

INTRODUCING
PHILOSOPHY

A Text With Integrated Readings

F O U R T H E D I T I O N

ROBERT C. SOLOMON

University of Texas at Austin

Under the general editorship of
Robert J. Fogelin, Dartmouth College

1989, 1985, 1981, 1977



HARCOURT BRACE JOVANOVICH, PUBLISHERS

San Diego New York Chicago Austin Washington, D.C.
London Sydney Tokyo Toronto

earlier. A utilitarian or an egalitarian or any mixture of the two over time will inherit the difficulties of his more myopic comrades. He is not helped by the fact that *some* of the information others consider relevant in assessing a distribution is reflected, unrecoverably, in past matrices. Henceforth, we shall refer to such unhistorical principles of distributive justice, including the current time-slice principles, as *end-result principles* or *end-state principles*.

In contrast to end-result principles of justice, *historical principles* of justice hold that past circumstances or actions of people can create differential entitlements or differential deserts to things. An injustice can be worked by moving from one distribution to another structurally identical one, for the second, in profile the same, may violate people's entitlements or deserts; it may not fit the actual history.⁸

B. THE LEGITIMACY OF THE STATE

The entitlement theory calls into question the very idea of government with the power to take away people's property—not to mention their lives—but when people do not cooperate willingly and act for the public interest, they are often forced to do so. The authority with the power to define the public interest and to enforce its definition is what philosophers call the state.⁹ But it must not be thought that the state or its instrument—the government—is merely a bookkeeping and organizational institution. Ideally, in a well-functioning society in which most people act in the public interest, it may be not much more than this, and then as minimally as necessary. But since people do not always act in the public interest, the role of the state is necessarily that of *legislator*, making laws and rules that tell people how to act (and how not to act), and that of *enforcer*, applying enough force through threat of punishment to make sure that people obey those laws and rules. Then too it is the state that may have to step in when the rights of an individual are threatened, and pass laws to protect those rights and punish those who violate them. Ideally, the function of the state is to keep the balance between the public interest and individual rights, in other words, to preserve justice. Some theorists would add that the function of the state is to make life for its citizens such that the public interest and individual rights and interests almost always coincide. Others would hope that the state would serve this function so well that it would no longer be needed, except perhaps as a

⁸Robert Nozick, *Anarchy, State and Utopia* (Cambridge, MA: Harvard University Press, 1974).

⁹This is a general term for any highest authority in a society; it includes federal government as well as "states" in a more restricted sense, for example, Alabama and Massachusetts. Thus the sovereign cities of the ancient Greeks were called "city-states."

bureau of records and an occasional enforcer of contracts. Some people think that the state is an end in itself, a matter of pride and a rallying point for its citizens, something like a football team in a small town. Still others would say that the only proper state is virtually no state at all.

○ We have been talking about the state as the center of power and authority, and many people would simply define "politics" in terms of "power." But "power" alone is not enough to characterize the state; we must add that it is legitimate power. **Legitimacy** means that this power must be justified. A person or organization might have tremendous power and rule a society with an iron hand. But rulers might be gangsters who rule by force alone. Or they might be invaders from another country who rule without popular consent. Or they might be citizens who, because of powerful positions in the government or the army, acquire this power in illegal or unacceptable ways. The idea of the state, therefore, is not simply that it is the center of power; it is the center of legitimate power or, in other words, *authority*. When philosophers and political scientists use the term "authority," they almost always mean "legitimate authority." And sometimes, when they say that "the state has the power to do such and such," they mean "that the state has the legitimate power to do such and such." Legitimate authority (or simply, authority) has the legal power to make laws. Crude military or political power is only the ability to force people to do what one wants; it is not therefore legitimate. A central question of political philosophy, accordingly, is "what makes a state's power legitimate?" In other words, "what gives a state its authority?"

It is necessary to distinguish three different levels on which the question of legitimacy and authority must be raised. First, there is the question of the legitimacy of the state itself. On what authority did the English, for example, rule over the American colonies and consider them a part of the British Empire? Conversely, what authority did the American colonists claim when they declared themselves independent of England and set themselves up as a separate state? Much recent history involves the creation, re-creation, and realignment of various states. If we look at maps of Europe for the past fifty years, for example, we will see that states go into and out of existence, sometimes several times. The question of the legitimacy of the state itself, therefore, is one of the main causes of the wars and political battles of our times (and earlier times as well). Second, there is the question of the legitimacy of a certain form of government. In some Asian and Latin American countries, for example, there are frequent changes between military dictatorships and republics or democracies. In the recent history of Spain, as another example, there have been changes from a monarchy to a republic to a dictatorship back to a monarchy trying to establish democratic processes. The geographical boundaries of the state in all these instances remain the same, the population also remains pretty much the same (making allowances for casualties and refugees), but the form of government changes radically. It is possible that the same

people or party, however, will remain in power even though the form of government changes. (For example, the president of a democracy may become the dictator in a dictatorship.) This brings us to our third level of legitimacy: Particular governments must be shown to be legitimate within the framework of the form of government in a state. It is the form of government that confers legitimacy: For example, a democracy confers legitimacy through elections, a monarchy confers legitimacy on a new king or queen through birth. In our own state, the form of government has remained constant for the past two hundred years, but the particular governments have changed quite frequently, from one party to the other, and sometimes new parties are created and succeed in getting elected. A particular government (whether Republican or Democratic, for example) is made legitimate by the election laws created by our form of government. Usually these laws make it clear which particular government (that is, which party) is the legitimate government at a particular time. In a close election, however, this may be in hot dispute, and it is in such instances that the distinction between the form of government and particular governments is thrown into sharp contrast.

1. Five Theories of Legitimacy

The legitimacy of a particular government, a form of government, or a state means that its power is justified. But what justifies this power? We might say that what justifies a particular government, form of government, or state is the willingness of its citizens to obey its laws, the recognition of it by other governments and states whom it in turn recognizes, and in general the widespread belief in its legitimacy by virtue of which the people or party in power are accepted as such. But this extremely loose definition encounters many problems, particularly in dictatorships where people are forced to accept governments, in powerful military states that can force recognition from other states, and powerful governments that are able to force their citizens to obey them, whether the citizens really want to or not. Moreover, the crucial belief in a government, form of government, or state may be based on many different kinds of justifications. It is necessary, therefore, to mention at least five different kinds of justifications for this belief, each of which might be called a theory of legitimacy.

