Freedom and Dignity in *The Social Contract*

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This paper will be published in: D. DE RUYSSCHER, B. DESEUR, K. CAPPATTE, M. COLETTE et G. VAN ASSCHE (eds.), *Rechtsgeschiedenis op nieuwe wegen. Legal history, moving in new directions*, Antwerp, Maklu, 2015, in press. Please do not quote without prior permission from the author.

1. Introduction

Philosophy by its nature, Karl Jaspers once famously stated, “means to be on the way”. Its questions are more essential than its answers, and every answer becomes a new question; this in turn implies, as Montesquieu most brilliantly wrote, that “one must not always exhaust a subject, so that one leaves nothing for the reader to do”. It is not a question of making him “read” but of making him “think”. Bearing these views of the mentioned authorities in mind we shouldn’t be suspicious of a writer such as Jean-Jacques Rousseau (1712-1778), in whose writings one can hardly isolate a single, consistent and fully articulated theory of freedom. Even so, the concept of freedom is crucial in Rousseau’s thought; the word “freedom” seems to be constantly on his lips. Rousseau, self-proclaimed “homme à paradoxes”, and perhaps not the most interesting or wisest, but decidedly the most eloquent and captivating advocate of a theory of citizenship as participatory liberty, wrote with insurmountable intellectual clarity that was accompanied with a stirring and seductive rhetoric, apparently “wishing rather to dazzle by the elegance of [...] language than to persuade by the force of [...] arguments”. This required “something for which one almost needs to be a cow”, as Nietzsche observed it, namely, to turn phrases “over in [one’s] head again and again, five or six nights in a row, before they are ready to be put on paper”. Puzzling and obscure language notwithstanding, in *The Social Contract* (written between 1743 and 1761, published in 1762) the essence of Rousseau’s outspoken concept of liberty unfolds itself as a theory on the possibilities open to men as citizens, which Rousseau’s critics ignore at their peril. This is to say, a tradition of thinking of liberty Benjamin Constant, the unbending liberal and yet reluctant critic of Rousseau, labelled as “the liberty of the Ancients”; which Friedrich Nietzsche yearned for in referring to “the last man”; which

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1 I would like to thank Dave De Ruyscher and Brecht Deseure for their comments on earlier drafts.
4 I will use the terms “freedom” and “liberty” interchangeably since, as far as I can see, this difference of terminology is of no relevance for the argument of the paper.
7 BLOOM, “Rousseau’s Critique of Liberal Constitutionalism”, 146.
8 I paraphrase WOLLSTONECRAFT, *A Vindication of the Rights of Woman*, 12, most probably hearing Rousseau in mind when writing that “I shall not waste my time in rounding periods, or in fabricating the turgid bombast of artificial feelings, which, coming from the head, never reach the heart.”
9 OC I, 114/453. Citations are first to the *Pléiade* edition of the *Oeuvres Complètes*, followed by page reference to the English translation, if available, by Constantine 2013 (for Rousseau’s autobiographical works) and Cole 1993 (for *The Social Contract* and the *Discourses*), and adjusted where deemed necessary. For example, “OC I, 114/453” refers first to the *Pléiade* text and then to the corresponding page in the Constantine translation. I am grateful to Paul Pelckmans for pointing me out the passage cited here.
10 Recently translated into Dutch as: ROUSSEAU, *Het maatschappelijk verdrag* (Amsterdam 2008).
11 Rousseau has relatively little to say of the freedoms, and corresponding duties, of women.
12 SHILKAR, *Men and Citizens*.
Benjamin Barber restated as "strong democracy"; and finally, which Jürgen Habermas recently centre-staged as “a radically this-worldly politics”. It is, as Hannah Arendt most eloquently put forward, a concept of freedom inherent to action for which "the accomplishment lies in the performance itself and not in an end product which outlasts the activity that brought it into existence".

In The Social Contract Rousseau construes a pact of association amongst citizens on the basis of egalitarian ideals of public empathy, which at the same time enhance their liberty. Rousseau is unambiguous and uncompromising on the effort to be undertaken: his political philosophy is almost entirely dedicated to “[finding] 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”. Elsewhere, in his opening chapters, Rousseau had mysteriously claimed that “man is born free, and everywhere he is in chains.” "How did this change come about? I do not know. What can make it legitimate? That question I think I can answer." By appealing to “ancient” republican ideals according to which a free people is bound by its own laws Rousseau swims against the tide of early modern theories of top-down sovereignty proposed by Thomas Hobbes (1588-1679) and Jean Bodin (1529/30-1596). Unlike these precursors Rousseau relocates the concept of sovereignty in the people (bottom-up approach). As such, his fairly radical ideas on “political right” ensured that citizens never had the feeling of renouncing their liberty when obeying the law. Quentin Skinner among others has pointed out that within the classical republican tradition, the discussion of political liberty was generally embedded in an analysis of what it means to speak of living in a “free state”. “Free” was understood here not primarily in the “modern” sense of negative liberty, but more as the antonym of despotic. To describe a civil association as free, therefore, is to say that it is capable of acting according to its own will; a community, that is, in which the will of the body of citizens chooses and determines whatever ends are pursued by the association as a whole. The classical republican thesis assembles freedom to self-government – and in consequence clusters the idea of personal liberty, in a seemingly paradoxical way, with that of public service.

