside the general assembly. Paradoxically, even within the assembly, their silence is expected to remain unbroken, as the right to speak is reserved solely for government members. The only outlet for their dissent is by voting against the government's proposals, but the legal process for reacting to actions already implemented by the government remains ambiguous.

Rousseau invokes voice and speech as valuable authentic sources of will, but hesitates to incorporate them into a framework of dialogue and deliberation, fearing that the sound that would arise is the “noise” of demagoguery and conflict. Consequently, he replaces the voice with silence. However, silence is ambiguous, because it also implies absence, in fact, it mainly relates to absence. Since the citizen does not speak, their will must be inferred. And that is not clear at all. Therefore, Morgenstern (1996: 34) rightly wonders: how can we distinguish silence, where citizens do not need to speak because they have already reached the general will, from the silence of a tyrannical regime where people are forced to remain silent? Rousseau himself has considered it when describing the hypothetical scenario of an attempt to subvert power by the government:

“[...] the Prince derives a great advantage in preserving his power in spite of the people, without their being able to say that he has usurped the power; for while appearing to exercise nothing but his rights, he may very easily increase them, and, under the pretext of maintaining public order, obstruct the assemblies designed to reestablish good order; so that he takes advantage of a silence that he prevents from being broken, or of irregularities that he instigates, so as to interpret in his own favor the approbation of those silenced by fear and punish those who dare to speak” (Rousseau, 2002: 226).

Similarly, we read that when the State is close to dissolution, then (among other things) the general will remains without a voice (Rousseau, 2002: 242).

f. Morals Dictate the Will

Concerning the foundation of the State, Rousseau, like most political theorists, turns to the semi-godly figure of the Legislator. The role of the Legislator is often compared, as Rousseau does, to the work of an architect (Rousseau, 2002: 183). The legislator, thus, is the one who creates the edifice – that is, the State – but has no role or involvement in it once it is built. In summary, their work is to establish, using their superior intellect, the first laws and simultaneously transform the existing blind masses into a people (Rousseau, 2002: 184–185). Rousseau acknowledges the paradox: for individuals to initiate the formation of the social contract, they must already exhibit the qualities these laws will subsequently instil in them. In other words, the members of the State that this contract forms could only form it because they have become what they need to be because of the contract. They can embrace the general will as their own will and endorse the common interest only at a later stage, as a result of their transformation into good citizens (Riley, 1982: 99). It is this need that makes the intervention of the Legislator a necessary condition for the formation of the polity.

The contradiction between the self-legislation act described in the social contract and the founding act by an external person (i.e., to the self-legislating collective subject) is made clear in the previous passages. However, let us leave this problem aside and let us ask: besides the construction of the primary state structure and the composition of the political subject of the people as such, can the actions of the Legislator have lasting consequences after the completion of their tasks? Can they potentially limit or even bind popular will? Indeed, this seems to be the case. We are addressing the subject of morals [*mœurs*] described as unwritten laws – beyond the political, civil, and criminal realm.

“To these three kinds of laws is added a fourth, the most important of all, which is engraved neither on marble nor on bronze, but in the hearts of the citizens; a law which creates the real constitution of the State, which acquires new strength daily, which, when other laws grow obsolete or pass away, revives them or reinforces them, preserves a people in the spirit of their institutions, and imperceptibly substitutes the force of habit for that of authority. I speak of manners, customs, and above all of opinion – a province unknown to our politicians, but one on which the success of all the rest depends; a province with which the great legislator is occupied in private, while he appears to confine himself to particular regulations, that are merely the sides of the arch, of which customs and morals, slower to develop, ultimately form the immovable keystone” (Rousseau, 2002: 191–192).

These morals make up a shared way of life as summarized by practices, customs, attitudes, perceptions, codes of conduct, etc. They significantly contribute to forming the State's collective identity and transforming it into a cultural community. They instil harmony and coherence, acting as a preventive measure against potential contradictions and conflicts. Indeed, Rousseau argues that the “[...] great simplicity of customs and morals, which prevents a multiplicity of issues and thorny debates” (Rousseau, 2002: 201), which means that they function as a deterrent to the appearance of dissent and contradictions. Rousseau asserts that when citizens accept the morals and customs and find them within themselves, within their hearts, their simplicity means that good sense is sufficient and there is no need for uncertain and ambiguous debates. In the light of customs and morals, the proposals of the law will be evaluated “correctly”, there will be, thus, no doubts, and the exchange of views will be unnecessary.

