THE CRITIQUE OF JEAN JACQUE ROUSSEAU SOCIAL CONTRACT THEORY

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Abstract:

This work attempt a critique of Rousseau social contract theory. The issue of a stable social order has been of concerned to social contract theorists. This was propelled by the perceived chaos, anarchy, disorder and decadence in society. Jean Jacque Rousseau was one of the recognized social contract theorists, who presented their works in response to a radically disturbed political situation that existed in the societies of his time which was described as “solitary, poor, nasty, brutish, and short”. He weaved his theory of government through his own conceptions of humans and society living within the commonwealth. Common also to these theorists is the emphasis they all placed on the significant role the institution of state can play in the establishment of a stable social order in society. Going through his theory, many shortcomings were noticed. That is the reason why this work set out to look into the inadequacy in the theory. A numbers of these were mentioned in this work and at the same time, the work also concluded that despite the noticeable inadequacy in his social contract theory, Rousseau contribution to modern day social order is much more significant.

Keywords: Contract, Commonwealth, Government, Political, Social Order, Theorists.

INTRODUCTION

Rousseau has two distinct social contract theories. The first is found in his essay “Discourse on the origin and foundations of equality among men” (Rousseau. J. J.1754) commonly referred to as second Discourse. It is an account of the moral and political evolution of human being over time, from a state of nature to modern society. As such it contains his naturalized account of the social contract, which he sees as very problematic. The second, is his “normative or idealized” theory of the social contract, and is meant to provide the means by which to alleviate the problems that modern society has created for us as laid out in the second Discourse. According to Rousseau the inventions of private property, constituted the pivotal moment in humanity’s evolution out of a simple, pure state into one characterized by greedy, competition, vainly, inequality and vice. The introduction of private property makes the initial conditions of inequality more pronounced. Some have property and other are forced to work for them, which led to the development of social classes. Eventually, those who have property notice that it would be in their interests to create a government that would protect private
property from those who do not have, but can acquire it by force. With this the government gets established, through a contract, which purports to generate equalities and protection for all, every inequalities that private property has produced. In other words, the contract, which claim to be in the interests of the few who have become stronger and richer as a result of the developments of private property. This is the naturalized social contract which Rousseau views as responsible for the conflict and competition from which modern society suffers.

The normative social contract argued for by Rousseau in the social contract (Rousseau, J. J.1787) is meant to respond to this sorry state of affairs and to remedy the social and moral wills that have been produced by the development of society. The distinction between history and mankind and how it ought to live together is of the inmost importance to Rousseau. While we ought not to ignore history nor ignore the cause of the problems we face, we must resolve those problems through our capacity to choose how we ought to live. Might never make right despite how often it pretends to be.

Rousseau in the social contract or principle of political Right. He made an analysis of the contractual relationships that may be necessary for legitimate government; he made an explanation of how these relationships may combine principle of justice and unity. Rousseau argues that civil society is based on a contractual argument of rights and duties which applies equality to all people, where by natural liberty is exchanged for civil liberty, and whereby natural right are exchanged for rights. The terms of the contract provide assurance that civil laws promote the public good rather than private good of particular individual or groups.

The social contract begins with “man was born free and he is every whore in chains (Rousseau, J. J.1787). This claim is the conceptual bridge between the descriptive work of the second Discourse, and the prescriptive work that is to come. Human are essentially free in the state of nature but the progress of civilization has substituted subservience to others for that freedom, though dependence, economic and social inequalities, and the extent to which we judge ourselves though comparism with others. Since a return to the state of nature is neither feasible nor desirable, the purpose of politics is to restore freedom to us, thereby reconciling who we truly and essentially are with how we live together. So, this is the fundamental philosophical problem that the social contract seeks to address: how can we be free and live together? Or put in another way, how can we live together without succumbing to the force and coercion of other? We can do so. Rousseau maintained, by submitting our individual particular wills to the collective or general will, create through agreement with other free and equal persons.