Already in 1762, after a period of just over ten years in which he had produced a resounding number of doctrinal, prophetic and imaginative writings, Rousseau had been virtually exiled from France. While much of his paranoia proved to be the work of frenzied imagination, there were also non-imaginative causes for his suffering: the hostility and contempt of former friends, the outlawing of books that he considered a contribution to the common good and – while he was “happy to keep finding in [his] studies new reasons for loving the government of [his] own country” – the rejection and condemnation of his person and his writings in his beloved fatherland Geneva. Rousseau’s forceful characterization of political liberty has receded further into the background since, especially in the course of the twentieth century. In the aftermath of totalitarianism emphasis was being laid on individual rights and liberties, a tendency which

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15 NIETZSCHE, ‘Thus Spoke Zarathustra’.  
17 HABERMAS, Between Facts and Norms, 468.  
19 See e.g., DE HERT and COLETTE, ‘De vele gezichten van Jean-Jacques Rousseau’, 8-9.  
20 OC III, 360/190-191.  
21 OC III, 351/181.  
24 SKINNER, Liberty before Liberalism.  
25 STOROBINSKI, La transparence et l’obstacle, 190-192.  
26 OC III, 351/181.  
27 TALMON, The Origins of Totalitarian Democracy denounces Rousseau as the intellectual forefather of “totalitarian democracy”. A more subtle approach is to be found in MAREIKO, Jean-Jacques Rousseau.
was backed with sociological and psychoanalytical “evidence” of people’s “disinterestedness and apathy” towards societal engagement and the public cause. Among contemporary political theorists the presence of liberty is said to be marked by an absence, of some element of constraint that impedes on being able to act independently in pursuit of chosen ends. According to “thin rope” liberalism (as opposed to republicanism) a person is “free” to the extent that he is able to do things if he wishes, without these actions being hindered by the activities of others. The suggestion, in short, is that the idea of liberty is essentially a “negative” one. This “liberal” conception of freedom is related to politics but in a profoundly different way from the republican tradition mentioned above. Whereas the latter sees freedom as being realized through a certain kind of politics, the former tends to see freedom as beginning where politics ends. According to liberalism and theories of negative liberty surrounding it the attainment of freedom cannot be a matter of performing social duties.

In this essay I will first turn to what I take to be the essence of the republican critique of liberalism. In so doing, I want to point out a different way of thinking of liberty – I do not intend to bring forward any judgments, whether from an absolute moral standpoint or from a contemporary view of social justice. This brief outline will constitute the stepping-stone for the following section in which I will try to distill some of the spirit of the neo-classical intellectual heritage of republicanism into a historically sensitive account. For that purpose, I will foremost draw on the political theory of Rousseau and thereby stress the genuine complexity and ambivalence of his theory of liberty and citizenship, and it’s continuing relevance for contemporary debate. Primo, because I take Rousseau to have made a more determined effort to think about these questions than any other (and more recent) political philosopher has done; secundo, because his attempt to think of liberty comprehensively and in a multi-faceted way has largely disappeared from the scene of modern political theory both in its republican and liberal variety. By way of conclusion, I would like to give some thoughts to the contention in The Social Contract that one might be “forced to be free”.

2. The Republican adjustment of Liberal atomism

Many contemporary political theorists and historians of political thought have analyzed the apparent declining emphasis on participatory citizenship and liberty in terms of a shift from ancient republican conceptions of citizenship to modern liberal conceptions of citizenship. Liberal conceptions of citizenship are described as construing political activity in purely instrumental terms, as means to pursue and achieve self-interested personal plans, seeing society as nothing more than serving individual advantage. Even where sovereignty is described as vested in the people themselves, they participate in their sovereign role only in the context of an elaborate system of political representation at a distance, carried out “in the shadow of a permanent professional administrative apparatus”. As a result, Judith Shklar observed, “a people is not a political entity, as was once hoped. [...] Elections are rituals in function and in form [...]. The pretentions therefore are standardized, and the conventions of

28 The locus classicus for an advocacy of individual freedom viz. Rousseau is BERLIN, Four Essays on Liberty.
29 SCHUMPETER, Capitalism, Socialism and Democracy.
30 FROMM, The Fear of Freedom.
32 BERLIN, Four Essays on Liberty, 122-123.
33 “Negative” freedom exists when things are not done to the individual against his will; “positive” freedoms, by contrast, do not exclusively focus on leaving individuals a sphere of free space in which they can do as they please without being hindered by others, but on enabling or empowering them to do certain things, to achieve particular outcomes or purposes.
36 SWIFT, Political Philosophy, 152.
expressing them are equally predictable”. Citizenship in “modern” societies rarely involves a strongly participatory public ethos or devotion to the public good, in fact people have become familiar to “outsourcing” their democratic responsibilities. In the tradition of political thought bequeathed by Hobbes there has been “no necessary connection between individual liberty and democratic rule”. As such, the modern concept of “the state” has come to embody a doubly impersonal character: we distinguish the state’s authority from that of the rulers entrusted with the exercise of its power for the time being; but we likewise distinguish its authority from that of the whole society or community over which its power is exercised. Republican theory, however, accepts only one half of this doubly abstract notion of the state; it makes no such distinction between the powers of the state and those of its citizens; on the contrary, the whole thrust of classical republican theory is directed at equating the two.