DIVINE RIGHT TO RULE THEORY Since ancient times it has been argued that kings, queens, pharaohs, princes, and emperors have been given their authority directly by God or gods. Until modern times this was a difficult theory to refute and a dangerous one to argue against. But even in ancient times, for example, in Greece, it was maintained that this divine right had to be supported by justice and a modicum of wisdom and, at least to a

small extent, the acceptance of the people ruled. But since the people who were ruled were more often than not forced to accept the authority of the divinely appointed ruler, this last qualification was mostly nominal. Kings sometimes enjoyed the support of the people, but it is debatable whether they actually needed it.

MIGHT MAKES RIGHT THEORY This theory holds that power itself makes a government legitimate. In a sense, therefore, this theory rejects the very idea of legitimacy, since according to it any government or state that has power has legitimate power and therefore the distinction between legitimate and illegitimate power disappears. For obvious reasons, this theory is usually favored more by those who are already in power than by those who are not in power. But it is rare that a government or state that has power will publicly state the might makes right theory. Usually it will invoke one of the other theories in its defense.

UTILITARIAN THEORY Just as utilitarianism in moral theory defends that action that will promote the greatest good for the greatest number, utilitarianism in political theory defends the government or state that will promote the greatest good for the greatest number of its citizens. Jeremy Bentham's classic treatise, for example, is called *An Introduction to the Principles of Morals and Legislation*. And Mill's pamphlet, *Utilitarianism*, is partly devoted to the political problem of justice. According to the utilitarian theory, a government is legitimate so long as it provides the most services and best protection for its citizens in general. Or to characterize this theory slightly differently, the utilitarian theory says that a government is justified insofar as it furthers the public interest. (Thus it might also be called "public interest theory.")

JUSTICE THEORY One possible problem with the utilitarian theory, as we have seen in other contexts in this chapter, is that it may promote the best interests of most of the people at the expense of a small minority. Neither the divine right nor might makes right theories include any mention of justice at all, and so it is important that the demand that governments and states be just be made independently of these others. Plato and Aristotle, for example, used a justice theory to defend their conceptions of the state. But the fact that Plato's and Aristotle's conception of the state was so different from ours (and so unjust in some respects) points to an important qualification of this kind of theory. What the theory amounts to depends wholly on the concept of justice one defends. If justice means equality, then the legitimate state will maximize equality; if justice means "everyone in his or her proper place" (as in Plato and Aristotle), then the state will be legitimate if the various parts of the state are "in harmony" and working together smoothly.

CONSENT OF THE GOVERNED THEORY This theory is the one that most people accept today. It is assumed, however, that the consent of the governed will also ensure the public interest and justice for everyone as well. Consent of the governed theory is based on the idea that the people who are ruled should have some say in how they are ruled and perhaps even have a choice in who rules them. These two ideas are not equivalent, although they usually go together in our society. People might have a say in government policies without being able to choose the government, as in most monarchies, for example. Even Plato accepted this theory to some degree. In *The Republic*, he argues (through Socrates), "in our state, if anywhere, the governors and the governed will share the same conviction on the question who ought to rule. Don't you think so?"¹⁰

The most powerful modern versions of the consent of the governed theory are summed up in the phrase, "social contract." According to the theory of the social contract, governments and states are legitimate only because the citizens agree to be ruled by them.

2. *The Social Contract*

The single most influential defense of the legitimacy of the state in modern times has been called the "social contract theory." The **social contract** is an agreement among people to share certain interests and make certain compromises for the good of them all. It is, in other words, a "consent of the governed theory." In one form or another, it existed even in ancient times. For example, reread Socrates' argument in the *Crito* (pp. 4–8) where he says that by staying in Athens he had implicitly agreed to abide by its laws, even when those laws unfairly condemned him to death. But what is most important in understanding the nature of this social contract is that, as in Socrates' argument, there need not have been any actual, physical contract or even oral agreement in order to talk about it. We are bound by social contract, in other words, even if we never signed or saw such a contract. Moreover, it may not be the case that there was ever such a contract, even in past history. It happens, however, that Americans are among the few people in the world whose state was actually formed explicitly by such a contract, namely, our *Constitution*. But the actual existence of such a piece of paper is not necessary to a discussion about a social contract. Simply to live in a society, according to these philosophers, is to have agreed, at least implicitly, to such an agreement. (Thus, living in a society you are expected to obey its laws; "ignorance is no excuse," and you cannot get out of an arrest by saying "I don't really live here," much less "I don't recognize your right to arrest me.")

¹⁰Plato. *The Republic*, trans. Francis M. Cornford (Oxford: Oxford University Press, 1941).

Two very different pictures of the original social contract are presented to us by the English philosopher Thomas Hobbes and the French philosopher Jean-Jacques Rousseau. Both begin by considering man in "the state of nature," without laws and without society, before men and women came together to accept the social contract. Hobbes based his conception of the social contract, however, on an extremely unfavorable conception of human nature. He attacked the idealistic political philosophies of Plato and Aristotle for being unrealistic and assuming wrongly that people were naturally capable of virtue and wisdom. Like Machiavelli, whom he followed with praise, he considered himself to be a "realist." As with most realists, this meant seeing the nasty side of things. So, according to his theory of human nature, natural man was a selfish beast, fighting for his own interests against everyone else. Human life was a "war of all against all" and a person's life, consequently, was "nasty, brutish and short." He dismissed reason and appealed to human passions, particularly the passion for self-preservation. The social contract, therefore, was mainly an agreement of equally selfish and self-seeking persons not to commit mutual murder.

► **from *Leviathan*,
by Thomas Hobbes**

OF THE NATURAL CONDITION OF MANKIND AS
CONCERNING THEIR FELICITY, AND MISERY

Men by nature equal. Nature hath made men so equal, in the faculties of the body, and mind; as that though there be found one man sometimes manifestly stronger in body, or of quicker mind than another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon claim to himself any benefit, to which another may not pretend, as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination or by confederacy with others, that are in the same danger with himself.

.....

For such is the nature of men, that howsoever they may acknowledge many others to be more witty, or more eloquent, or more learned; yet they will hardly believe there be many so wise as themselves; for they see their own wit at hand, and other men's at a distance. But this proveth rather that men are in that point equal, than unequal. For there is not ordinarily a greater sign of the equal distribution of any thing, than that every man is contented with his share.

From equality proceeds diffidence. From this equality of ability, ariseth equality of hope in the attaining of our ends. And therefore if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their end, which is

principally their own conservation, and sometimes their delectation only, endeavour to destroy, or subdue one another. And from hence it comes to pass, that where an invader hath no more to fear, than another man's single power; if one plant, sow, build, or possess a convenient seat, others may probably be expected to come prepared with forces united, to dispossess, and deprive him, not only of the fruit of his labour, but also of his life, or liberty. And the invader again is in the like danger of another.

