Rousseau and Modern Natural Law/Right Theory: His Critique of the Idea of Natural Law as the Foundation of Politics

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Rousseau was a radical critic of modern natural law/right theory in rejecting the idea that natural law provides the foundation of politics. In his view, the concept of human nature which underlies that theory was the one embodied by the corrupted social man. He identified a genuine human nature in hypothetical primitive men, who are guided by self-love and pity. Rousseau was also a natural law/right theorist in claiming that, although the human nature embodied by the primitive man is morally underdeveloped and needs to be transformed by political means, some essential elements of natural man’s life must also be preserved by politics. Rousseau thus combined the idea of a human nature which can be transformed by politics—an idea absent in modern natural law/right theory—and the idea of a human nature in which nature is unchanging and operates as a norm for politics—an idea that makes Rousseau a natural law/right theorist. It is misleading to emphasize one-sidedly either Rousseau’s break with the modern tradition or a continuity between Rousseau and that tradition. Rousseau was a unique natural law/right theorist.

I. Introduction

The fundamental idea of modern natural law/right theory is that nature or human nature serves as a norm for politics, as something that is immutable and independent of, or anterior to, human conventions. The concepts of the state of nature, natural law, and natural right all reflect that conception of nature. The state of nature is a hypothetical pre-civil condition, in which people live independently without political conditions that subjugate some people to others, and in which human relationships are regulated by natural law and natural rights prescribed by the same law. Due to its inconveniences, people must quit the state of nature and enter into civil society. But natural law and natural rights are valid regardless of time and place because they are rooted in immutable human nature. In civil society, natural law prescribes moral obligations for both the people and the ruler, dictating that the former ought to obey the latter while the latter ought to promote the salus populi. Natural rights constitute the limits of politics: the ruler must not violate natural rights, since that would be

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assaulting human nature.

Rousseau criticized the central idea of modern natural law/right theory that natural law serves as the foundation of morality and politics. He launched his critique from three perspectives.

A first perspective is found in his sweeping critique of society in defense of natural (i.e. primitive) man's life. Natural law as it is conceived by modern theorists was necessitated by the corruption of human nature in the course of history (the degeneration of natural man into social man), and it is therefore problematic to found morality and politics on that law.

A second one is found in Rousseau's emphasis on the moral limitations of natural man, hence the need for a moral transformation of natural man through politics. One specific aspect of this transformation concerns his ideas on freedom and liberty. In the state of nature, Rousseau claimed, people had an absolute right to anything, a right which had no limit but the physical power of the individual. In civil society, this natural liberty is replaced by moral freedom. The essence of this freedom is the mastery of oneself, which means obedience to the laws one prescribed to oneself. As this formulation of moral freedom indicates, Rousseau's idea of moral development is essentially related to participatory democracy: moral freedom requires that every individual participate in the lawmaking process. The idea that the task of politics consists in moral development was alien to modern theorists like John Locke.

A third perspective appears in Rousseau's idea that the foundation of politics must be the human nature that is embodied by natural man, who is morally uncorrupted. Rousseau rejected the central idea of modern theory to establish a new natural law/right theory on the basis of a new concept of human nature.

At first glance, these three aspects or ideas seem to contradict one another. Among other things, there seems to be a great disparity between the first and the other perspectives: Rousseau's critique of society is so sweeping, and his defense of natural man's primitive life so ardent, that it seems to negate the *raison d'être* of any form of politics as well as the need for a radical political reform, and along with it, the significance of a new political theory that provides a guiding principle for reform. Yet Rousseau's perspectives or ideas are coherent. His sweeping critique of society is a necessary step for constructing an alternative political theory. It is therefore misleading to emphasize one-sidedly either Rousseau's break with modern natural law/right theory, or a continuity between Rousseau and this theory.

This essay is a critique of two main views on Rousseau's relationship to modern natural law/right theory. One of them, which was held by C. E. Vaughan, asserts that Rousseau thoroughly broke with the modern natural law tradition when Rousseau advanced in the *Social Contract* the idea of the supremacy of the general will. This idea, in Vaughan's view, implies that there is no pre-civil norm like the law of nature that regulates the general will, nor natural rights which must be respected by
political authorities; there is no limit of political power that is rooted in nature (Vaughan p.48). Vaughan's view seems plausible since Rousseau's notion that the task of politics consists in transforming human nature suggests that nature is not an immutable moral norm that sets the limits to politics, but a status of underdevelopment in terms of morality. I argue, however, that Rousseau considered that nature serves as a norm for politics; that some essential aspects of natural man's life must be maintained by political means; and that Rousseau acknowledged some inalienable rights rooted in human nature and serving as the limit of politics, as something that must not be violated by political authorities.