The crucial difference between liberalism and republicanism therefore lies in how the role of the democratic process is understood. Whereas for liberal conservatives society is a system of market-structured interactions and exchanges among private persons, politics on the republican account is conceived of as an inclusive process of opinion and will-formation in which free and equal citizens reach an understanding on which ends and norms are in the equal interest of all; the republican citizen, therefore, is credited with more than an exclusive concern for private interests. It is true, since participating in politics can be one among many ways in which people choose to pursue their ends, the idea of freedom as self-government is in itself not inimical to liberal freedom. Isaiah Berlin in his inaugural lecture “Two Concepts of Liberty” at times frames liberal or negative freedom as one “sense” of political liberty, but soon shifts to individual liberty and makes particularly clear that negative freedom does not involve political rights, and “is not incompatible with some kinds of autocracy, or at any rate with the absence of self-government”. He finally ends up by discrediting political freedom as such; according to Berlin, the answer to the question “Who governs me?” is logically “a distinct one.”

3. Beyond the negative/positive dichotomy

In recent scholarly debate, the false dichotomy between “negative” and “positive” freedoms has been unmasked. Charles Taylor in his essays on liberal “atomism” reiterated that “the crucial point is this: since the free individual can only maintain his identity within a society or culture of a certain kind, he has to be concerned about the shape of this society or culture as a whole”. “Atomist” theories such as Hobbes’s and Locke’s were built upon a vision of society “as in some sense constituted by individuals for the fulfillment of ends which [are] primarily individual”. However, Taylor suggests, such a “free individual is only what he is by virtue of the whole society and civilization which brought him to be and which nourishes him”. A non-deceiving theory of freedom therefore requires an understanding of self, one in which the aspirations of autonomy and self-direction become conceivable; as Taylor sees it, such a self-understanding “is not something that we can sustain on our own”; our identity is “partly defined through conversation with others or through the common understanding which underlies the practices of society”. The “negative turn” of the concept of freedom, defined as “the absence of all external obstacles”, is therefore simply too moderate, and unable to capture some of the crucial aspects of freedom in the Western tradition. Apart from prohibiting interference with the

39 BARBER, Strong Democracy, xiii.
41 SKINNER, ‘The State’, 112.
42 HABERMAS, The Inclusion of the Other, 241.
43 BERLIN, Four Essays on Liberty, 129-130.
44 TAYLOR, Philosophy and the Human Sciences, 207.
46 Ibid., 206.
47 Ibid., 209.
freedom of others, negative theories of freedom do not entail any particular positive doctrines about how men are to conduct their lives or what personal choices they are to make.48 On the contrary, liberalism’s very essence is based on strict neutrality vis-a-vis such claims. In so doing, it relies on an "opportunity concept" that upholds being free as merely a matter of what we can do regardless of whether or not we actually do anything to expand the scope of our actions.49 By contrast, positive theories of freedom can rely on an “exercise concept”, which means that engagements in the pursuit of certain determinate ends are deemed a necessary condition of being fully at liberty.50 Positive theories of freedom do not just acknowledge the negative injunction that one must refrain from impairing on the actions of others that are fulfilling their capacities; they affirm that these capacities should be continually developed.51 Whereas negative theories of freedom require that the individual be left alone and may act as he pleases, exercise concepts therefore associate freedom with realizing capacities: the capacity to be a morally autonomous agent, or the capacity to self-determine freedom.52 To freedom understood as the absence of external constraint, they oppose a theory and practice of “strong democracy”, which provides a dialectical account between individuals and their communities where freedom is constructed in and with respect to public space.53

4. Arguing in the negative: freedom as non-domination

The self-destructive dynamic of liberal theory has already been discredited at length in recent scholarly debate.54 In Liberty before Liberalism (1998) Skinner relabeled freedom as being the absence of domination, that is, "the absence of subjection to the will of others”. This led up to his Hobbes and Republican Liberty (2008), in which Skinner reacted against Hobbes’s contention that freedom consists merely in not being obstructed from acting “as I will”.55 When, on Hobbes’s account, we say that one has acted “freely”, this is claiming that one has performed an action for which there was a determined will to perform, and has done so without external let or hindrance. When, by contrast, we say of someone that he lacks the freedom to act in some particular way, this means that an action within his powers is rendered impossible by the intervention of some external force.56 This argument runs close to a liberal conception of freedom: one is not free if one’s actions are being hampered by external impediments, but one remains free if one is able to act unobstructed in pursuit of desired ends. Skinner challenges Hobbes’s theory of freedom by referring to another tradition of political thought. The thesis on which so-called “neo-roman” writers insist is that it is not only overt coercion resulting in the forfeiture of liberty – to live in a condition of dependence on the goodwill of others is in itself a source and form of constraint. The mere awareness of living under such an arbitrary power, that is to say, a power capable of interfering with one’s activities without having to consider his interests, provides in itself a limit to freedom.57 “Unfreedom” is the denial of the moral standing of one’s person and is not related to what one can factually do or not do.58 According to Skinner,
the distinctive features of freedom as "non-domination" have been at the heart of the law of persons ever since its formulation, as is demonstrated in the Digest of Roman law. According to the Digest, the essential characteristic of a liber homo or "freeman" is that he is not a slave. Skinner stresses that a liber homo is not in aliena potestate, which is in the power of another person and at his mercy.\(^5\) If one is condemned to live according to the whims of a dominus, he will be able to act only by the grace of his master. In fact, this can only with his implicit permission, which can be withdrawn with impunity at any moment. To say, then, that all your actions are performed as a "matter of grace" is to acknowledge that none of them can ever be performed as a "matter of right"; your predicament is that you are unable to act sui iuris, because you are entirely restricted to acting in ways the dominus is willing to allow.\(^6\)

Although "neo-roman" theory is implicit in Rousseau’s theory of liberty, as I hope will become clear in the following section, much more of his reasoning is written along classical republican lines. The republican thesis finds its most replete resonance, however, in the writings of Rousseau, the last "modern with an ancient soul", as he himself somewhere said between the lines.\(^6\) Let us, therefore, try to recover a few elements of this multi-faceted and ambivalent theory of freedom.