From diffidence war. And from this diffidence of one another, there is no way for any man to secure himself, so reasonable, as anticipation; that is, by force, or wiles, to master the persons of all men he can, so long, till he see no other power great enough to endanger him: and this is no more than his own conservation requireth, and is generally allowed. Also because there be some, that taking pleasure in contemplating their own power in the acts of conquest, which they pursue farther than their security requires; if others, that otherwise would be glad to be at ease within modest bounds, should not by invasion increase their power, they would not be able, long time, by standing only on their defence, to subsist. And by consequence, such augmentation of dominion over men being necessary to a man's conservation, it ought to be allowed him.

Again, men have no pleasure, but on the contrary a great deal of grief, in keeping company, where there is no power able to over-awe them all. For every man looketh that his companion should value him, at the same rate he sets upon himself: and upon all signs of contempt, or undervaluing, naturally endeavors, as far as he dares, (which amongst them that have no common power to keep them in quiet, is far enough to make them destroy each other), to extort a greater value from his contemners, by damage; and from others, by the example.

So that in the nature of man, we find three principal causes of quarrel. First, competition; secondly, diffidence; thirdly, glory.

The first, maketh men invade for gain; the second, for safety; and the third, for reputation. The first use violence, to make themselves masters of other men's persons, wives, children, and cattle; the second, to defend them; the third, for trifles, as a word, a smile, a different opinion, and any other sign of undervalue, either direct in their persons, or by reflection in their kindred, their friends, their nation, their profession, or their name.

Out of civil states, there is always war of every one against every one. Hereby it is manifest, that during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war, as is of every man, against every man. For war consisteth not in battle only, or the act of fighting; but in a tract of time, wherein the will to contend by battle is sufficiently known. . . .

The incommodities of such a war. Whatsoever therefore is consequent to a time of war, where every man is enemy to every man; the same is consequent to the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them withal. In such condition, there is no place for industry,

because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving, and removing, such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.

It may seem strange to some man, that has not well weighed these things; that nature should thus dissociate, and render men apt to invade, and destroy one another: and he may therefore, not trusting to this inference, made from the passions, desire perhaps to have the same confirmed by experience. Let him therefore consider with himself, when taking a journey, he arms himself, and seeks to go well accompanied; when going to sleep, he locks his doors; when even in his house he locks his chests; and this when he knows there be laws, and public officers, armed, to revenge all injuries shall be done him; what opinion he has of his fellow-subjects, when he rides armed; of his fellow citizens, when he locks his doors; and of his children, and servants, when he locks his chests. Does he not there as much accuse mankind by his actions, as I do by my words? But neither of us accuse man's nature in it. The desires, and other passions of man, are in themselves no sin. No more are the actions, that proceed from those passions, till they know a law that forbids them: which till laws be made they cannot know: nor can any law be made, till they have agreed upon the person that shall make it.

It may peradventure be thought, there was never such a time, nor condition of war as this; and I believe it was never generally so, over all the world: but there are many places, where they live so now. For the savage people in many places of America, except the government of small families, the concord whereof dependeth on natural lust, have no government at all; and live at this day in that brutish manner, as I said before. Howsoever, it may be perceived what manner of life there would be, where there were no common power to fear, by the manner of life, which men that have formerly lived under a peaceful government, use to degenerate into, in a civil war.

OF THE FIRST AND SECOND NATURAL LAWS, AND OF CONTRACTS

Right of nature what. The right of nature, which writers commonly call *jus naturale*, is the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature; that is to say, of his own life; and consequently, of doing any thing, which in his own judgment, and reason, he shall conceive to be the aptest means thereunto.

Liberty what. By liberty, is understood, according to the proper signification of the word, the absence of external impediments: which impediments, may oft take away part of a man's power to do what he would;

but cannot hinder him from using the power left him, according as his judgment, and reason shall dictate to him.

A law of nature what. A law of nature, *lex naturalis*, is a precept or general rule, found out by reason, by which a man is forbidden to do that, which is destructive of his life, or taketh away the means of preserving the same; and to omit that, by which he thinketh it may be best preserved.

Difference of right and law. For though they that speak of this subject, use to confound *jus*, and *lex*, *right* and *law*: yet they ought to be distinguished; because right, consisteth in liberty to do, or to forbear: whereas law, determineth, and bindeth to one of them: so that law, and right, differ as much, as obligation, and liberty; which in one and the same matter are inconsistent.

Naturally every man has right to every thing. And because the condition of man, as hath been declared in the precedent chapter, is a condition of war of every one against every one; in which case every one is governed by his own reason; and there is nothing he can make use of, that may not be a help unto him, in preserving his life against his enemies; it followeth, that in such a condition, every man has a right to every thing; even to one another's body. And therefore, as long as this natural right of every man to every thing endureth, there can be no security to any man, how strong or wise soever he be, of living out the time, which nature ordinarily alloweth men to live.

The fundamental law of nature. And consequently it is a precept, or general rule of reason, *that every man, ought to endeavour peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of war.*

.....

The second law of nature. From this fundamental law of nature, by which men are commanded to endeavour peace, is derived this second law; *that a man be willing, when others are so too, as far-forth, as for peace, and defence of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himself.* For as long as every man holdeth this right, of doing any thing he liketh; so long are all men in the condition of war. But if other men will not lay down their right, as well as he; then there is no reason for any one, to divest himself of his: for that were to expose himself to prey, which no man is bound to, rather than to dispose himself to peace. This is that law of the Gospel; *whatsoever you require that others should do to you, that do ye to them.*

.....

What it is to lay down a right. To *lay down* a man's right to any thing, is to *divest* himself of the *liberty*, of hindering another of the benefit of his own right to the same. For he that renounceth, or passeth away his right, giveth not to any other man a right which he had not before; because there is nothing to which every man had not right by nature: but only standeth out of his way, that he may enjoy his own original

right, without hindrance from him; not without hindrance from another. So that the effect which redoundeth to one man, by another man's defect of right, is but so much diminution of impediments to the use of his own right original.

.....