The other view, represented by Robert Derathé, claims that Rousseau followed the modern natural law/right tradition. Derathé admits that there are important differences between Rousseau and that tradition, such as the former's idea that natural law does not become intelligible to people until after they form civil state. But he contends that Rousseau was a follower of that tradition in believing that natural law is superior, though not anterior, to the State, providing the foundations of political obligation for the people both as the sovereign and as the subjects (Derathé 1950 p.165).

This view underestimates the radicalness of Rousseau's criticisms, for they are directed at the very concept of human nature which the modern natural law/right tradition presupposed as the foundation of political obligation. In Rousseau's view, it is not a genuine human nature; it is a human nature that is embodied by the corrupted social man, who is plagued by amour-propre (vanity). Rousseau identified a genuine human nature in those who lived in the pure and primitive state of nature, guided by sentiments like self-love and pity. Rousseau held that politics must preserve these essential aspects of natural man's life by creating solidaristic relationships among people. Thus Rousseau held a substantively different view of human nature and of the way it serves as a norm for politics. And in this respect he was a natural law/right theorist if this word is to be understood as a theorist who considers human nature to be a moral and political norm, and who considers the knowledge of human nature to be the foundation of political theory.

Both Vaughan and Derathé failed to grasp a double aspect of Rousseau's relationship to modern natural law/right theory. Rousseau presented a radical critique of that theory while preserving the essential link which it had posited between human nature and politics. In other words, Rousseau's ideas on nature and politics are a reconciliation of what appear incompatible, the idea of a human nature which can be transformed by politics, on the one hand, and the idea of a human nature in which nature is unchanging and operates as a limit for politics, or as something that is to be maintained through politics, on the other. The idea of transforming human nature through politics was alien to his predecessors.

In this essay I shall treat only one aspect of Rousseau's ideas on nature and
politics: his critique of modern natural law/right theory, particularly his rejection of its fundamental idea that natural law serves as the foundation of politics. I shall consider other aspects on later occasions.

II. Natural law as the Foundation of Morality and Politics: John Locke’s Thoughts on Nature and Politics

Modern natural law/right theorists held that natural law provides a foundation for morality and politics. More specifically, they emphasized that natural law exists before civil society is formed, and that although natural law is not completely effective in the state of nature—hence the need to quit that state and to form civil society—natural law is not nullified but strengthened in civil society by civil law.

These ideas contrast remarkably with Hobbes’s. Concerning the idea of natural law as the foundation of morality and politics, Hobbes was extremely individualistic and hedonistic. To begin with, Hobbes claimed, each individual should give priority to his preservation. And whatever is instrumental for self-preservation is good for him. That natural law is at best an important instrument for self-preservation means that if one judges that observation of the laws of nature endangers one’s preservation one may not observe those laws: “The Lawes of Nature oblige in foro interno: that is to say, they bind to a desire they should take place: but in foro externo: that is, to the putting them in act, not always. For he that should be modest, and tractable, and performe all he promises, in such time, and place, where no man else should do so, should but make himselfe a prey to others, and procure his own certain ruine, contrary to the ground of all Lawes of Nature, which tend to Natures preservation (Hobbes p.215). In short, self-preservation, which is a right of nature, is above natural law. So there is no justice in the state of nature, since “where there is no common Power, there is no Law [,and] where [there is] no Law, [there is] no Justice” (Hobbes p.188).

In order to understand the tenets of modern natural law/right theory and its remarkable contrast with Hobbes’s theory, it is necessary to look specifically at Locke’s ideas on natural law. Locke held that natural law governs the state of nature: “[The state of nature is] a State of perfect Freedom to order their Actions, and dispose of their Possessions and Persons as they think fit, within the bounds of the law of Nature, without asking leave, or depending upon the Will of any other Man” (TT II 4). Locke thus did not accept Hobbes’s individualistic and hedonistic concept of natural law. The law of nature, in Locke’s view, is not simply an instrument for self-preservation, since this law, as a law common to all people, aims at the peace and preservation of all mankind, uniting mankind into “one community.” Accordingly, although the right to execute the law (i.e. to punish the transgressors of the law) is given to each individual, it must be exercised not arbitrarily but for
the sake of maintaining the natural community. For instance, those who were not personally harmed by the transgressors of natural law have the right, even the duty, to punish them. And the right must be exercised not “according to the passionate heats, or boundless extravagancy of his own Will, but only to retribute him, so far as calm reason and conscience dictates, what is proportionate to his Transgression, which is so much as may serve for Reparation and Restraint” (TT II 8).

More importantly, Locke differed from Hobbes about the obligatory force of natural law. While Hobbes considered this force to be situational (i.e. to depend on each individual’s judgment about his preservation), Locke did not. Rather, Locke held that the obligatory force derives from human nature, or from the harmony between natural law and the rational human nature: “Since therefore all men are by nature rational, and since there is harmony between this law and the rational nature, and harmony can be known by the light of nature, it follows that all those who are endowed with a rational nature, i.e. all men in the world, are morally bound by this law” (Locke 1954 p.199). If the obligatory force of natural law is to be grasped in this way, it follows that the state of nature is not a Hobbesian state of war. It is “a State of Peace, Good Will, Mutual Assistance, and Preservation,” a state where people “[live] together according to reason, without a common Superior on Earth, without Authority to judge between them” (TT II 19).