5. Enforced freedom: the virtuous citizen

"We have physicists, geometricians, chemists, astronomers, poets, musicians and painters in plenty; but we have no longer a citizen among us; or if there be found a few scattered over our abandoned countryside, they are left to perish there unnoticed and neglected", Rousseau lamented in the Discourse on the Arts and Sciences (1750).\(^6\) Answering the question as to whether the restoration of the sciences and the arts had contributed to purifying morals Rousseau, "beholding a different universe and becoming a different man",\(^6\) argued in the negative and thereby denounced the very core of principles that motivated Enlightenment. Rousseau stated that the progress of the sciences and the arts harmed those decent communities in which moral sanity is upheld and where individuals have no objects of aspiration beyond those of the community. According to Rousseau, progress destroyed the very foundations of communality, which is its virtue, the citizen's devotion to the common good.\(^6\) The "unfortunate question from an Academy [...] showed him another universe, a true golden age, societies of simple, wise, happy men".\(^6\) Here, in the so-called First discourse, we find Rousseau's well-known opposition between the state of nature and the state of society, which was later on expanded to its full length in the Second discourse.

The Discourse on the Origin of Inequality (1755) went further in the analysis of "natural man". In

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\(5\) Skinner, Liberty before Liberalism, 82. As such, the desire to be independent from the arbitrary will of others does not entail any belief that people ought to proceed to use their independence to act in a certain way, as positive freedom seems to require.

\(6\) See Wirszubska, Libertas As a Political Idea.


\(6\) OC III, 634.

\(6\) OC III, 26/24.

\(6\) OC I, 351.

\(6\) Bloom, 'Rousseau's Critique of Liberal Constitutionalism', 148-149.

\(6\) OC I, 828-829.
a state of nature natural man is only concerned with himself and his preservation, and is ignorant of others, but wishing them no harm at the same time. Sage is the natural man, who roams the forests without occupation, speech or having a fixed abode, without ties to or a need of fellow creatures, which he doesn’t desire to harm in any way, perhaps even without ever recognizing any of them. This savage man, being self-sufficient and subject to so few passions, could have no feelings or knowledge but such as befitted his situation.67 "His imagination paints no pictures; his heart makes no demands on him".68 Natural man relies on no thing and, more important, on no one besides himself; his body is his "only instrument" and his projects, as limited as his views, hardly reach out beyond the end of the day. The freedom Rousseau locates in the state of nature, therefore, is natural freedom, the kind of freedom that one possesses outside of political society.69

But this is not Rousseau’s last word on the subject. In the second part of the mentioned discourse, Rousseau depicts a series of incremental changes in the state of nature through which it is transformed into a more dangerous and hostile place, much more resembling Hobbes’s state of conflict.70 More specifically, it is the shift from amour de soi (self-love) to amour propre (self-esteem)71 that characterizes natural man entirely determined by social ties, by his dependence on others, by communication with fellow men. “Each one began to consider the rest, and to wish to be considered in turn; and thus a value came to be attached to public esteem”.72 From the moment one man began to stand in need of the help of another, as soon as men realized that is was useful for an individual to have provisions for two, equality vanished, and “the vast forests became smiling fields, which man had to water with the sweat of his brow, and where slavery and misery were soon seen to germinate and grow up with the crops”.73 At this moment there arose a desire to be regarded highly by one’s peers, which Rousseau argued is the primal cause of violence and corruption of human spirit; and it is this development of psychological dispositions that accommodates the shift from the Second discourse to The Social Contract. Rousseau is keen to inform his readers that he does not entertain any hope of men recovering the natural freedom they enjoyed in the state of nature. The state of nature is “a state which no longer exists, perhaps never did exist, nor ever will, and yet of which it is necessary to have true ideas, in order to form a proper judgment of our present state”,74 and to draw from the ill itself the remedy that should cure it.75 When Rousseau turns to the problem of attaining freedom in the social state, then, it is political freedom to which he pays most attention.76

6. The Social Contract: origins and purpose

The origin of The Social Contract lies in a project that Rousseau purported to begin while he was secretary to the French embassy in Venice in 1743. He intended to write a comprehensive work on political systems and processes, to be called “Institutions politiques”.77 It was meant to be a grandiose work that “would once and for all establish his reputation and standing as author”.78