Not all rights are alienable. Whensoever a man transferreth his right, or renounceth it; it is either in consideration of some right reciprocally transferred to himself; or for some other good he hopeth for thereby. For it is a voluntary act: and of the voluntary acts of every man, the object is some *good to himself*. And therefore there be some rights, which no man can be understood by any words, or other signs, to have abandoned, or transferred. As first a man cannot lay down the right of resisting them, that assault him by force, to take away his life; because he cannot be understood to aim thereby, at any good to himself. The same may be said of wounds, and chains, and imprisonment; both because there is no benefit consequent to such patience; as there is to the patience of suffering another to be wounded, or imprisoned: as also because a man cannot tell, when he seeth men proceed against him by violence, whether they intend his death or not. And lastly the motive, and end for which this renouncing, and transferring of right is introduced, is nothing else but the security of a man's person, in his life, and in the means of so preserving life, as not to be weary of it. And therefore if a man by words, or other signs, seem to despoil himself of the end, for which those signs were intended; he is not to be understood as if he meant it, or that it was his will; but that he was ignorant of how such words and actions were to be interpreted.

Contract what. The mutual transferring of right, is that which men call CONTRACT.

.....

Covenants of mutual trust, when invalid. If a covenant be made, wherein neither of the parties perform presently, but trust one another; in the condition of mere nature, which is a condition of war of every man against every man, upon any reasonable suspicion, it is void: but if there be a common power set over them both, with right and force sufficient to compel performance, it is not void. For he that performeth first, has no assurance the other will perform after; because the bonds of words are too weak to bridle men's ambition, avarice, anger, and other passions, without the fear of some coercive power; which in the condition of mere nature, where all men are equal, and judges of the justness of their own fears, cannot possibly be supposed. And therefore he which performeth first, does but betray himself to his enemy; contrary to the right, he can never abandon, of defending his life, and means of living.

But in a civil estate, where there is a power set up to constrain those that would otherwise violate their faith, that fear is no more reasonable; and for that cause, he which by the covenant is to perform first, is obliged so to do.

The cause of fear, which maketh such a covenant invalid, must be always something arising after the covenant made; as some new fact, or

other sign of the will not to perform: else it cannot make the covenant void. For that which could not hinder a man from promising, ought not to be admitted as a hindrance of performing.

Right to the end, containeth right to the means. He that transferreth any right, transferreth the means of enjoying it, as far as lieth in his power. As he that selleth land, is understood to transfer the herbage, and whatsoever grows upon it: nor can he that sells a mill turn away the stream that drives it. And they that give to a man the right of government in sovereignty, are understood to give him the right of levying money to maintain soldiers; and of appointing magistrates for the administration of justice.¹¹

Hobbes begins his argument with the perhaps surprising observation that people are basically equal in nature. He is not talking here about legal equality or equal rights (for there are no laws and no legal rights) but rather equality in abilities, talents, and power. This seems strange because the problem of equality usually pays attention to the great differences between people. Instead Hobbes points out our similarities. In particular, he points out that almost everyone is strong and smart enough to kill or inflict grievous injury on others. Even a puny moron can, with a knife or a handgun, kill the strongest and smartest person on earth. Accordingly, the basis of the social contract (or "covenant") according to Hobbes is our mutual protection. Everyone agrees not to kill other people and in return is guaranteed that he or she won't be killed. Although it is a cynical view of human nature, it also continues to be one of the most powerful arguments for strong governments. (Hobbes himself was a conservative monarchist.)

Rousseau, quite to the contrary, had an extremely optimistic view of human nature, as we saw in the preceding chapter. He believed that people were "naturally good," and it was only the corruptions of society that made them selfish and destructive. Rousseau does not take the social contract, therefore, to be simply a doctrine of protection between mutually brutish individuals. The function of the state is rather to allow people to develop the "natural goodness" that they had in the absence of any state at all. This is not to say (although Rousseau is often interpreted this way) that he was nostalgic and wanted to "go back to the state of nature." That is impossible. (It is not even clear that Rousseau believed that there ever was a "state of nature" as such; his example, like Hobbes's example, is a way of giving a picture of "human nature," whether or not it is historically accurate.) We are already in society, that is a given fact. So Rousseau's aim is to develop a conception of the state that will allow us to live as morally as possible. This is important, for Rousseau, unlike most social contract theorists, is not at all a utilitarian; it is not happiness that is most important but goodness. (Hobbes, by way of contrast, took utility, pleasure

¹¹Thomas Hobbes, *Leviathan* (New York: Hafner, 1926).

and well-being, in addition to self-preservation, to be the purpose of the social contract.)

Rousseau's ambition, therefore, is not to "get us back to nature" but rather to revise our conception of the state. His "revision," however, is one of the most radical documents in modern history and has rightly been said to be one of the causes of both the American and French revolutions. The main thesis is one that Rousseau inherits from Locke: The state has legitimate power only so long as it serves the people it governs. The revolutionary corollary is that when a state ceases to serve its citizens, the citizens have a right to overthrow that government. This was a radical claim, again reminiscent of Locke. Even Rousseau was not comfortable with it. (Locke had made his statement *after* the English Revolution.) He called revolution "the most horrible alternative," to be avoided wherever possible. But subsequent French history took his theories quite literally and demonstrated too the "horror" that may follow too radical and abrupt a change in the authority that citizens accept as legitimate.

In earlier works, Rousseau had argued his famous thesis that "natural man" is "naturally good" and that contemporary society has corrupted him (and her). He went on to say that it was competition and the artificiality of our lust for private property that was responsible for this corruption, and he even included marriage and romantic love as forms of this "lust for private property." In the state of nature, he suggests, people mated when they felt like it, with whomever they felt like, and duels fought between jealous rivals were unheard of. Rousseau does not suggest that we return to that prehistoric custom, but he does use it as a wedge to pry open even the most sacred of our modern civil institutions. All of these, he argues, must be reexamined, and the tool for that reexamination is the social contract.

The key to his most famous book, appropriately called *The Social Contract*, is that man must regain his freedom within society. This does not mean, however, that a person can do whatever he or she would like to do. Quite the contrary, to be a citizen, according to Rousseau, is to want and do what is good for the society as well. To be free is precisely to want to do what is good for the society as well. And in one of the most problematic statements of the social contract, Rousseau says that a person who does not so act for the good of the society may have to "be forced to be free." Here is the basis for a strange paradox. On the one hand, Rousseau has properly been regarded as the father of the most liberal and revolutionary political theories of our time. (Marx, for example, claims a great debt to Rousseau). His political philosophy stresses individual freedom and rights above all, even above the state itself. But there is another side to Rousseau that emerges in this paradoxical phrase; his stress on the state as an entity in itself ("the sovereign," presumably the king, but essentially any government) and the subservience of the individual to the state has also caused

him to be labeled an authoritarian and the forerunner of totalitarian and fascist governments.