The most basic convent in the social contract is the agreement to come together and form a people, a collectivity which by definition is more than and different from a more aggregation of individual interests and wills. This act, where individual persons become a people is “the” real foundation of society” (Rousseau, J. J.1787). Through the collective renunciation of the individual rights and freedom that one has in the state of nature, and the transfer of these rights to the collective body, a new person is formed. The sovereignty is thus formed when free and equal persons come together and agree to create themselves a new as a single body, directed to the good of all considered together. So, just as individual wills are
directed towards individual interest, the general will, once formed, is directed towards the common good, understood and agreed to collectively.

Each individual may have a particular will which is different from the general will of the people, but the particular will of each individual may be forced to submit to the general will because the obligation that have been defined for all individual by the teams of the social contract. The general will is not the same as the will of all individual, because, it is not the sum of all individual private interest. (Rousseau, J. J. 1968). Unlike the combined will of all individual, the general will is concerned with the public interest rather than private interests.

Included in this version of the social contract is the idea of reciprocated duties. The sovereign is committed to the good of the individuals who constitute it and each individual is likewise committed to the good of the whole. Given this, individuals cannot be given liberty to decide whether it is in their own interests to fulfill their duties to the sovereign, while at the same time being allowed to reap the benefit of citizenship. They must be made to conform themselves to the general will, they must be “force to be free” (Rousseau, J. J. 1978:64).

The sovereignty of a republic is manifested in the general will, and the sovereign is in alienable and indivisible. A republic which surrenders or divided its sovereignty is no longer a republic and can no longer represent the public interest of its entire citizen. This however, implies an extremely strong direct form of democracy. One cannot transfer one’s will to another, to do what he or she sees fit, as one does in representative democracies. Rather, the general will depend on the coming together periodically of the entire democratic body, each and every citizen to decide collectively and with at least near unanimity, how to live together i.e. what laws to enact. As it is constituted only by individual wills, these private individual wills must assemble themselves regularly if the general will is to continue.

One implication of this is that the strong form of democracy which is consistent with the general will is only possible in relatively small state. The people must be able to identify with one another, and at least know who each other are. They cannot live in a large area, to spread out to come together regularly, and they cannot live in such different geographic circumstances as to be unable to be united under common laws. There is hardly any community in the world today that can satisfy Rousseau’s conception of democracy. Although the conditions for true democracy are stringent, they are also the only means by which we can, according to Rousseau, save ourselves, and regain the freedom to which we are naturally entitled.

The general will always desires the common good, but it may not always choose correctly between what is advantageous or disadvantageous for promoting social harmony and cooperation, because it may be influenced by particular groups of individuals who are concerned with promoting their own private interests. So the general will may need to be guided by the judgment of an individual who is concerned only with the public interest and who can explain to the body politic how to promote justice and equal citizenship. The individual is the “law give.” The law give is guided by sublime reason and by a concern for the common good. He must be an individual whose enlightened judgment can determine the principle of justice and utility which are best suited to society.

If a republic is governed by principles of justice and utility, then each person is required to surrender only as much of his natural liberty as is necessary for the republic to granted the
protection of legal rights for all of its citizens. Equal citizenship in a republic may be established by means of a social contract which is a declaration by the general will that civil laws will apply equally to all individuals. In this case Rousseau uses the term “republic” to refer to any society that is ruled by law or that is ruled by the general will of its people. A civil law is an act of the general will, and the general will must be obeyed by the people.

So the obedience to civil law is required of all individual by the team of the social contract, which presupposes that, the institution of government is not a contract, but an act of the general will. We however discovered that, justice cannot be defined as “the right of the strongest” or the power of some individual to gain advantage over others. If justice were the same as the power of some individual to gain advantage over others, then the most powerful individuals would always be the most just and morally right. Moreover, if justice were the power to force an individual to yield to a particular demand, then there would be no obligation for an individual to yield to a particular demand, then there would be no obligation for an individual to comply with a lawful authority unless that authority had the power to force the individual to comply. So the question of whether justice can be achieved in society may not depend on whether individuals can be forced to comply with civil authority but on whether individual and civil authority can act in harmony with, and fulfill their moral obligations towards each other.

