

Does Rousseau’s discussion of sovereignty and government suggest a preference for elite domination?

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Abstract

The aim of this essay is to defend the thesis that Rousseau favoured popular sovereignty. Rousseau defines popular sovereignty as the “exercise of the general will” of the people, where the general will is those interests shared by the whole citizenry (Rousseau 2011, 170) . Before reaching this conclusion, I initially draw a distinction between the two ways in which Rousseau describes the function of government. On the one hand, it is described as the executive agent of the citizenry (which I call description A). On the other hand, he describes government as an independent body that may choose to prioritise its own interests (description B). Through the essay I argue that these two descriptions are incompatible, and that Rousseau’s conflation of these two descriptions has engendered confusion as to whether he did in fact support popular sovereignty. The purpose of this essay is to defend the view that Rousseau did favour popular sovereignty, despite the extensive power that he describes the government as having.

1 Introduction

This essay draws a distinction between the two ways in which Rousseau describes the function of government. On the one hand, it is described as the executive agent of the citizenry. On this view the government just administers the laws that have been made by the people, applying it to particular instances and ensuring that it is upheld. By this description, (which I call description A) the government is in the service of the people. On the other hand, he describes government as an independent body that may choose to prioritise its own interests (description B). On this view, the government should apply the law as dictated by the people but has the capacity to impose, on the people as subjects, laws that pursue its own interests. Broadly speaking, critics have seen A as what Rousseau thinks the government ought to be like. Theoretically, the government should act only on the will of the people to execute laws. By contrast, critics have interpreted B as the role Rousseau thinks the government would have to hold in practice in order to govern effectively. As such, it is not clear whether Rousseau supported popular sovereignty, where the people are the ultimate source of authority, or a strong and potentially oppressive government. The purpose of this essay is to defend the view that Rousseau did favour popular sovereignty, despite the extensive power the he describes the government as having. However, to reach this conclusion we have to reconsider the purpose of Rousseau’s sharp distinction between the government as the executive authority and the people as legislative power in description A.

In §2, I introduce Rousseau’s distinction between the government and sovereign bodies. Through drawing on his concept of will, I explain Rousseau’s motivation to

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separate executive power from legislative power into distinct political bodies. The section concludes with the question of whether Rousseau is less concerned about the prospect of members of government subverting the general will than the people. In §3, I substantiate the view that Rousseau was more concerned with ensuring efficient governance than the potential threat of a strong government undermining the general will. This conclusion draws heavily on the inference that Rousseau advocated a self-perpetuating government – one that elects its own future members. Such a result, if true, would appear to be highly undemocratic. In the final section, I show that the inference that Rousseau favoured a self-perpetuating government is based on an incorrect reading of the text. I argue instead that the people are intermittently given the executive power to elect government officials, as one would expect of a democratic theorist.

2 The relationship between sovereignty and government

In this section I distinguish between Rousseau's two political bodies, the government and the sovereign people. I explain that whilst legislative power, the ability to make laws, is held by the sovereign people, executive power, the ability to interpret and administer the laws, is often best entrusted to a government as a distinct body.

Just as the actions of a human body have two causes, so do the actions of the body politic. In order for a human body to perform an action such as jumping, it is necessary that there is both a) the will to jump and b) the physical capacity of the body to jump. Similarly, there are two conditions jointly necessary for the body politic to perform an action. On one hand, there must be a will to perform an action, the general will of the people expressed through legislation, and force given to that will, the executive power of the government (Rousseau 2011, 194). The general will is general in two senses. On one hand, it is general in the sense that each vote matters equally and on another, it is general in that it applies indiscriminately to all (Rousseau 2011, 172). Therefore, we should not think of legislation as detailed legal documents, but as an expression of what the people collectively want. Executive power deals with the specific application of law.