This paradox is not easily resolved, but we can at least explain how it comes about. Rousseau believes that the state is subject to and receives its legitimacy from the people it governs. But that does not mean that individual people need have any real power in determining the form or functions of government. Rousseau is not a democrat. What he says instead is that the state is subject to what he calls the general will, which is not simply a collection of individuals but something more. For example, we talk about "the spirit of the revolution" or "the discontent of the working class," but this spirit or discontent is not simply the product of each individual person. A poll of workers or revolutionaries would not show it either way. The revolution may have spirit even though some participants do not; indeed, they may even dislike the whole idea. And here is the source of the paradox: Legitimacy is given to the state by the general will, not by every individual person. And the person who does not agree with the general will, therefore, may very well find himself or herself forced into compliance with the state. (As Rousseau says, "forced to be free.") How much force, however, is a matter that Rousseau is not very clear about, nor have his many followers agreed on that crucial point either. On one extreme, Rousseau's authoritarian followers have insisted that all dissent from the general will must be stifled; on the other extreme, Rousseau's most libertarian and anarchist followers have insisted that the rights of the individual to be free from government intervention and to live according to his or her own "natural goodness" outweigh any claims that the state may have. What follows are a few selections from *The Social Contract*, beginning with one of Rousseau's best-known slogans.

▶ **from *The Social Contract*,
by Jean-Jacques Rousseau**

Man is born free; and everywhere he is in chains. One thinks himself the master of others, and still remains a greater slave than they. How did this change come about? I do not know. What can make it legitimate? That question I think I can answer.

If I took into account only force, and the effects derived from it, I should say: "As long as a people is compelled to obey, and obeys, it does well; as soon as it can shake off the yoke, and shakes it off, it does still better; for, regaining its liberty by the same right as took it away, either it is justified in resuming it, or there was no justification for those who took it away." But the social order is a sacred right which is the basis of all other rights. Nevertheless, this right does not come from nature, and must therefore be founded on conventions. Before coming to that, I have to prove what I have just asserted.

THE FIRST SOCIETIES

The most ancient of all societies, and the only one that is natural, is the family: and even so the children remain attached to the father only so long as they need him for their preservation. As soon as this need ceases, the natural bond is dissolved. The children, released from the obedience they owed to the father, and the father, released from the care he owed his children, return equally to independence. If they remain united, they continue so no longer naturally, but voluntarily; and the family itself is then maintained only by convention.

This common liberty results from the nature of man. His first law is to provide for his own preservation, his first cares are those which he owes to himself; and, as soon as he reaches years of discretion, he is the sole judge of the proper means of preserving himself, and consequently becomes his own master.

The family then may be called the first model of political societies; the ruler corresponds to the father, and the people to the children; and all, being born free and equal, alienate their liberty only for their own advantage. The whole difference is that, in the family, the love of the father for his children repays him for the care he takes of them, while, in the State, the pleasure of commanding takes the place of the love which the chief cannot have for the peoples under him.

.....

THE SOCIAL COMPACT

I suppose men to have reached the point at which the obstacles in the way of their preservation in the state of nature show their power of resistance to be greater than the resources at the disposal of each individual for his maintenance in that state. That primitive condition can then subsist no longer; and the human race would perish unless it changed its manner of existence.

But, as men cannot engender new forces, but only unite and direct existing ones, they have no other means of preserving themselves than the formation, by aggregation, of a sum of forces great enough to overcome the resistance. These they have to bring into play by means of a single motive power, and cause to act in concert.

This sum of forces can arise only where several persons come together: but, as the force and liberty of each man are the chief instruments of his self-preservation, how can he pledge them without harming his own interests, and neglecting the care he owes to himself? This difficulty, in its bearing on my present subject, may be stated in the following terms:

"The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before." This is the fundamental problem of which the *Social Contract* provides the solution.

The clauses of this contract are so determined by the nature of the act that the slightest modification would make them vain and ineffective; so that, although they have perhaps never been formally set forth, they are everywhere the same and everywhere tacitly admitted and recognized, until, on the violation of the social compact, each regains his original rights and resumes his natural liberty, while losing the conventional liberty in favour of which he renounced it.

These clauses, properly understood, may be reduced to one—the total alienation of each associate, together with all his rights, to the whole community; for, in the first place, as each gives himself absolutely, the conditions are the same for all; and, this being so, no one has any interest in making them burdensome to others.

Moreover, the alienation being without reserve, the union is as perfect as it can be, and no associate has anything more to demand: for, if the individuals retained certain rights, as there would be no common superior to decide between them and the public, each, being on one point his own judge, would ask to be so on all; the state of nature would thus continue, and the association would necessarily become inoperative or tyrannical.

Finally, each man, in giving himself to all, gives himself to nobody; and as there is no associate over which he does not acquire the same right as he yields others over himself, he gains an equivalent for everything he loses, and an increase of force for the preservation of what he has.

If then we discard from the social compact what is not of its essence, we shall find that it reduces itself to the following terms:

“Each of us puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an indivisible part of the whole.”

At once, in place of the individual personality of each contracting party, this act of association creates a moral and collective body, composed of as many members as the assembly contains voters, and receiving from this act its unity, its common identity, its life, and its will. This public person, so formed by the union of all other persons, formerly took the name of *city*, and now takes that of *Republic* or *body politic*; it is called by its members *State* when passive, *Sovereign* when active, and *Power* when compared with others like itself. Those who are associated in it take collectively the name of *people*, and severally are called *citizens*, as sharing in the sovereign power, and *subjects*, as being under the laws of the State. But these terms are often confused and taken one for another: it is enough to know how to distinguish them when they are being used with precision.

THE SOVEREIGN

This formula shows us that the act of association comprises a mutual undertaking between the public and the individuals, and that each individual, in making a contract, as we may say, with himself, is bound to the community he is bound to the

individuals, and as a member of the State to the Sovereign. But the maxim of civil right, that no one is bound by undertakings made to himself, does not apply in this case; for there is a great difference between incurring an obligation to yourself and incurring one to a whole of which you form a part.

Attention must further be called to the fact that public deliberation, while competent to bind all the subjects to the Sovereign, because of the two different capacities in which each of them may be regarded, cannot, for the opposite reason, bind that Sovereign to itself; and that it is consequently against the nature of the body politic for the Sovereign to impose on itself a law which it cannot infringe. Being able to regard itself in only one capacity, it is in the position of an individual who makes a contract with himself; and this makes it clear that there neither is nor can be any kind of fundamental law binding on the body of the people—not even the social contract itself. This does not mean that the body politic cannot enter into undertakings with others, provided the contract is not infringed by them; for in relation to what is external to it, it becomes a simple being, an individual.