Moreover, there may be a moral obligation to comply with civil authority only if that authority is legitimate, and only if that authority is based on the fair and just agreement among the members of society. For example, legitimacy is a moral term that does not properly belong to the state of nature; because the state of nature is not judicial as a result cannot be legitimized.

As a result of the social contract, civil laws are decided by a majority vote of the magistrate who is elected to represent the people. The minority which opposes the will of the majority must accept any acts of the general will, and it cannot refuse to submit to the general will without violating the terms of the contract. According to Rousseau, the general will is the will of both the majority and minority, and if a minority of individual does not approve of a law which has been approved of by the majority, then the minority must have mistakenly supposed that its own particular will was the same as the general will. It should be noted that, the social contract involves a total and unconditional surrender by each individual of his own natural rights in order to gain the rights of citizenship (Rousseau, J. J. 1978:64). There is no need for the sovereign authority to guarantee the civil liberty and legal rights of its subjects, because its interests are identical to those of the people as a whole (Rousseau, J. J. 1978:64). The general will is not a selfish, unjust will and is truly concerned with the common good. If anyone refuses to comply with the general will, then he or she may be forced to comply by the whole body politic.

Critiques of Social Contract Theory.

Given the longstanding and widespread influence that the social contract theory has had, we still discovered from philosophical perspectives, some inadequacy which have created doubt to the substance and viability of social contract theory.
Many of Rousseau’s statements may be criticized for their extreme and arbitrary nature. For example, he says that dictatorship may be necessary in order to restore public order when there is a civil emergency. He also says that censorship may be useful in order to preserve public morality and in order to prevent corruption of social values. Even more unacceptable is his statement that if the prince of a state declares that a particular individual must be put to death, then that individual should be put to death, because the terms of the social contract may be interpreted to support the argument that the life of the individual belongs to the state and not to the individual (Rousseau, J. J. 1978:64). In addition, one wonder how democratic Rousseau is? Because of the way he addresses himself to those recalcitrant few who may not wish to be free in the sense in which he has defines freedoms.

Whoever refuses to obey the general will shall be constrained to do so by the entire body politics, which is only another way of saying that his fellows shall force him to be free (Rousseau, J. J. 1954:25). Because of such passages, and the general structure of his political system, Rousseau has been called a “totalitarian democrat” (Talmon .J .L 1960 ). The name is paradoxical because a democrat is supposed to honors freedom. While a totalitarian honors it not at all.

Rousseau says that;

to take the term in a rigorous sense, there has never existed a true Democracy, and it will never exist. It is contrary to natural order that the greater number should govern and that the lesser number should governed (Rousseau, J .J. 1984:62 ).

To Rousseau, direct democracy and deliberation is a continuous expression of the general will, which is the act of autonomous individuals coming together to enunciate their collective agreement on matters of state. The act of the state cannot be carried out by representatives of the people. Rousseau notes that “the moment there is a master, there is no longer a sovereign, and from then on the body politic is destroyed.”(Rousseau, J .J. 1984). To Rousseau, the idea of representative is modern; it comes to us from federal government, from that iniquitous and absurd system which degrades humanity and dishonors the nature of man. In ancient republics and even in monarchies, the people never had representatives; the word itself was unknown” (Rousseau, contract social, 111, Ch, Xv: 430). To Rousseau, the moment an individual allows itself to be represented such a person is no longer free no longer exists. “To renounce one’s liberty is to renounce one’s human quality as a person, to surrender the rights of humanity and even its duties” (Rousseau, contract social, 111, Ch, Xv: 356)

We however, discovered that, Rousseau bitterly opposed the idea that the people should exercise their sovereignty through a representative assembly but rather that they should make laws directly. Liberty, Rousseau insists, can never be represented (Rousseau. Contract social, 1, Ch. V: 359). This restriction means that Rousseau’s idea state could only be realized if at all, within a very shall society which is not tenable today because of the population and development that make it practically impossible for all the people within state to came together for any deliberation in the state. It should be noted that, progress have been made in some aspects of democratic governance, but no progress was made in resolving the
conflicting qualities of representative government. Wells made this comment after the First World War.