It was necessary for Locke to distinguish the state of nature from the state of war, for, without this distinction, he could not have claimed that there is a pre-social norm. Yet what appears to be incoherent about Locke’s argument is his assertion that a state of war emerges because natural law is not perfectly effective in the state of nature, because “the greater part [of people are] no strict Observers of Equity and Justice” (TT II 123); that it is therefore necessary to quit the state of nature and to form civil society. Despite the distinction Locke drew between the two states, the state of nature is actually a Hobbesian state of war, which is “full of fears and continual dangers,” and where “the enjoyment of... property... is very unsafe, very unsecure” (TT II 123).

In fact, Locke was not inconsistent. When he admitted that natural law is not completely effective in the state of nature, it is because he wanted to stress the need to establish a political authority, whose purpose is to strengthen natural law. “[T]he Obligations of the Law of Nature... are drawn closer,” Locke wrote, “and have by Humane Laws known Penalties annexed to them, to inforce their observation” (TT II 135). Locke also stated that “the first and fundamental natural Law... is to govern even the Legislative it self” (TT II 134). Despite the difficulty with the effectiveness of natural law in the state of nature, Locke did not doubt its obligatory force in civil society. He did not also think that the same force is created for the first time in civil society. The obligatory force of natural law remains the same in civil society as it was in the state of nature. These ideas presuppose that the state of nature, as a
peaceful state where natural law regulates people, is distinguished from the state of war.

One important implication of Locke's idea of natural law as the foundation of politics is that it excludes the idea of the creativity of politics in the sense of transforming human nature through politics. This may be confirmed by his account of how the state of war is to be overcome. Locke thought that a state of war emerges because natural law is not perfectly effective in the state of nature. Locke, however, did not say that the inconveniences of the state of nature are such that it is necessary to transform human nature through politics. For him the inconveniences are simply institutional ones. In the state of nature, Locke claimed, there are not such things as are equivalent to the three branches of government. First, the absence of the legislative: there is no "establish'd, settled, known Law, received and allowed by common consent to be the Standard of Right and Wrong, and the common measure to decide all Controversies between them" (TT II 124). Secondly, the absence of the judiciary: there is no "known and indifferent Judge, with Authority to determine all differences according to the established Law" (TT II 124). Thirdly, the absence of the executive: there is no "Power to back and support the Sentence when right, and to give it due Execution" (TT II 126). While Locke described the state of war in Hobbesian tone, he was not pessimistic about human nature. Locke think that, although human nature may be mediocre, with its good and bad elements, people's ability to learn from their experiences (i.e. from the inconveniences of the state of nature) is sufficient for them to manage politics without drastic political reforms, and that the purpose of politics—protection of property—can be achieved without moral transformation of citizens through politics. Rousseau did not accept this concept of politics.

III. Rousseau's Critique of the Idea of Natural Law as the Foundation of Morality and Politics

On several occasions Rousseau made remarks that appear to indicate that he accepted a few fundamental ideas in modern natural law theory. For instance, Rousseau stated that "[w]hatever is good and in accordance with order is so by the nature of things, independently of human conventions," and that there is "a universal justice emanating from reason alone" (CS II vi, OC iii 378). More directly, Rousseau held that natural law serves as the foundation of social order: "[I]t is not permitted to infringe upon the laws of nature by the social pact" (LEM, OC iii 807).

Rousseau, however, rejected the foundational status of natural law, as his critique of the doctrine of a double contract indicates. According to that doctrine, which most modern natural law/right theorists had adopted, people first conclude a social pact among themselves and unite themselves into one community, then the people, with the power to act as one body, makes a contract with the ruler-to-be to
the effect that the former gives the latter the right to rule. Focusing on the second stage, Rousseau charged that this doctrine is "contrary in all ways to the civil state," since "the contracting parties would be under the law of nature alone, and without any guarantee of their reciprocal engagements" (CS III xvi, OC iii 432-3). (Rousseau's criticisms would apply to Locke, who, although not a proponent of the doctrine of a double contract, emphasized that the relationship between the ruler and the people should be regulated by natural law.) Rousseau thus suggested that natural law does not provide the foundation of political obligation: natural law is not necessarily effective in making the ruler attentive to the salus populi and in making people inclined to obey the ruler. The thrust of Rousseau's argument is not that natural law is ineffective in the state of nature, nor that the obligatory force of natural law needs political sanctions. Modern natural law theorists, too, held these ideas. Rousseau's critique is directed at the very idea that in civil society natural law provides the foundation of political obligation.