This analogy describes the different roles of the government and sovereign, but does not explain why there needs to be two different bodies. It is possible that the people could have legislative and executive power. However, Rousseau is sceptical about the people's ability to govern itself well. A good government gives force to the laws, as expressions of the general will. An expression of the general will occurs when each citizen votes in favour of what they think is in the shared interests of the citizenry as a whole, the common good (Rousseau 2011, 172). Were the citizenry to have the power to decide how a law was executed, in cases where their personal interests were involved, they would be liable to vote in favour of their private will ahead of their judgement of the common good. Imagine a self-governing people faced with the decision of whether or not to increase the national debt. Whilst it might not be in the common interest to raise the public debt level, if a citizen also had the power to decide how to spend the capital raised (by investing solely in their locality) they still might vote in favour of the increase, using it to further their personal interests. When each citizen puts their personal interests ahead of their judgement of the common interests, the sum of their private wills differs from the general will. This problem motivates Rousseau's clear distinction between the legislative sovereign and executive government, as in the human body analogy (Rousseau 2011, 197) (Bertram 2004, 150).

However, in practice, members of the government (*magistrates*) are just as susceptible to the temptation of using their executive power to gratify personal interests, or as a group, their collective interests, known as the corporate will.

In a perfect scenario, the *magistrates* would act on the general will above both the corporate will and their private will as individuals. However, Rousseau argues that “the various wills become more active in proportion as they are more concentrated” (Rousseau 2011, 196). I interpret this as meaning that each *magistrate* is inclined to pursue their private interests firstly, above the interests of the *prince* (the group of *magistrates*), and in turn, above the common interests of the citizenry. Whilst this does not mean *magistrates* inevitably always pursue the corporate will over the general will, at the very least, Rousseau thinks this is a persistent worry.

Through this section I have drawn a distinction between the sovereign and the government, and have explained Rousseau’s motivation for urging that the executive powers ought not be held by the people. However, noting that the government is just as prone to pursuing their own interest prompts the question of whether Rousseau is less concerned about their subverting of the general will. I address this concern in the following section.

3 How democratic are Rousseau’s institutions?

Although Rousseau describes the role of the government as a servant of the sovereign people, critics have argued that the actual relationship between the two institutions is one of domination by the government (Bertram 2004, 173). Whilst Rousseau *claimed* to favour popular sovereignty, this objection holds that there is a tension between his purported republican aims and the restrictions he placed on the power of the people (Goldschmidt 1980, 153) (Frailin 1978, 90). I substantiate this claim in this part of the essay.

Rousseau thinks that it is inevitable that all states eventually collapse. A state collapses when the sovereign people is oppressed by the government. An oppressive government is one that acts only on the will of the *magistrates* and ignores the general will of the people. This is an inevitable outcome of any state, since the government’s corporate will “makes a continual effort against sovereignty” (Rousseau 2011, 212). I take the “continual effort” of the *magistrates* to be a result of their stronger inclination to act on the more concentrated corporate will over the general will, as explained in §1.

However, Rousseau urges that whilst all states eventually collapse, some states last longer than others. A state’s longevity depends upon the relationship between the sovereign people and the government, such that the likelihood of the government subverting the will of the sovereign is diminished. When there is little discrepancy between the private will and the general will, direct democracy, as a form of government in which the sovereign people have both legislative and executive power, can in fact flourish according to Rousseau. Though for a direct democracy to be stable, it must both be small and roughly equal in terms of wealth, such that citizens can assemble regularly to foster cultural bonds, sharing similar values and aspirations. As a third necessary condition, the inhabitants of a direct democracy must not enjoy luxuries. Rousseau argues that luxury causes citizens to become selfish and vain, two qualities conducive to prioritising personal interests above the common good (Rousseau 2011, 199). Under these three conditions, Rousseau thinks that each citizen more easily grasps the interests common to the community and,

presumably as a result of this, is less inclined to prioritise their private will over the general will (Bertram 2004, 157).