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67 OC III, 159-160/79.
68 OC III, 144/62.
69 Hence a condition wherein each has “an unlimited right to everything he tries to get and succeeds in getting [...] which is bound only by the strength of the individual” (OC III, 364-365/195).
70 SIMPSON, Rousseau’s Theory of Freedom, 13.
71 OC III, 219. Deep-rooted self-love or “amour de soi” is characterized as a primitive instinct for self-preservation. In contrast, “amour-propre”, which is only characteristic of social man, consists of his situating himself in relation to others and in preferring himself to all others; therefore it leads to hatred of others and to discontent with himself.
72 OC III, 169/90.
73 OC III, 171/92.
74 OC III, 123/44.
75 OC III, 288. See STAROBINSKI, Le remède dans le mal, 166.
77 On the “remote origin” of The Social Contract see DENT, Rousseau, 124ff.
78 OC I, 404.
Rousseau finally abandoned his grand scheme and decided to "extract from it whatever could be extracted and then burn the rest". At the outset of *The Social Contract* Rousseau is unambiguous about the turning point he had reached in his thinking by that time. When obstacles preclude self-preservation in the state of nature and exceed the capacities of individuals to maintain themselves in that state, a form of association is sought. A contract is engaged in, which is a form of association for the purpose of protecting the person and belongings of every subscribing member. However, notwithstanding the union with others, every participant remains answerable only to himself and hence remains as free as "before" (i.e. in the chimerical state of nature). Rousseau thus solves the seeming paradox as follows: "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. This act of association creates a moral and collective body that replaces the separate contracting individuals, [...] receiving from this same act its unity, its communal self [son moi commun], its life and [its communal, MC] will". Hence, from the distinction between (natural) man and citizen, Rousseau moves on to a corresponding distinction between the particular will, on the one hand, and the general will, on the other hand. To express the idea of the common good, Rousseau often used the latter term in opposition to the "particular will" or the good of some person or group within society. There is often considerable difference, Rousseau held, between the will of all and the general will; the latter relates only to the public interest, while the former is concerned with (reprehensible) private interests and "is no more than the sum of particular wills". The private will aims at fulfilling the particular interests of a man (or group) while the general will seeks to pursue the interests of the (body of) citizen(s). It involves a capacity to stand apart from private interests, assess them from a distance, and balance and compare different perspectives and imperatives – different, that is, from our own (and limited) purviews. The citizen is free of the useless conflict between impulses and duties that reduces "man divided", and renders him weak and unreliable – man's character is no longer experiencing an opposition between self and other, inside and outside. An individualist need of society and its protective laws as a means to obtain private ends is over. Sacrifice is no longer reluctant, in that it no longer hinges on the conditional will to help others only when reciprocity is expected.

7. The feast (the complete citizen)

Rousseau contends in his treatise on education *Émile* (1762) that it is the construed opposition between natural desires and civil duties that renders man miserable, and he goes so far to insist upon their radical incompatibility. "Forced to combat nature or social institutions, one must choose between making a man or a citizen, for one cannot make both at the same time".

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79 OC I, 516.
80 OC III, 360/191.
81 OC III, 361/191-192.
82 DAGGER, Civic Virtues, 85.
84 As far as I can see Rousseau takes up the defence of private life four times in *The Social Contract*: "[...] each individual, as a man, may have a particular will contrary or dissimilar to the general will which he has as a citizen" (OC III, 363/194); "[...] besides the public person, we have to consider the private persons composing it, whose life and liberty are naturally independent of it" (OC III, 373/204); "[...] the Sovereign, for its part, cannot impose upon its subjects any laws that are useless to the community, nor can it even wish to do so" (idem); "The subjects owe the Sovereign an account of their opinions only to such an extent as they matter to the community" (OCIII, 467-468/303).
85 In a first draft of *The Social Contract* (the so-called Geneva Manuscript), in a passage not repeated in the final draft, we find the clearest explanation of the sense in which Rousseau used the expression. There it is said to be "a set of opinions that man arrives at when, without being swayed by passions [le silence des passions], he reflects on what another has the right to expect from him, and he from another" (OCIII, 286).
86 BLOOM, 'Rousseau's Critique of Liberal Constitutionalism', 146-147.
87 Todorov, Frail Happiness, 15.
88 OC IV, 248.
Therefore, good institutions are those "that best know how to denature [dénaturer] man".\textsuperscript{89} Rousseau genuinely believed that men could be taught to define their own good in terms of fulfilling their reciprocal obligations towards each other, which Rousseau thought should be the purpose of "public education".\textsuperscript{90} At this stage, the semi-divine sage-legislator [légitimateur] comes in.\textsuperscript{91} Man has to be "left entirely to himself or rendered entirely to the State, but if you split up his heart you tear him to pieces".\textsuperscript{92} The sage-legislator who desires both "will obtain neither of them".\textsuperscript{93} The legislator therefore confines himself "in secret" to regulating the most important of laws, "the one[s] that [are] not engraved in marble or bronze but in the hearts of the citizens", which are the morals that form the "immovable keystone" of every well-ordered society.\textsuperscript{94} The most absolute authority, Rousseau observes in the Discourse on Political Economy (1755), "is that which penetrates into man's innermost being",\textsuperscript{95} incorporating him in the common identity of the State. Since educating citizens "is not a one-day task",\textsuperscript{96} public education is meant for the young, because "legislation is made difficult less by what it is necessary to build up than by what has to be destroyed".\textsuperscript{97} Along with public education intended for the young, every state should be able and willing to cultivate national institutions, traditional practices, customs, ceremonies, festivals and spectacles.\textsuperscript{98} We only have to turn to the Considerations on the Government of Poland (1771) to note how passionate Rousseau's commitment was towards ancient political liberty vis-à-vis its alternative individualist interpretation.\textsuperscript{99} In a chapter of the mentioned work, which is entitled "The Spirit of Ancient Institutions", Rousseau grieves over the civil and moral liberty men had lost in passing from antiquity to the modern world: "Modern men", he wrote, "no longer find in themselves any of that spiritual vigour which inspired the ancients in everything they did".\textsuperscript{100} Through spectacles, games and religious ceremonies, ancient legislators aimed at invigorating commitments that attached citizens to their fatherland and to one another. "By contrast, the laws that rule modern men are designed to teach them to obey their masters".\textsuperscript{101} The "continually assembled citizens of Sparta", as Rousseau idealized them in the Letter to d'Alembert on the theatre (1758), "consecrated the whole of their lives to amusement which was the great state affair".\textsuperscript{102} Why would it not be so in modern republics as well, he exclaimed, where people could be "forever united" through festivals held "in the open air, under the sky".\textsuperscript{103}