Some might say that, in his rejection of the idea of natural law as the foundation of politics, Rousseau followed Hobbes, drawing a sharp line between convention and nature (or natural law) and taking the former as the foundation of morality and politics. Indeed, Rousseau stated: "[T]he social order is a sacred right that serves as a basis for all the others. However, this right does not come from nature; it is therefore based on conventions" (CS I i, OC iii 352).

In fact, it is not from Hobbesian perspectives that Rousseau criticized modern natural law/right theory. To see this we first need to examine the Discourse on the Origin of Inequality (Second Discourse). In that work Rousseau described human history as a process in which natural men, who were primitive but good, degenerated into social men affected by amour-propre. In Rousseau's account, the same process of moral degeneration necessitated such kind of natural law as his modern predecessors theorized. Hobbes was not concerned with condemning man's morality: "Nature...dissociate[s] and render[s] men apt to invade and destroy one another...[But I do not] accuse mans nature. The Desires and other Passions of man are in themselves no Sin" (Hobbes pp. 186-7). Let us examine his picture of the history of the human race.

In the Second Discourse Rousseau raised a number of reasons for defending natural man in spite of his primitive life. One of them was that natural man is not cruel. In advancing this view, Rousseau referred to self-love and pity in natural man. These natural sentiments are two principles anterior to reason. Self-love "interests us ardently in our well-being and our self-preservation," and pity "inspires in us a natural repugnance to see any sensitive being perish or suffer, principally our fellow-men" (OC iii 126)*. Natural man is not cruel in part because his self-love is modest and therefore, not contrary to the self-preservation of other people. And in part because of pity, which "moderate[s] in each the mutual preservation of the
entire species” (OC iii 156). Thus natural man is good by nature: [A]s long as he
does not resist the inner impulse of commiseration he will never harm another man”
(OC iii 126).

This means that there is a genuine law of nature in the pure state of nature. In
Rousseau’s view, natural law must be a law that speaks directly by nature’s voice
(OC iii 125), hence accepted by people in the pure state of nature. Nature’s voice is
pity and self-love: “It is from the conjunction and combination that our mind is able
to make of these [natural sentiments] that all the rules of natural right appear to me
to follow” (OC iii 126). Rousseau held that the maxim of justice which many theorists
regarded as the essence of natural law—do unto others as you would have them do
unto you—is too sublime to guide natural man. In his view, this is a maxim of
reasoned justice that requires subtle arguments about social relationships, hence not
intelligible to natural man. Natural man listens to a maxim of natural sentiments,
which is “do what is good for you with the least possible harm to others” (OC iii
156). Guided by this maxim, “every robust savage [would refrain] from robbing a
weak child or an infirm old man of his hard-won subsistence if he himself hopes to
be able to find his own elsewhere” (OC iii 156).

Rousseau’s account of human history, of how the pure state of nature disappeared
and society was formed, includes an account of how the genuine natural law
disappeared gradually, finally displaced by the rules of conduct designed for people
plagued by amour-propre.

The first critical moment in history, or “the epoch of a first revolution,” began
when families were being formed, and a sort of property was introduced. This epoch
is important in the development of the rules of conduct (OC iii 170). New kinds of passion like
public esteem, vanity, and contempt began to be found among men. And the
emergence of these passions gave rise to the idea of duty: “It was no longer possible
to be disrespectful toward anyone with impunity. From this came the first duties of
civility, even among savages” (OC iii 170). As a result, “everyone punishing the
contempt shown him by another in a manner proportionate to the importance he
accorded himself, vengeances became terrible, and men bloodthirsty and cruel” (OC iii
170). This epoch thus marked “the beginning of society, where morality was being
introduced into human actions, and each man, prior to laws, was sole judge and
avenger of the offenses he had received” (OC iii 170). Despite inequalities and vices
found in this epoch, Rousseau called it the happiest epoch: “[A]lthough... natural
pity had already undergone some alteration, this period of the development of human
faculties, maintaining a golden mean between the indolence of the primitive state and
the petulant activity of our vanity, must have been the happiest and most durable
epoch” (OC iii 171). In other words, the genuine natural law was still working in
man’s heart. Nonetheless, as we have seen, considerable changes in the rules of
conduct were brought about at this stage.
Subsequent to this stage is the epoch when the division of labor and private property were established. At this stage the law of nature ceased working in man's heart, since natural sentiments were stifled by *amour-propre*. As a substitute for the genuine natural law, "reason... is forced to reestablish [the rules of conduct] upon other foundations [i.e. other than self-love and pity]" (OC iii 126). In explaining how this happened Rousseau referred to rules on private property. In his account, "from property once recognized, the first rule of justice followed," which is "give everyone what is his" (OC iii 173). It is no wonder that Rousseau emphasized the difference between the right of property and the one which resulted from natural law. The former right became indispensable because *amour-propre* generated conflicts among people: "[A]s [people] all saw themselves with some goods to lose, there was not one of them who did not have to fear reprisals against himself for wrongs he might do to another" (OC iii 173). On surface the precept of "give everyone what is his" sounds like what Rousseau called "the sublime maxim," which is "do unto others as you would have them do unto you." But what matters is not the letter of the precept, but the motivation which leads people to adopt it. People are driven by *amour-propre*: reason serves this passion.