But the body politic or the Sovereign, drawing its being wholly from the sanctity of the contract, can never bind itself, even to an outsider, to do anything derogatory to the original act, for instance, to alienate any part of itself, or to submit to another Sovereign. Violation of the act by which it exists would be self-annihilation; and that which is itself nothing can create nothing.

As soon as this multitude is so united in one body, it is impossible to offend against one of the members without attacking the body, and still more to offend against the body without the members resenting it. Duty and interest therefore equally oblige the two contracting parties to give each other help; and the same men should seek to combine, in their double capacity, all the advantages dependent upon that capacity.

Again, the Sovereign, being formed wholly of the individuals who compose it, neither has nor can have any interest contrary to theirs; and consequently the sovereign power need give no guarantee to its subjects, because it is impossible for the body to wish to hurt all its members. We shall also see later on that it cannot hurt any in particular. The Sovereign, merely by virtue of what it is, is always what it should be.

This, however, is not the case with the relation of the subjects to the Sovereign, which, despite the common interest, would have no security that they would fulfil their undertakings, unless it found means to assure itself of their fidelity.

In fact, each individual, as a man, may have a particular will contrary or dissimilar to the general will which he has as a citizen. His particular interest may speak to him quite differently from the common interest: his absolute and naturally independent existence may make him look upon what he owes to the common cause as a gratuitous contribution, the loss of which will do less harm to others than the payment of it is burdensome to himself; and, regarding the moral person which constitutes the State as a *persona ficta*, because not a man, he may wish to

a subject. The continuance of such an injustice could not but prove the undoing of the body politic.

In order then that the social compact may not be an empty formula, it tacitly includes the undertaking, which alone can give force to the rest, that whoever refuses to obey the general will shall be compelled to do so by the whole body. This means nothing less than that he will be forced to be free; for this is the condition which, by giving each citizen to his country, secures him against all personal dependence. In this lies the key to the working of the political machine; this alone legitimizes civil undertakings, which, without it, would be absurd, tyrannical, and liable to the most frightful abuses.

THE CIVIL STATE

The passage from the state of nature to the civil state produces a very remarkable change in man, by substituting justice for instinct in his conduct, and giving his actions the morality they had formerly lacked. Then only, when the voice of duty takes the place of physical impulses and right of appetite, does man, who so far had considered only himself, find that he is forced to act on different principles, and to consult his reason before listening to his inclinations. Although, in this state, he deprives himself of some advantages which he got from nature, he gains in return others so great, his faculties are so stimulated and developed, his ideas so extended, his feelings so ennobled, and his whole soul so uplifted, that, did not the abuses of this new condition often degrade him below that which he left, he would be bound to bless continually the happy moment which took him from it for ever, and, instead of a stupid and unimaginative animal, made him an intelligent being and a man.

Let us draw up the whole account in terms easily commensurable. What man loses by the social contract is his natural liberty and an unlimited right to everything he tries to get and succeeds in getting; what he gains is civil liberty and the proprietorship of all he possesses. If we are to avoid mistake in weighing one against the other, we must clearly distinguish natural liberty, which is bounded only by the strength of the individual, from civil liberty, which is limited by the general will; and possession, which is merely the effect of force or the right of the first occupier, from property, which can be founded only on a positive title.

We might, over and above all this, add, to what man acquires in the civil state, moral liberty, which alone makes him truly master of himself; for the mere impulse of appetite is slavery, while obedience to a law which we prescribe to ourselves is liberty.¹²

Although Rousseau shares with Hobbes a belief in the social contract theory, the differences between them could not be more striking. Where

Hobbes begins with a brutal view of human nature forced into agreement by fear of mutual violence, Rousseau begins by saying that "man is born free." For Rousseau, the social contract is not an instrument of mutual protection but a means of improving people and bringing out what is best in them. His central theme is not antagonism but humanity's "natural goodness." With unmistakable clarity, Rousseau rejects all might makes right theories and insists that legitimacy must always be a matter of the consent of the governed. "The general will" is not a general compromise but the creation of a new power, the power of the people, which for Rousseau is the ultimate voice of authority.

The most famous example of social contract theory at work is in our own *Declaration of Independence*. In that document, social contract theory combined with a theory of "natural" ("inalienable") rights provided an epoch-making announcement of the right of a people to overthrow an established government:

► from "The Declaration of Independence,"
by Thomas Jefferson *et al.*

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness—That to secure these rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will indicate that Governments long established should not be changed for light and transient causes; and accordingly all Experience hath shewn, that Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed. But when a long Train of Abuses and Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security.

C. INDIVIDUAL RIGHTS AND FREEDOM

If our concern were only the smooth workings of society, almost any government would do—the stronger the better, the more authoritarian the more efficient. But efficiency is only one of several concerns and probably not the most important. You might argue that the public interest is not

served by such a government, but it is clear that justice and individual rights could not. The importance of the social contract theory (and consent of the governed theories in general) is precisely its clear emphasis on justice and rights, even when these go against the general public interest. However, the social contract theory by itself is not entirely clear about the status of individual rights. Those rights concerning freedom are of particular concern here. How much personal freedom does the social contract guarantee us? Thus any discussion of justice and the state must include some special concern for the status of basic freedoms and "unalienable rights" (that is, rights that no one and no government may take away), such as freedom to speak one's political opinions without harassment, freedom to worship (or not worship) without being penalized or punished, freedom to defend oneself against attack ("the right to bear arms" is a controversial case), and the freedom to pursue one's own interests (where these do not interfere with the rights of others). In addition, we can add the right not to be imprisoned without reason, or accused without a fair trial, or punished unduly for a crime committed. Our best-known list of such freedoms and rights is the American "Bill of Rights," appended to the main body of the Constitution as a kind of contractual guarantee of personal rights.

But even if the importance of such rights is indisputable, the precise formulation and extent of those rights are highly debatable. We speak of "unalienable rights," but should such rights be left unrestricted, for example, even in wartime? It is clear, to mention the most common example, that freedom of speech does not extend so far as the right to falsely yell "fire" in a crowded theater. Freedom of speech, therefore, like other rights, is limited by considerations of public welfare and utility. But how limited? Is mere annoyance to the government sufficient? or general boredom among the populace? Similarly, we can go back to the difficult examples we raised in earlier sections. Are the rights against imprisonment and harsh punishment always valid against overwhelming public interest? For example, are they valid in the case of a criminal who has committed crimes repeatedly? Or, to take a difficult example, is "free enterprise" an "unalienable" right in our society? Or is free enterprise rather a theory (and a debatable one) that suggests that public interest and justice will best be served by open competition and a free market? But that theory evolved before modern monopolies developed and before it was obvious that "free" markets could be manipulated so as not to be either free or in the public interest at all. Is that "freedom" still a right? Or should it also be tempered by other concerns?