8. Beyond the law/liberty dichotomy

In La transparence et l'obstacle (1971) the distinctive Swiss literary critic Jean Starobinski has argued that it is no exaggeration to consider this emblematic feast as one of the key images in Rousseau's thought. The festival expresses, in the "existential" realm of emotion, what the social contract culminates to in the "theoretical" realm of law. In the experiencing of public joy every man is both actor and spectator. This bears resemblance to the citizen's dual status under the

\textsuperscript{89} OC IV, 249.
\textsuperscript{90} I cannot hope to give a full account of Rousseau's theory of public education here; see, inter alia, OC I, 404-405; 1085; OC II, 491; 496; OC III, 186-188; 251-261; 383; 391; 393-394; 634; 703-706; 948-949; 955-969; OC IV, 249-250; 362; OC V, 114-124.
\textsuperscript{91} OC III, 381/212.
\textsuperscript{92} OC III, 510.
\textsuperscript{93} OC III, 706.
\textsuperscript{94} OC III, 394/226.
\textsuperscript{95} OC III, 251.
\textsuperscript{96} OC III, 259.
\textsuperscript{97} OC III, 391/222-223.
\textsuperscript{98} Todorov, Frail Happiness, 26.
\textsuperscript{99} Wokler, 'Rousseau's Two Concepts of Liberty', 176.
\textsuperscript{100} OC III, 959. Wokler, 'Ancient Postmodernism in the Philosophy of Rousseau', 427-428 takes up the question in a very interesting way.
\textsuperscript{101} OC III, 958.
\textsuperscript{102} OC V, 122.
\textsuperscript{103} OC V, 114.
social contract: he is at once "member of the sovereign" and "member of the State", he both wills the law and obeys the law.\textsuperscript{104} The citizen makes – or at least shares in the making of – the laws he subsequently obeys: "moral freedom", as Rousseau understood it, is "obedience to a law which we impose upon ourselves".\textsuperscript{105} Rousseau does not, as Locke and other social contract theorists tend to do, "weaken" his doctrine by resorting to any such shift as the notion of "tacit consent"; for Rousseau there is no investiture or transfer of sovereignty: sovereignty not only originates in the people, it stays there. Hence, to be legitimate, decisions have to stem from the whole body of citizens.\textsuperscript{106} In a country that is truly free everyone hurries to the assembly,\textsuperscript{107} and the English are said to forfeit their liberty when they choose representatives. Hence, "as soon as they are elected slavery overtakes it, and it is nothing [...]; every law the people has not ratified in person is null and void – is, in fact, not a law".\textsuperscript{108} Rousseau does not separate law from liberty. In Hobbesian theory, as Rousseau understood it, men had to choose between one of the two, between being governed and being free. Rousseau thought it possible to reconcile liberty and law, by installing a regime that would enable men to rule themselves. Moreover, Rousseau not only rejects Hobbes's idea that men must choose between being free and being ruled; he asserts that it is only through ruling themselves that men experience freedom,\textsuperscript{109} since this alone "makes man truly master of himself; for the mere impulse is slavery, while obedience to a law which we impose upon ourselves is freedom".\textsuperscript{110} As such, Rousseau revises the Hobbesian conception of sovereignty as a top-down paradigm of ruler on the one hand and ruled on the other.\textsuperscript{111} When men regard the law as external they are less inclined to accept it as "just". This is also true for the rules for which they had no hand in their making. If I take no part in making the laws, if I am merely held to obey laws made by others, or to conform to laws without having any power to change them, the less likely I will accept these laws in conscience.\textsuperscript{112} By contrast, Rousseauian laws, being enactments of the general will, do not incite resistance. This is because they do not derive from the (arbitrary) will of others and are therefore easy to perceive of as creating moral obligations.\textsuperscript{113}

9. Freedom and dignity

Rousseau considers political self-governance as a valued societal ideal. It increases individual

\textsuperscript{104} Starobinski, \textit{La transparence et l'obstacle}, 116-121.

\textsuperscript{105} OC III, 365/195.

\textsuperscript{106} Plamenatz, \textit{Man and Society}, 395.

\textsuperscript{107} OC III, 428-429/262.

\textsuperscript{108} OC III, 430/263. In refuting the modern concept of representation the "moralist" Rousseau remains sceptical about the viability of republicanism in a world of large nation states, having said that "the larger the State, the less the liberty" (OC III, 397/146). In his understanding of politics as the pedigree of a tight-knit community, Rousseau's work creates the image of a man whose thought is steeped in historical pessimism (\textit{Lemaire, Het Werkoog}, 175-177). His doctrine, however, was never meant to be applied to the world at large, but solely to Europe's small dwindling republican population, such as his native Geneva, for which such theories would be beneficial and non-revolutionary. See Melzer, \textit{La bonté naturelle de l'homme}, 444. Moreover, in recent years social and political movements (such as OWS) have originated in and flourished through this sort of "pessimism" about large-scale nation states and the demand for a more equal share of political power in society, and new voices were heard in political theory as well. Michael Walzer (1995) expressed the hope that the "doctrine [republicanism] adapted to the needs of small, homogenous communities" could be somehow extended "to account for a republic of republics". Recently Benjamin Barber (2013) stressed the \textit{emuw} of the concept of the nation-state that has become too large to allow for meaningful participation, hence the need for so-called "glocality".

\textsuperscript{109} Cranstoun, \textit{Rousseau's 'Theory of Liberty'}, 237.

\textsuperscript{110} OC III, 365/195.