This account of human history implies a critique of modern natural law/right theory. To see this one characteristic of Locke's view of the state of nature and natural law should be kept in mind: Locke's state of nature is not a primitive state of nature, but a quasi-social state, where private property is already established and where the law of nature prescribes the rules that people must observe in disposing of their properties. In Rousseau's view, Lockean state of nature is made up of people who are dominated by *amour-propre*, who feel delighted if they are superior to thers, or if they possess more than others do; Lockean natural law is necessary to regulate the relationships among such people. Rousseau therefore took Locke's distinction between the state of nature and that of war meaningless: Locke's state of nature is a state of war because human nature has been corrupted, and because the law of nature has become ineffective due to this corruption. Thus the corruption of human nature in the process of history simultaneously necessitated Lockean natural law and made the same law ineffective.

That Rousseau held these views may be confirmed by the first version of the *Social Contract*, or so-called *Geneva Manuscript*, particularly by his critique of Diderot's concept of the general society of the human race, a concept corresponding to that of the state of nature. (Recall that Locke called the state of nature a community of nature.)

Rousseau was a radical critic of modern natural law/right theory in rejecting its fundamental idea that natural law provides the foundation of politics. In his view the concept of human nature which underlies that theory is the one embodied by the corrupted social man. He identified a genuine human nature in hypothetical primitive
men. who were guided by self-love and pity, and claimed that politics must preserve those sentiments, although in his view the human nature embodied by the primitive man is morally underdeveloped and needs to be transformed by political means. Rousseau thus combined the idea of a human nature which can be transformed by politics—an idea absent in modern natural law/right theory—and the idea of a human nature in which nature is unchanging and operates as a norm for politics—an idea that makes Rousseau a natural law/right theorist. It is therefore misleading to emphasize one-sidedly either Rousseau's break with the modern tradition or a continuity between Rousseau and that tradition. Rousseau was a unique natural law/right theorist.

Rousseau's critique takes the same historical perspective that he did in the Second Discourse. For instance: "Man's force is so proportionate to his natural needs and his primitive state that the slightest change in this state and increase in his needs make the assistance of his fellow men necessary; and when his desires finally encompass the whole of nature, the cooperation of the entire human race is barely enough to satisfy them" (OC iii 281–2). Thus Diderot's general society of the human race corresponds to a stage in the development of society where the division of labor has been remarkably developed, namely, to Locke's state of nature, which is actually a social condition. Furthermore, Diderot's general society is a state of war caused by the corruption of human nature: "Thus the same causes that make us wicked also make us slaves, and reduce us to servitude by depraving us. The feeling of our weakness comes less from our nature than from our cupidity. Our needs bring us together in proportion as our passions divide us, and the more we become enemies of our fellow men, the less we can do without them. Such are the first bonds of general society" (OC iii 282).

Consequently, the law of nature, which dictates mutual assistance and concern for the common good, is not effective in Diderot's general society. Rousseau presented two reasons for that. First, good will (or sociability), which theorists like Diderot and Locke considered to be inherent in human nature, is not reliable. Sociability is nothing but insincerity; sociability is needed all the more because one needs to cooperate with others in order to exploit them, to use them as instruments for one's own benefits. Secondly, contrary to Diderot's view, perceiving one's own interest does not lead one to cooperate for the common good (OC iii 284). Diderot considered, according to Rousseau, that "in renouncing the duties that natural law imposes on me, I deprive myself at the same time of its rights" and that "my violence will justify every violence that others would like to use against me" (OC iii 285). While Diderot expected that consideration of self-interest would teach people to act in moderation, Rousseau asserted that one would not be inclined to act in that way as long as one is not sure if others would observe the laws of nature; to observe the laws of nature unilaterally would cause one's ruin. Justice could diverge from self-interest:
“[I]t is not a matter of teaching what justice is, but of showing me what interest I have in being just” (OC iii 286). One would subordinate the duties of natural law to the right of self-preservation. Under these circumstances the sense of justice would not develop; it does not develop before the State is formed. Thus, drawing on the Hobbesian idea that the law of nature obliges man only in foro interno, Rousseau rejected the idea that the law of nature is effective in the state of nature.

Rousseau, however, was not a Hobbesian theorist. It was not his primary concern to claim that one need not observe the laws of nature in the state of nature if one judges that to do so is harmful to the preservation of one’s life. Rousseau also did not emphasize that the authority of the sovereign determines what is just. Instead, Rousseau held that Locke’s (or Diderot’s) natural law was necessitated by the corruption of human nature. (Hobbes never passed judgment on the morality of those who pursue self-preservation in the state of nature.) Then, it becomes problematic to rely on natural law as the foundation of morality and politics. Rousseau would not accept Locke’s assertion that “the obligation of the law of nature...are drawn closer, and have by human laws known penalties annexed to them, to enforce their observation.”