Our world today is still far from solving the problem of representation and from producing a public assembly which will really summarize, crystallize, and express the thought and will of the community; our elections are still largely and ingenious mockery of the common voter, who funds himself helpless in the face of party organizations which reduce his free of a representative to the less unpalatable of two political hacks; but, even so, his vote, in comparison with the vote of an ordinary honest Roman citizen, is an effective instrument (Wells. A.G.1920:456).

The suggestion that elections have been reduced to a free choice of the less unpalatable political hacks is a sentiment shared by many voters to day.

Furthermore, there is deliberative dilemma in Rousseau’s participating democratic scheme. Rousseau is against communication on public matter before and during deliberations. Habamas also mentions Rousseau’s adamant distrust in the public corruption of morals through “creative deliberation”. Habamas (1991) says that, the ‘opinion was the opinion of the public enclave, articulated through the press and salon discussions. Against its corrupting influence Rousseau, entirely in the style of his prize-winning essay of 1750, posted emphatically the opinion of simple morals and of the good soul”. In fact Rousseau’s atomistic democrats retain their virtue by forgoing discussion out of fear of discord and odious factionalism. The vary generality or essence of the general will is compromised, when public discussion of political matters proliferates in civil society. Michael Sandal also describes the deliberative dilemma in Rousseau’s participatory democratic scheme in this way;

Unable to abide disharmony, Rousseau’s republican ideal seeks to collapse the distance between persons so that citizens stand in a kind of speechless transparence, or immediate presence to one another, where general will prevails... there is no need for political argument. Since the common good does not admit of competing interpretations, disagreement signals corruption, a falling away from the common good (Sandal, M. 1996: 320).

It is clear that Rousseau’s general will does not depend on debate, because it allows individual and group interests to shape and control its constitution. In this way Rousseau develops a concept of public opinion that is formulated in private and motivated by virtue that manifests itself as patriotism.

However, argumentation, debates are the sign of competing private wills, but to Rousseau, this nullifies the actualization of general will. In his word;

When private interests start to make themselves felt and small societies to influence the large one, the common interest changes and is faced with opponents; unanimity no longer prevails in the vote; the general will is no longer
the will of all; contradictions and debates arise and the best advice is not accepted without disputes (Rousseau The social contract, 1978).

The question here is that, what then is deliberation in Rousseau context is if it does not include debate, discussion; argumentation and even disagreement. What does Rousseau expected when an “adequately informed people deliberates? I believe that avoiding communication in the form of informal and formal debate in the public and private sphere is anathema to community itself. The act of deliberation nurtures competent citizenship, and serve as a procedural mechanism to facilitate compromise or, in Haberma’s ( 1991 ) terms, to discover morals. Democratic politics is a messy enterprise, clouded by completely, vying interests, and intractable disagreement over social and moral principles. It is only through a deliberative procedure of communication that a common will can be discovered. The common consensus and solidarity of the order that Rousseau appeals to, finds little attraction without communal discussion on public matter.

Rousseau’s concept of “law giver” who is expected to guide the general will is a self-contradictory concept. An individual need to be guided by me, judgment of a person who is concerned only with the public interest and who can at the same time explain to the body politic how to promote justice and equal citizenship. The law giver must be an individual whose enlightened judgment can determine the principle of justice and utility which are best suited to society. Rousseau claims that this individual (Law giver) would be given a semi-divine status in society, and at the same time, he would also have an absolute power to define the limits of civil authority.

Furthermore, Rousseau’s concept of the generally will may also provide inadequate protection for the rights of minorities, because he assumes that the characteristics of the general will are always to be found in the majority of individuals. He admits that if the will of the majority is acting in support of the selfish interests of a particular social class or group, then the will of the majority may unfairly deny the legal rights of an opposing minority. For example Rousseau says, if a minority or individual does not approve of a law which has been approved of by the majority, then that minority must have mistakenly supposed that its own particular will was the same as the general will. The minority must accept any acts of general will, it cannot refuse to submit to the general will without violating the terms of the contract.