\textsuperscript{111} Siklar, \textit{Men and Citizens}, 168.

\textsuperscript{112} Plamenatz, \textit{Man and Society}, 410-411.

\textsuperscript{113} Reisert, \textit{Jean-Jacques Rousseau}, 193. In our age such an appeal to equal treatment of all consociates in lawmaking is a stance taken by H.L.A. Hart (1994). Recasting legal positivism, Hart is careful to inform his readers that if a system of rules is to be imposed by force on any, there must be a sufficient number who accept it voluntarily; without any such backing by their voluntary co-operation, Hart says, no coercive power can be established. In a "fair" system, that is, a system that caters for the interests of all those from whom it demands obedience, no one will look upon the system as a helpless victim but instead look upon its rules as accepted standards of behaviour.
freedom because it enables the individual to be his own master and ensures that no man or group is master of another. All are equally dependent on each other and equally subject to law. In the autobiographical *Reveries of a Solitary Walker* (written between 1776-78, published in 1782) Rousseau squares the circle. He states in that book that “man’s freedom [does not] consist in doing what he wants, but rather in never doing what he does not want to do”,114 and Rousseau builds a similar case in the eight *Letter from the Mountain* (1764) where he holds that “liberty consists less in following on one’s will than in not being subject to that of another”.115 In a way, Rousseau’s emphasis on maintaining one’s independence fits the neo-roman scheme that I have mentioned above.116 Both neo-roman theorists and Rousseau aim to protect the individual against arbitrary threats and interference from both governments and individuals. Both theories convey a strong warning: that unless we place our duties before our rights, we must expect to find our rights themselves undermined.117 "The result", Hannah Arendt wrote, "is that people must [...] sink into lethargy, the forerunner of death to the public liberty",118 In similar wordings Benjamin Constant (1767-1830), writing in post-revolutionary discourse, argued in his famous 1819 speech on ancient and modern freedoms – a work that is typically (but wrongly) read as a no-holds-barred attack on Rousseau119 – that people in the modern world should not solely be concerned with individual rights instead of political freedoms and public empathy. Compare Rousseau’s assessment of ancient liberty (“Modern men no longer find in themselves any of that spiritual vigour which inspired the ancients in everything they did”, see above) with Constant’s mourning over the loss of ancient feelings of energy and dignity: “One could not read the beautiful pages of antiquity, one could not recall the actions of its great men, without feeling an indefinable and special emotion, which nothing modern can possibly arouse”.120 He did not locate liberty outside the political realm; quite on the contrary, Constant considered political freedoms *sine qua non* for the individual freedom pursued in modern societies.121 Anticipating Tocqueville’s well-known picture of “soft despotism” in *Democracy in America* (1835), Constant reiterates why people in the modern world should not renounce to their political powers: “The holders of authority are only too anxious to encourage us to do so. They are so ready to spare us all sort of troubles, except those of obeying and paying! They will say to us: what, in the end, is the aim of your efforts, the motive of your labours, the object of all your hopes? Is it not happiness? Well, leave this happiness to us and we shall give it to you. No, Sirs, we must not leave it to them. No matter how touching such a tender commitment may be, let us ask the authorities to keep within their limits. Let them confine themselves to being just. We shall assume the responsibility of being happy for ourselves”. To renounce to these political freedoms “would be a folly like that of a man who, because he only lives on the first floor, does not care if the house itself is built on sand”.122 All in all, Constant’s modern liberty is a complicated and interlocking system in which two clearly distinct forms of liberty are mutually supportive (read: freedom constructed in and with respect to public space).123

However, neo-roman theory as we have seen remains exclusively concerned with the evils associated with arbitrary interference. As such, it is not out of a desire for freedom that people demand a say in public affairs, but out of mistrust in those who might wield power over their life and goods, as in those regimes such as Hobbes’s that are exclusively dedicated to the preservation of man.124 Rousseau tries to account for moral dignity in freedom. The moral citizen, driven by virtue, shares civic identity, love of the fatherland and – above all –

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114 OC I, 1059.
115 OC III, 841.
116 For a defence of the political as a solution to servitude see CRANSTON, ‘Rousseau’s Theory of Liberty’, 231-243.
118 ARENDT, On Revolution, 240.
119 HOLMES, Benjamin Constant and the Making of Modern Liberalism, 88.
120 CONSTANT, ‘The liberty of the ancients compared with that of the moderns’, 317.
121 HOLMES, Benjamin Constant and the Making of Modern Liberalism, 73.
122 CONSTANT, ‘The liberty of the ancients compared with that of the moderns’, 326.
wholeheartedly relies on the general will. He remains his own master and will therefore be able to determine the conditions of his society of right. In fostering moral liberty, the defining mark that makes man truly a master of himself, all men are equally recognized by all as moral agents and as "ends in themselves." Persons encounter other persons as bearers of moral dignity deserving of respect and regard, and the possessor expects the same standing for himself from others, ultimately making him an autonomous instigator and controller of his purposes. Rousseau argues that no theorist before him found any kind of rule of consent that binds the individual when he believes the law is contrary to his own interest. Only Rousseau found that formula, in distinguishing self-interest from moral obligation, in discerning a separate interest to subject to the general will. By contrast, political constellations such as Hobbes's do not have the dignity to compel moral respect. Rousseau argued that men will never achieve their ends – freedom as autonomous beings, that is – unless the means are themselves a model for the world men wish to create.