Rousseau was a radical critic of one fundamental idea in modern natural law/right theory. Although Rousseau did not discard the idea of natural law itself—recall his remarks in the Social Contract quoted at the beginning of this section—his ideas on natural law were substantively different from his theoretical predecessors’ s. It would be misleading to emphasize that Rosseau belonged to the modern natural law/right school. Rosseau’s political theory was an attempt to establish a fundamentally new natural law/right theory.

IV. Reconstruction of a Natural Law/Right Theory: A Problem in Rousseau’s Critique of Lockean Natural Law

I have said that Rousseau criticized a central idea in modern natural law/right theory and attempted to establish a new theory. Here a perplexing problem may be pointed out, a problem which concerns the fact that Rousseau’s critique of that theory was deeply connected with his indictment of society: his indictment of society is so sweeping, or his distinction between nature and society so extreme, that it seems to negate the raison d’ être of any form of politics, and the the significance of a new natural law/right theory as well.

Indeed, that seems what Rousseau himself claimed. In making the following remark, some might argue, Rousseau trivialized any kind of political reform: “[E]ven without the involvement of government, inequality of credit and authority becomes inevitable between individuals as soon as, united in the same society, they are forced to make comparison between themselves and to take into account differences they find
in the continual use they have to make of one another” (*DI*, OC iii 174). In this remark Rousseau wanted to emphasize not that inequality must be eliminated since it inevitably increases social inequality, but that inequality is inevitable since it is rooted in society in itself: society is a place in which the rich and the poor cooperate, only to benefit the former. Political society, or government, does not alter the fundamental character of society. Inequality is inevitable under any government. Then, the need for radical reform must be deemphasized since the distinction between good and bad (or between legitimate and arbitrary) government becomes trivial. A government is legitimate as long as it is not despotic, but it is not more than that. If a political reform could be accomplished it would be at best as a desperate effort to delay the process of degeneration. In Rousseau’s view there are two kinds of revolution, one that dissolves the government altogether, and one that brings the government closer to its legitimate institution. Yet what did Rousseau mean by a “legitimate” government if he considered government in general to be morally problematic? In order to guide such reform, a liberal version of modern natural law/right theory would be sufficiently reliable, hence no need for a new theory as a guidance for radical political reform.

Rousseau, however, was strongly concerned with an alternative theory, and his sweeping critique of society can be explained by this concern. His description of human society and history in bleak and gloomy terms serves to highlight the limits of any political reform that is guided by modern natural law/right theory: to draw on the concept of human nature held by that theory as the foundation of politics would be to found a political theory on corrupted human nature; and since civilization has corrupted human nature, any political theory that builds on such human nature, without ever trying to transform it, should be rejected. In Rousseau’s theory, the life of uncorrupted natural man provides a foundation for politics, and the purpose of politics consists in transforming human nature.

The connection between Rousseau’s idea of natural man’s life as a foundation for politics and his sweeping critique of society may be understood in the following way. In his critique of society, Rousseau treated nature and society in a dichotomic way in order to separate what is original from what is added, to “separate what [natural man] gets from his stock and what circumstances and his progress have added to or changed in his primitive state” (OC iii 122), or to emphasize that “[the corruption of man] is not the original state of man” (OC iii 193). This separation is necessary for making uncorrupted human nature the foundation of politics, namely for creating a society which preserves some essential aspects of natural man’s life, or a society which develops potentialities in human nature.

To see this, let us first consider Rousseau’s following remarks about human history. Rousseau wrote: “When human society is considered with calm and disinterested attention, it seems to show at first only the violence of powerful men and the oppression of the weak: the mind revolts against the harshness of the former; one is
prompted to deplore the blindness of the latter. And as nothing is less stable among men than those external relationships which chance produces more often than wisdom, and which are called weakness or power, wealth or poverty, human establishments appear at first glance to be found on piles of quicksand (DI, OC iii 127). Rousseau’s intention was not to express a pessimism about the human race, who sees no hope for a political reform. His intention lay elsewhere, as he added the following remark: “It is by examining them closely, it is only after removing dust and sand that surround the edifice that one perceives the unshakeable base upon which it is build, and that one learns to respect its foundations” (OC iii 127). This statement indicates that his pessimistic account of human society and history was intended to separate what is natural from what is artificially added to it, relying on the former as the foundation of politics. Indeed, the paragraph containing this sentence is preceded by a paragraph that states that the study of original man is instrumental in understanding the foundations of the body politic: “This... study of original man, of his true needs, and of the principles underlying his duties, is also the only good means one could use to remove those crowds of difficulties which present themselves concerning the origin of moral inequality, the true foundations of the body politic, reciprocal rights of its members, and a thousand similar questions as important as they are ill explained” (OC iii 126).