One of the most important basic rights is the presumed right to own private property. John Locke, writing just after the English ("Glorious") Revolution of 1688, listed three basic rights that would become the main elements of both the American Declaration of Independence and a still-

were "life, liberty, and the right to own private property." (The original draft of the American Declaration included just these three, but Jefferson replaced the last with the less committal "pursuit of happiness.") For Locke, private property is the bulwark of freedom and the basis of other human rights. One's own body is private property in the most basic sense; no one else has the authority to violate or use it without permission. Most contemporary societies recognize this right to one's own body as fundamental. But then Locke adds that the right to own property that one has helped cultivate with his or her body ("hath mixed his labour with it") is also basic to freedom and human dignity. The Protestant work ethic emerges very powerfully in this view, in which work and rights are treated together, the first being our way of earning the second:

▶ from *The Second Treatise on Government*,
by John Locke

Though the earth and all inferior creatures be common to all men, yet every man has a *property* in his own *person*. This nobody has any right to but himself. The *labour* of his body and the *work* of his hands, we may say, are properly his. Whatsoever, then, he removes out of the state that nature hath provided and left it in, he hath mixed his labour with it, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature placed it in, it hath by this labour something annexed to it that excludes the common right of other men. For this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good left in common for others.

He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. Nobody can deny but the nourishment is his. I ask, then, when did they begin to be his? when he digested? or when he ate? or when he boiled? or when he brought them home? or when he picked them up? And 'tis plain, if the first gathering made them not his, nothing else could. That labour put a distinction between them and common. That added something to them more than Nature, the common mother of all, had done, and so they became his private right. And will any one say he had no right to those acorns or apples he thus appropriated because he had not the consent of all mankind to make them his? Was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him. We see in commons, which remain so by compact, that 'tis the taking any part of what is common, and removing it out of the state Nature leaves it in, which begins the property, without which the common is of no use. And the taking of this or that part does not depend on the express consent of all the commoners. Thus, the grass my horse has bit, the

turfs my servant has cut, and the ore I have digged in any place, where I have a right to them in common with others, become my property without the assignation or consent of any body. The labour that was mine, removing them out of that common state they were in, hath fixed my property in them.

And thus, I think, it is very easy to conceive, without any difficulty, how labour could at first begin a title of property in the common things of nature, and how the spending it upon our uses bounded it; so that there could then be no reason of quarrelling about title, nor any doubt about the largeness of possession it gave. Right and conveniency went together. For as a man had a right to all he could employ his labour upon, so he had no temptation to labour for more than he could make use of. This left no room for controversy about the title, nor for encroachment on the right of others. What portion a man carved to himself was easily seen; and it was useless as well as dishonest to carve himself too much, or take more than he needed.¹³

It is important to point out that discussions of rights should never be set apart from discussions of political duties and obligations. As the several versions of the social contract make clear, these are always part of one and the same agreement—certain rights in return for certain obligations. To discuss freedom of speech, for example, without also discussing the obligation to be well informed and logically coherent, is to provide a dangerously one-sided view of the problem. One way of developing this idea of an exchange of rights and obligations has been to distinguish two different senses of “freedom”: a *negative* freedom from interference and a *positive* freedom to realize one’s own potential and find one’s place in society. Freedom from interference may be necessary for a person to enjoy life and contribute to the welfare of those around him or her, but a person also needs positive goods—health and education, for example. Thus freedom takes on a double meaning, freedom *from* interference but freedom to participate in society too. And since positive freedom also includes a person’s being able to take on responsibilities, some philosophers have pointed out a paradox in the idea of being “free to perform obligations.”

The idea that one is “free to perform obligations” may sound odd to us because we are so used to talking exclusively about freedom from constraints and the demands made by authority. But one of the themes that has recurred since the ancient Greeks is that all rights and “freedoms from” must be coupled with duties and obligations and the freedom to perform them. In Rousseau, for example, the citizen’s obligations to the state are just as important as the state’s obligations to its citizens. Many philosophers are concerned that simple freedom from constraint leaves people without direction or morality and can easily degenerate into chaos and anarchy. Thus these philosophers stress the necessity of laws and

guidelines as an essential part of freedom. This is why they call it "positive" freedom, since it necessarily includes "positive" goods (health and education) as well as a set of roles, duties, obligations, and constraints. This notion can be abused easily, however, for "positive freedom" can be made compatible with the most authoritarian state. (The Italian and German fascists, for example, often used the term "freedom" in this "positive" sense.) But despite possible abuses, it is important to see that there is more to freedom than simple freedom from interference. Whenever someone demands freedom, it is important to ask not only "from what?" but also "for what?"

It is also worth distinguishing several different kinds of rights. We can distinguish between "negative" and "positive" rights as well as freedoms; one has a right not to be interfered with, and one has rights to certain goods that society can provide. We have mostly been discussing negative rights (the right to be left alone, the right not to be arrested without good reason). But there are positive rights that are equally important, although they are often more controversial in this society, for example, the right to a minimal income regardless of the work one performs, the right to adequate health care regardless of one's ability to pay for it. Many rights are clearly localized to a particular state or a particular community, as, for example, the right of university regents to free football game tickets and lunches at taxpayers' expense. These rights exist by convention only, and cannot be generalized from one community to another. Then, more generally, there are **civil rights**, rights that are guaranteed in a particular state. One example can be the right to equal treatment despite differences in skin color or sex or religion, as required by various state and federal laws. These are clearly much more important than the conventional rights, and they have a clearly moral basis. For that reason, even though they are defined by reference to a particular state and society, they are often generalized to other societies as well. Insofar as they are generalized in this way, they become *moral* rights or **human rights**, extendable to all people, in any society, regardless of the laws and customs of the society in which they live. Some apparent human rights have been hotly debated: for example, whether the American government has the moral authority to interfere with the infringements of certain human rights of citizens in the Soviet Union. If the right in question is harsh punishment for a seemingly minor crime, it might be argued that their system of punishment is simply more severe than ours, and we should not apply our values to their people. If the right in question is the ability of citizens to speak out against the government without threat of imprisonment or worse, a strong argument has been made that the American government does indeed have that moral authority (whether or not it wishes to risk the consequences is another matter). But if the right in question is one of those basic human rights against torture or debasement or pointless murder, then it can be argued that everyone has a moral obligation to defend such rights. Human rights

are those that transcend all social and national boundaries; they demand that people deserve certain treatment just because they are human, regardless of all else.