However, Rousseau thinks these necessary conditions for direct democracy are exceptionally demanding on citizens. In particular, his main concern appears to be that each citizen, having both legislative and executive power, is unlikely to prioritise the general will above their private will – as explained in §1. In writing about democracy, that “so perfect a government is not suited to men”, Rousseau is suggesting that on the most part, humans would struggle to prioritise common interests over their personal interests were they to exercise executive power (Rousseau 2011, 200).

The implication of Rousseau’s scepticism about the plausibility of direct democracy is that for most populations, in order for a state to be lasting, the executive government ought to be separate from the legislative sovereign. However, if we are to have a separate government, we return to the same problem from §1 – that the *magistrates* are more inclined to pursue their personal interests over the general will.

Recall the distinction in the introduction between Rousseau’s two descriptions of government, A and B. Fralin forcefully argues that these two descriptions are incompatible. Whilst it is the case theoretically, that the executive acts only on the will of the sovereign (A), in reality, as an intermediate political body that has the power to apply laws to subjects, the executive does have corporate will which it has the power to act on (B) (Fralin 1978, 92). Moreover, since the people cannot propose laws, but can only vote in favour or against government proposals, the government must bear significant legislative power in order to formulate these proposals in the first place (Fralin 1978, 92). Since the government cannot both be a partly legislative body with a will of its own, and at the same time be a purely executive agent of the people without the ability to act on its own will, these two depictions of government (A and B) are incompatible.

In practice, by description B, the government as a powerful independent body of *magistrates* does not act as an agent but as a master of the sovereign people. For Fralin, Rousseau favoured dominant government power, not for any malicious reason but because a government needs extensive power, both legislative and executive, to govern effectively (Fralin 1978, 90).

It is important to note that whilst Rousseau explicitly thought elective aristocracy (rule by elected *magistrates*) was often the most suitable form of government for a people, by itself this approval does not entail a preference for government domination. At least in theory, elective aristocratic government is completely compatible with popular sovereignty so long as the general will is not subverted by the corporate will of the government. Rather, it is through Rousseau’s description of elective aristocracy as an intermediary body that Fralin argues citizens bear very little actual power.

Given the constraints of this essay, I want to focus on one of the most important restrictions on popular power that motivate this point of view. Fralin points to a passage which suggests that the government is self-perpetuating. The government alone decides the *magistrates* which take office in the future (Fralin 1978, 108) (Rousseau 2011, 222). This makes sense, Fralin continues, since the executive’s role is to deal in particular matters, and the choice of a *magistrate* is a specific matter.

That the government in Rousseau’s elective aristocracy is self-perpetuating is taken as evidence, by Fralin, that Rousseau favoured powerful government rule that comes into conflict with his purported concern for popular sovereignty (Fralin 1978, 109).

As mentioned, this need not be interpreted as an artfully disguised inclination for cruel oligarchy. His insistence on strong government power can be thought of as a practical means of securing effective governance.

4 In defence of Rousseau's preference for popular sovereignty

In this final section I respond to the interpretation that Rousseau is advocating dominance of the people by a self-perpetuating elite government. I ultimately aim to show that Rousseau's notion of an elective aristocratic government is compatible with the democratic notion of popular sovereignty, provided we reconsider the strict distinction between the people as legislative power and the government as executive power suggested by description A of government.

Firstly, it is important to distinguish representative sovereignty, which Rousseau does not think is possible, and representative government, which Rousseau thinks is a practical necessity for most states. Sovereignty is defined by Rousseau as the "exercise of the general will", which I understand to mean the act of expressing the general will at lawful assemblies (Rousseau 2011, 170) . Since the general will is the interests that are common to the people, it follows that sovereignty is an expression of the interests common to people. Therefore, sovereignty is not the type of thing that can be represented, it has to come from the people by definition. On the other hand, representative *government* is the delegation of executive power to an independent body, which is both possible and encouraged, for the reasons given in §1. Fralin is not arguing that the government represents the sovereign. Rather that the sovereign power of the people is so limited and the legislative and executive powers of the government so strong, that the government inevitably acts on its own corporate will subverting the general will.