To confirm that Rousseau held some aspects of natural man’s life to be a guiding principle of politics, it may be helpful to show that he did not always treat nature and society in dichotomic ways. His discussions of natural sentiments show that. In his view, pity and self-love are the foundations of social virtues: “Love of oneself is a natural sentiment which inclines every animal to watch over its own preservation, and which, directed in man by reason and modified by pity, produces humanity and virtue” (OC iii 219). As this remark indicates, Rousseau did not always put natural sentiments and reason in sharp antithesis; he did not think that natural sentiments must be replaced by reason, which is a faculty that does not develop before people enter into society. The fact that reason is posterior to natural sentiments does not imply that those sentiments are useless in society.

Let us turn now to the other principal idea in Rousseau’s alternative theory, namely, his idea that the task of politics consists in transforming human nature, or his claim that since civilization has corrupted human nature, any political theory that builds on such human nature, without ever trying to transform it, should be rejected. This idea is not found in this exact form in his writings. A similar idea, however, can be found in a context where Rousseau mentioned the moral limitations of natural man despite his goodness.

Rousseau’s emphasis on the moral limitations of natural man appears in the Geneva Manuscript. Rousseau wrote: “[I]f our total happiness would consist in not knowing our misery, there would be neither goodness in our heart nor morality in
our actions, and we would never have enjoyed the soul’s most delicious feeling, which is love of virtues” (OC iii 283). Therefore even though there is in the state of nature “perfect independence and unregulated freedom... joined to ancient innocence,” this state has “an essential vice, harmful to the development of our most excellent faculties, namely the lack of that liason between the parts which constitute the world” (OC iii 283). Rousseau did not advance the idea of the moral limitations of natural man for the first time in the Geneva Manuscript. The same idea had appeared in the Second Discourse: “Men in [the] state [of nature], not having among themselves any kind of moral relationships or known duties, could be neither good nor evil, and had neither vice nor virtues” (OC iii 152).

This idea suggests the need to transform natural man through politics. And such a transformative dimension of politics would also apply to corrupted social man. Rousseau’s belief in this dimension of politics is confirmed by the following statement: “One who dares to undertake the founding of a people should feel that he is capable of changing human nature, so to speak; of transforming each individual, who by himself is a perfect and solitary whole, into a part of a larger whole from which this individual receives, in a sense, his life and his being; of substituting a partial and moral existence for the physical and independent existence” (OC iii 381).

In Rousseau’s view, transformation of human nature through politics has an essential bearing on participatory democracy, as it is indicated by his account of what kind of moral development is attained when people leave the state of nature and enter into civil society. In the state of nature, each individual has an absolute right to anything, a right which had no limits but the physical power of the individual. In civil society, this natural liberty is replaced by moral freedom, which is the mastery of oneself, or which consists in obeying the laws one prescribes to oneself. What is evident in this formulation of moral freedom is that moral development is essentially related to participatory democracy. Moral freedom requires that every individual citizen participate in lawmaking: it is not enough that people learn to obey the laws which their representatives legislated for them.

If, in this way, Rousseau did not always put nature and society in sharp antithesis but emphasized a transformative aspect of politics, it is no wonder that he used the term “natural” negatively as long as the term indicates what is not planned, spontaneous, or contingent, namely what people make imprudently. This is illustrated by Rousseau’s account of despotism: “[T]he contract of government is so completely dissolved by despotism that the despot is master only as long as he is the strongest, and as soon as he can be driven out, he cannot protest against violence... Force alone maintained him, force alone overthrows him. Everything thus occurs according to the natural order” (OC iii 191).
V. Conclusion

Rousseau’s alternative theory aims at a radical political reform in the sense of transforming human nature through politics while making the life of natural man as a norm for politics. In other words, Rousseau’s political theory, or his theory of participatory democracy, attempts to reconcile two contrasting ideas, the idea of human nature as the foundation of politics, and the idea of politics as transformation of human nature, or the idea of political creativity in this sense. Politics would become poor if there is no creative element in it. At the same time, politics would become perverted, or dangerous, if the need to transform human nature through politics is emphasized on the premise of the extraordinary malleability of human nature due to the primitiveness of natural man. There must be some limits to the creative dimension of politics.

Rousseau’s concept of politics is distinguished from Locke’s by that kind of reconciliation. One important implication of Locke’s idea of natural law as the foundation of politics, or as a limit of politics, is that this idea excludes the idea of the creativity in the sense of transforming human nature through politics. Rousseau distinguished a human nature which can be transformed by politics from a human nature in which nature is unchanging and operates as a limit. Locke did not make such a distinction.

Notes

(1) Marc Plattner advanced this view: “[T]he connection between Rousseau’s view of natural man and his vision of a more perfect political order... lies in the very primitiveness of man’s nature, and the extraordinary degree to which it may therefore be altered by art” (Plattner p.132).