Nevertheless, we confront a two-pronged problem: firstly, these morals and customs are imposed by the legislator and, more disconcertingly, the citizens do not accept them, as the legislator has stealthily embedded these norms within them; secondly, and of greater importance, they do not accommodate review and critical engagement, because, according to Rousseau, they must be considered as self-evident and given in their established, fixed form. Any change in them constitutes only a corruption and alteration, and therefore must be rejected:

“When once customs are established and prejudices have taken root, it is a perilous and futile enterprise to try and reform them; for the people cannot even endure that their ills be touched with a view to their removal, like those stupid and cowardly patients who shudder at the sight of a physician” (Rousseau, 2002: 184).

Therefore, morals are intensely binding for citizens, as their relationship to them is tautological, preventing people from establishing a critical distance or initiating a process of possible revision. It is the morals acting as practices and values of the shared homogeneous life that offer “content” to the will, subsequently making the margins of expression of the latter extremely limited.

Conclusion

In conclusion, Rousseau presents a paradoxical understanding of the people that encapsulates the intricacies and challenges of democratic governance. On the one hand, he pictures the people as a self-governing political entity that bears the autonomous values of freedom, equality and justice. They emerge as the ultimate sovereign whose authority can neither be diminished nor alienated. Yet, juxtaposed

against this optimistic portrayal is an image of the people as uneducated and easily manipulated, incapable of independently conceptualizing, organizing and implementing their own will.

This dichotomy prompts the question: is this a theoretical flaw or a nuanced understanding of the practical complexities of democracy? We contend it is neither. Rousseau's critique of societal inequalities and his vision of a more egalitarian society are both clear and powerful. Yet, his transition from advocating for the people to entrusting them with sovereign power exposes the inherent challenges of actualizing a truly democratic society.

In his role as the Legislator, Rousseau regards democracy as a daunting task, fraught with potential antagonisms, clashes of interests, and the emergence of new forms of inequality and exploitation. In response, he proposes a redemptive strategy of fostering a spirit of community and a homogenous collective life. However, if the people wield the extensive power suggested in *The Social Contract*, the intellectual susceptibility of the masses might lead to disruptive trends for the State itself due to hasty and impactful decisions.

Rousseau's apprehensions about the democratic capacities of the masses remain relevant in our contemporary political landscape, especially with the rise of exclusionary populism. Today's exclusionary populists often champion increased public voting and referenda. However, these calls for direct democracy often revolve around predetermined agendas that can operate against the interests of marginalized and minority groups, reflecting Rousseau's fears about the democratic abilities of the masses.

Navigating the challenges of the 21st century requires us to draw on the wisdom of political thinkers like Rousseau. From the rise of exclusionary populism to the erosion of democratic norms, and the shifting boundaries between public and private power, Rousseau's insights into the feasibility of democratic governance remain illuminating. His concerns about the potential manipulation of the populace will serve as a crucial reminder of the need for vigilance and critical reflection in our contemporary political institutions and processes.

Beyond this, Rousseau's complex approach to popular sovereignty provides a valuable guide for examining the democratic process. His writings prompt us to recognize the signs of potential democratic erosion and provide us with the intellectual tools to challenge contemporary political dilemmas. Far from being a relic of the past, Rousseau's political philosophy serves as a valuable resource for democratic theory and practice in the 21st century. It invites us to persistently question, critique, and, if necessary, reformulate the political norms and institutions that govern our societies.

In the face of recurring issues such as income inequality, political disenfranchisement, and the resurgence of autocratic leadership styles, Rousseau's emphasis on the inalienable sovereignty of the people serves as a touchstone for democratic resilience. It encourages us

to scrutinize the mechanics of power distribution and the principles that underpin our social contracts. Finally, Rousseau's exploration of popular sovereignty offers an enduring lesson: we need vigilant safeguarding of the principles of freedom, equality and justice that form the bedrock of any liberal democracy.

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