However, whilst it is inevitable in any state that the government eventually subverts the sovereignty of the people, it is possible that elective aristocracies are compatible with popular sovereignty, at least in the short term. Were this not the case, Rousseau would not bother with discussing how to place checks on the power of the government by legally guaranteed periodic assemblies (Rousseau 2011, 223) . He notes that "once the populace is legitimately assembled as a sovereign body, all jurisdiction of the government ceases" (Rousseau 2011, 217) . Once assembled, the government no longer exists and the people must ask itself two questions, "Does it please the sovereign to preserve the present form of government?" and "Does it please the people to leave its administration to those who are now in charge of it?" (Rousseau 2011, 224). These intermittent assemblies provide the sovereign with a means of overthrowing government and provide a clear incentive for *magistrates* to act not on their corporate will but the general will of the people. That Rousseau advocates regular assemblies of the sovereign, during which time the government is liable to being overthrown, does not fit well with Fralin's picture of government domination. Rather than being master of the people, the ability to overthrow the government better fits the picture of the government being in the people's service.

One of the most important points that motivates Fralin's conclusion, that the government dominates the people, comes from his interpretation that the government chooses its own successor (Fralin 1978, 108) (Rousseau 2011, 222) . However, a close reading of the passage that motivates Fralin's reading, Chapter 17, Book 3 of the Social Contract, suggests that the people have this executive power, not the government. Once the people have assembled and decided that there "will be

a governing body”, we are told that the nomination of leaders is “a function of the government” (Rousseau 2011, 222). This is a particular act, and particular acts are dealt with by the executive. However this creates a problem, since it is not clear how an executive government can decide who to nominate to leadership when it does not yet exist.

What immediately follows suggests that the people assume this executive power. The people “can in certain circumstances become *prince*” (Rousseau 2011, 222). Remembering that *prince* is the collective of *magistrates*, Rousseau is saying that the people on occasion take on the executive power usually held by the government. Cohen interprets this passage as saying that when no government exists, as is the case whenever the people are lawfully assembled, the executive authority to choose leaders belongs to the people (Cohen 2010, 169). At these points, there is a “sudden conversion of sovereignty into democracy” (Rousseau 2011, 222). Both legislative and executive power are combined in the people once assembled.

If it is the case that the people intermittently hold executive authority, when Rousseau talks about the nomination of leaders as being a “function of the government”, he must be using “government” in a different way to when he strictly separates the legislative people from executive government (Cohen 2010, 170). Cohen makes sense of this by separating Rousseau’s normative use of “government”, what the function of government as executive ought to be, from his institutional use of “government”, government in practice as the intermediate body standing between the sovereign and subjects (Cohen 2010, 170). In much the same way as Fralin, Cohen argues that whilst the government ought to be just the executive agent of the people (description A), in practice it is an intermediate body that has to assume some legislative authority in order to go about the day to day making of laws (description B). What Fralin failed to realise though, was that the sovereign people also holds significant power, by being able to vote in and out those officials in government (Cohen, 170).

5 Conclusion

Through this essay, I have defended the view that Rousseau favoured popular sovereignty rather than domination by an elite government. However, in reaching this conclusion I have urged that we ought not strictly separate the government as the executive force from the sovereign people as the legislative power. In practice, the government must exert some legislative power in making and proposing quotidian laws and the people intermittently hold executive power when voting in elections. Nonetheless, we should not just dismiss definition A of government, as the executive agent of the people. Importantly, this definition serves to emphasise that the government ought not undermine the general will (Bertram 2004, 174). Rousseau’s description of government as both a powerful independent body and a subservient agent of the people reveals a practical concern to balance the need for effective government against executive transparency.

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