(2) In the next issue of this bulletin I shall consider how Rousseau’s unique concept of human nature—a concept that places great emphasis on natural sentiments—provides a guiding principle for politics. My principal aim will be to show that Rousseau’s notion of natural sentiments as a guiding principle of politics does not imply a return to natural man’s isolated existence: that he structured politics in such a way that self-love and pity, rather than amour-propre, guide citizens’ political activities. Rousseau believed that people can be free from corrupted amour-propre in human relations far more complex than those in the state of nature. Despite his sweeping critique of amour-propre and society, Rousseau did not always put nature and politics in sharp antithesis. What, then, is the spirit of his critique of amour-propre that is compatible with his attempt to make natural sentiments a guiding principle of politics? An important work on this topic was written by John Charvet (Charvet 1974). He focused on the problems about Rousseau’s attempt to preserve some essential aspects of natural man’s life through politics. In Charvet’s view, because Rousseau’s conception of nature was extremely primitivistic (hence without social implications) his attempt to reconcile nature and politics is bound to make people isolated from one another, withdrawn into each’s inner self. The result, Charvet asserted, is a
rejection of liberalistic values like the pluralism of value and the peaceful accommodation of conflicting interests, hence an acceptance of despotic government: people become vulnerable to manipulation by a despotic government when it claims that it rules in the name of the common good. I shall argue that Rousseau's attempt to reconcile nature and politics does not entail withdrawing into the inner self, and that Rousseau held that natural sentiments could be preserved in human relations far more complex than the state of nature. In other words, contrary to Charvet's view, Rousseau's attempt can be understood as an attempt to create, through participatory democracy, citizens who live and value one another in their particularity and accommodate, in the spirit of mutual affection, differences in their interests, and who still preserve certain essential elements of natural man. In appreciating Rousseau's ideas on nature and politics it is necessary to inquire what those elements are. Cf. Andrzej Rapaczynski (1987) for another important study that claims that nature in Rousseau does not serve as a guiding principle of politics.

(3) Locke identified the obligatory force not only in God's will but also in reason, as John W. Lenz pointed out. "[T] is not an arbitrary will that obligates us, but the will of someone who has the right to command us and who is wise." Locke's theory is therefore "a voluntarism of a specific sort" (Lenz p.106).

(4) The same idea appears in Locke's *Two Treatises of Government*: "[R] eason, which is that law, teaches all mankind, who will but consult it, that all being equal and independent, no one ought to harm another in his life, health, liberty, or possessions" (*TT* II 6).

(5) *English translation by Judith Masters in Rousseau (1978).*

(6) *English translation by Roger and Judith Masters in Rousseau (1964).*

(7) In the stage between the pure state of nature and this epoch, the level of industry and knowledge had become higher, and the relationship among natural men altered. That is, natural men learned to cooperate among themselves more often than before. And further, out of this cooperation a new mode of rules of conduct developed: natural man learned to follow "the best rules of conduct that it was suitable to observe toward them for his advantage and safety" (*OC* iii 166). Of course, despite those rules this stage lacked the cohesiveness of a society. Concerning the rules of conduct Rousseau made the following remark: "men could imperceptively acquire some crude idea of mutual engagement and of advantages of fulfilling them. But only insofar as present and perceptible interest could require" (*OC* iii 166).

(8) *English translation by Judith Masters in Rousseau (1978).*

(9) In Rousseau's account, the rich, who had to overcome the conflict between the poor and themselves, proposed to form a political society. The rich emphasized that it was in the interest of all to form a political society, concealing their true intention. As it was the case with the division of labor, political society was plagued with enmity in the guise of cooperation.

(10) This view accords well with Rousseau's view of human history as a process on which could exercise almost no influence. Take the establishment of private property for example. For all his severe indictment of it, Rousseau admitted that there was no possibility for avoiding it, for it was a cumulative effect of previous occurrences: "[W] hat crimes, wars, murders, what miseries and horrors would the human race has been spared by someone who, uprooting the stakes or filling in the ditch, had shouted to his fellow-men: Beware of listening to this impostor; you are lost if you forget that the fruits
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belong to all and the earth to no one! But it is very likely that by then things had already come to the point where they could no longer remain as they were. For this idea of property, depending on many prior ideas which could only have arisen successively, was not conceived all at once in the human mind" (DI, OC iii 164, italics mine). Rousseau thought that this transition was a fatal accident (OC iii 140, 171).

(11) My concern in this essay and one in the next issue is to elucidate the unity of Rousseau's ideas, which is a topic discussed in a number of works including Lanson (1912), Cassirer (1932), Derathé (1962), Cameron (1972), and Bensoussan (1977).

References

Cameron, David (1972). "Rousseau, Professor Derathé and Natural Law." In *Political Studies*, XX.
Abbreviations

CS    Du contrat social.
CS'I' Du contrat social, première version.
DI    Discours sur l'inégalité.
LEM   Lettres écrites de la Montagne