Rousseau’s basic argument for the social contract is also self-contradictory in saying that natural liberty is in conflict with civil liberty. Rousseau claims that natural rights are in conflict with legal rights and that the social contract guarantees protection of the civil rights of each individual only by alienating the individual from his or her natural rights. While arguing for civil liberty and equal citizenship on the one hand he argues for the absolute power of the state on the other. While attacking the evils of tyranny and slavery on the one hand, he tries to mitigate the evil of dictatorship and totalitarianism on the other.

However, Rousseau’s own defense of social contract in his Letters Written from the Mountain specifies that the social contract must have “nothing contrary to natural laws” (Rousseau J.J. 2001 (1764). This would suggest not only the presence of natural laws in Rousseau’s work, but their indispensability in grounding the state. Metzer (Melzer. A.1990)
proposes that natural or moral laws as they follow from Rousseau’s account are relevant because they are unknowable to the vast majority of the people.

Furthermore, if law and order is the sole end of Rousseau’s politics, then why must he prefer the social contract of the Social Contract over that of the Second Discourse? The society established in the Second Discourse is clearly orderly, it has laws, even ones to which citizen consent, but Rousseau calls it “despotism” and legalized slavery. The metaphysical reader would suggest that, it is only some external objective standard of justice under girding Rousseau’s broader theory can explain Rousseau’s preference and the distinction it entails in this case.

Mason (1973) argues that, Rousseau wants people to obey the law, not because they have a sense of moral obligation based in an “innate principle of justice and virtue” but rather because they would have a “feeling of dependence and belonging” stemming from the social contract and the social bonds fostered in community, and yet these are not mutually exclusive reasons to feel obligation. One can follow the laws of a political community both because of a sense of community and because its laws are thought to be just at the same time. If both were true, the citizen world has all the more reason to obey the laws.

Leo Strauss sees Rousseau’s procedurals as necessary precisely because of the importance Rousseau’s imputes to history and to self-creation. He maintains that Rousseau has difficulty reconciling an historical human nature with the demands of morality. In his view, the accidental nature of historical process” cannot supply man with a standard, and that, if that process has a hidden purpose, its purposefulness cannot be recognized except if there are trans-historical standards” (Strauss, L. 1993). According to Strauss, Rousseau realizes that he must invoke true public right which transcends historical process in order to be able to espouse a moral philosophy at all (Strauss, L. 1993). Strauss insists that Rousseau cannot propound a philosophy of the good because this would undermine the radical independence and freedom of the individual which he celebrates Procedural frame work must be embellished which protect individuals against each other, rather than enjoying them to act out of a sense of moral purpose. Therefore Strauss superimposes onto Rousseau’ through his own convection that freedom and the good are ultimately irreconcilable. He implies that Rousseau is forced to dilute his own moral project because he cannot determine the highest ends of human beings while upholding the notion that human nature is infinitely malleable (Strauss, L. 1993).

Moreo, the doctrine of social contract was not universally applied. Whereas it can be argued that the European states are sovereign state because the various ethnic groups that have contracted on their own to be independent, modern African states are the creation of the European colonial powers. The heterogeneous ethnic groups were forced together by these external powers. To co-exist and remain as states. The consequence of this act is that, ethnic problem constitutes the central political problem facing contemporary African states, and this affects the economic development of the people. It is now necessary for the constituting ethnic groups to have sovereign national conference to determine freely and truly if they wish to remain within the same geographical and political set-up bequeathed to them at independence.

Conclusion
Rousseau’s social contract theory remain one of the most credible effort been made on the way forward in the society of his time. One should not forget the time he lives and the impact his theory made then. The problem that the society grappled with then was the issue of social order which was propelled by the perceived chaos, anarchy, disorder and decadence on the society. A place where the notion of stable social order was completely lacking. Rousseau through his theory of social contract had contributed significantly to the modern day social order, though there were lots of short comings in his work but with many modification and contribution here and there, the society is moving. Today democracy is holding sway all over the world.

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