A right is a kind of demand, the demand that one is owed something by society and the state, usually a certain sort of consideration or treatment. But most of the rights we have been discussing are in fact rights to freedom or to liberty, that is, the right to be left alone and not interfered with. It is a belief in individual freedom that forms the basis of the liberal political philosophy, which is defined most of all by a commitment to the right of each individual to be free to do whatever he or she wishes as long as it doesn't interfere with similar rights of others. The classic statement of this position is another pamphlet by John Stuart Mill, *On Liberty* (1859). In it, he defends the rights of individuals and minorities against the tyranny of democratic majorities, for Mill sees that liberty can be as endangered in a democracy as it can be in an authoritarian state. Mill goes on to offer a "very simple principle," that individual liberty is to be considered inviolable except when other people are threatened with harm.

▶ from *On Liberty*,
by John Stuart Mill

The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.

It is, perhaps, hardly necessary to say that this doctrine is meant to apply only to human beings in the maturity of their faculties. We are not speaking of children, or of young persons below the age which the law

state to require being taken care of by others, must be protected against their own actions as well as against external injury. For the same reason, we may leave out of consideration those backward states of society in which the race itself may be considered as in its nonage. The early difficulties in the way of spontaneous progress are so great, that there is seldom any choice of means for overcoming them; and a ruler full of the spirit of improvement is warranted in the use of any expedients that will attain an end, perhaps otherwise unattainable. Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement,¹⁴ and the means justified by actually affecting that end. Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion.

It is proper to state that I forego any advantage which could be derived to my argument from the idea of abstract right, as a thing independent of utility. I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of a man as a progressive being. Those interests, I contend, authorise the subjection of individual spontaneity to external control, only in respect to those actions of each, which concern the interest of other people. If any one does an act hurtful to others, there is a *prima facie* case for punishing him, by law, or, where legal penalties are not safely applicable, by general disapprobation. There are also many positive acts for the benefit of others, which he may rightfully be compelled to perform; such as to give evidence in a court of justice; to bear his fair share in the common defence, or in any other joint work necessary to the interest of the society of which he enjoys the protection; and to perform certain acts of individual beneficence, such as saving a fellow creature's life, or interposing to protect the defenceless against ill-usage, things which whenever it is obviously a man's duty to do, he may rightfully be made responsible to society for not doing. A person may cause evil to others not only by his actions but by his inaction, and in either case he is justly accountable to them for the injury. The latter case, it is true, requires a much more cautious exercise of compulsion than the former. To make any one answerable for doing evil to others is the rule; to make him answerable for not preventing evil is, comparatively speaking, the exception. Yet there are many cases clear enough and grave enough to justify that exception. In all things which regard the external relations of the individual, he is *de jure* amenable to those whose interests are concerned, and, if need be, to society as their protector. There are often good reasons for not holding him to the responsibility; but these reasons must arise from the special expedencies of the case: either because it is a kind of case in which he is on the whole likely to act better, when left to his own discretion, than when controlled in any way in which society have it in their power to control

¹⁴Notice the political implications for this qualification, however, in "underdeveloped" countries and colonies. The principle of *paternalism*—that one ought to take care of those

him; or because the attempt to exercise control would produce other evils, greater than those which it would prevent. When such reasons as these preclude the enforcement of responsibility, the conscience of the agent himself should step into the vacant judgment seat, and protect those interests of others which have no external protection; judging himself all the more rigidly, because the case does not admit of his being made accountable to the judgment of his fellow creatures.

But there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest; comprehending all that portion of a person's life and conduct which affects only himself, or if it also affects others, only with their free, voluntary, and undeceived consent and participation. When I say only himself, I mean directly, and in the first instance; for whatever affects himself, may affect others through himself; and the objection which may be grounded on this contingency, will receive consideration in the sequel. This, then, is the appropriate region of human liberty. It comprises, first, the inward domain of consciousness; demanding liberty of conscience in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people; but, being almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is practically inseparable from it. Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit our own character; of doing as we like, subject to such consequences as may follow: without impediment from our fellow creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong. Thirdly, from this liberty of each individual, follows the liberty, within the same limits, of combination among individuals; freedom to unite, for any purpose not involving harm to others: the persons combining being supposed to be of full age, and not forced or deceived.

No society in which these liberties are not, on the whole, respected, is free, whatever may be its form of government; and none is completely free in which they do not exist absolute and unqualified. The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, or mental and spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest.¹⁵

Mill's main concern in this essay is the extent to which government and public interest have authority over individuals and individual actions. If an action harms other people or presents a public menace, then

government does have the authority to prevent it or punish a person for doing it. But if an action is not harmful to others, the government has no such authority. In the question of freedom of speech, for example, this means that governments have no authority to censor some comment or publication unless it clearly harms other people, not merely annoys or personally offends them. Mill is particularly concerned with protecting individuals against "the tyranny of the majority." The public interest is authoritative to "a limit," but that limit does not include interfering with personal affairs or opinions.

D. A DIFFERENT SENSE OF FREEDOM: MARX

From a liberal perspective, this English emphasis on rights and liberty seems indisputable. But what happens when the "natural right" to private property is abused, when people take more than they can use personally and use their excess possession merely as a means to manipulate other people? And it is all well and good to defend such rights as freedom of speech and religion, but what if many people in the society find themselves far more concerned just with the exigencies of existence—putting food on the table, surviving a dangerous job, and not having enough protection under the law to prevent them from being grossly exploited and underpaid for unrewarding and painful labor? There is an obvious sense in which people in such conditions are not all "free," even if they are guaranteed freedom of speech and religion. Freedom from government persecution is not necessarily freedom from economic exploitation. And it is the latter freedom that concerns Karl Marx and his frequent coauthor Friedrich Engels.

It is worth mentioning that Locke wrote his two treatises on government before the industrial revolution; Marx wrote when that revolution was at its peak, transforming cities like Manchester, England, into virtual slave-farms of underpaid, overworked laborers. With this in mind, the freedoms of speech and religion protected by well-to-do and comfortable liberals seemed not nearly so important as the basic freedom to a decent life. So Marx turned from political liberties to economic necessities and turned his attention from the supposed right to private property to the abuse of private property.

Although Marx insists on "the abolition of private property" as the central theme of communism, he still retains the idea that a man or woman has the right to the products of his or her labor. What he rejects is the ownership of property that one has not personally produced and that serves only as a means for getting richer at the expense of other people, who are thereby forced to work without enjoying the products of their labor. This is what Marx means by his very important notion of **alienation**. A person is alienated if he or she is no longer working for himself or herself