10. The “provocative” Rousseau

Elsewhere, I have given a brief account of the “provocative” Rousseau. Here it is useful to take that story somewhat further. In The Social Contract Rousseau puts forward that, if necessary, the bridging of the particular will or the will of all on the one hand and the general will on the other must be done by means of coercion. What makes Rousseau's formula so abhorrent for some is his use of the word “freedom” in this context. In order for the social contract not to be an empty shell, anyone refusing to obey the general will must be compelled to do so by the whole body. "This means nothing less than that he will be forced to be free". Furthermore, it is through the deceit of the sage-legislator that men are induced to "obey freely, and bear with docility the yoke of public happiness". If one tries to read between the lines these passages are not so outrageously paradoxical as they are sometimes assumed to be. Primo, the kind of freedom imposed by even the most democratic state cannot allow its members to have complete autonomy. In all communities important rules are backed by sanctions; that is to say, whoever breaks such a rule risks being treated in ways discouraging such breaches. If this were not the case, individuals could flout legal requirements and, whilst it remains true that authority still resides in laws, they would have become empty or "void", as Rousseau himself understood it. Secundo, Rousseau makes a colorful case for his position in chapter 8 of the first book of The Social Contract: "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". For if the individual would be retaining the right of final judgment in public affairs to himself, that would mean the dissolution of the association, and personal dependency would flower as if men where living in the state of nature. By contrast, subjection to a law that men accept in conscience, while having the same effect as a natural

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125 OC III, 365/195.
126 BLOOM, ‘Rousseau’s Critique of Liberal Constitutionalism’, 164.
127 DENT, Rousseau, 146 and 151.
128 OC III, 360/194.
129 OC III, 364/194.
130 OC III, 383/215.
131 DAMROSCH, ‘Paranoia and freedom in Rousseau’s final decade’, 232.
132 PLAMENATZ, ‘Ce qui ne signifie autre chose sinon qu’on le forcerà d’être libre’, 324.
133 DENT, Rousseau, 131-132. Moreover, we find no suggestion in The Social Contract that Rousseau legitimizes inconsiderate arbitrary actions against citizens, as Hobbes does, keeping the defence of authority conceptually pure from the preservation of freedom; although Rousseau in Book II chapter 5 (OC III, 376-377/207-209) flirts in a Hobbesian way with the idea that criminals place themselves outside society in a state of war, he is relatively quick to add that a trial and verdict are needed to prove that the criminal has broken the social contract; Rousseau furthermore pursues exile as an alternative strategy to death sentence. See on this subject in detail and viz. Beccaria De Hert, ‘Dwingen om vrij te zijn’, 56-59.
134 OC III, 365/195.
obstacle in limiting the choices available to people, does not need to compromise freedom for anyone who lives under it – provided, of course, that the legal coercion involved is constrained to track the interests of those from whom it demands obedience. Rousseau is therefore in a perfect position to write that whoever refuses to obey the general will shall be compelled to do so by the body politic. "For this is the condition which, by subjecting 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". Tertio, in order to safeguard societal needs and the person and belongings of each associate Rousseau does not require a morally unacceptable submission to a sovereign's unconditional authority (as Hobbes does). On the contrary, by providing everyone a share of public freedom and giving the law to himself the citizen is deemed to remain "as free as before"; being the legislator of the authoritatively imposed constraints that apply to himself and others, weighing and comparing different perspectives, establishes a kind of footing between people appropriate to the enactment of their moral dignity in relation to one another.

Furthermore, there are areas in which the individual is free to act according to his own private will, where the self is free of obedience to the law. Our Western cultural approach to individual freedom finds its romantic backing in "literary" works such as Julie, the New Heloise, the Confessions and the Reveries of a Solitary Walker, in which Jean-Jacques most vividly emphasizes the power of individual imagination and the centrality of the subject's own experience. The political accent of these works is largely undisputed: every individual can and should do from now on what formerly only kings were allowed to do, to conceive of oneself as the source of values and as an end in themselves. In the abovementioned Reveries of a Solitary Walker, Rousseau submits the 'I' to a rigorous analysis with marvelous intellectual dairvoyance. He removes every external element and keeps only what belongs to himself. In the Reveries Rousseau enjoys the sentiment de l'existence that natural man had lost in passing from the state of nature to society. The Fifth Walk is particularly relevant in this respect. It describes the return to Rousseau's idyllic time on the Île de Saint-Pierre, where "precious far niente" was his greatest pleasure, and everything he did was "no more than the delectable and necessary pastime of a man who has dedicated himself to idleness. Rousseau never fails to remind us that as long as this state lasts, the subject finds that he is replete, that his happiness "leaves no emptiness to be filled in the soul". In the Stoic tradition to which Rousseau lays claim, "nothing [is] external to us, nothing is apart from ourselves and our own existence."

**Conclusion**

This is not the last word Rousseau has to say on the subject. Having stated that the social contract, in establishing an equal footing between people, provides for the freedom and dignity of each and every associate, Rousseau once more turns to the question as to whether the advantages of the (well-ordered) social state outnumber the disadvantages. "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

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136 Philip Pettit takes up this concern in Republicanism, 65ff, and in 'The Republican Ideal of Freedom', 227-229.
137 Ibid., 226.
138 COHEN, A Free Community of Equals, 12-13; DENT, Rousseau, 150.
139 Ibid., 226.
141 Todorov, Fatal Happiness, 44-45.
142 Damrosch, Restless Genius, 483.
143 OC I, 1059 (original emphasis).
144 OC I, 1046.
145 OC I, 1047. Rousseau's autobiographical enterprise would be challenged by the "unusual suspect" Benjamin Constant, who intimates the psychological deficiencies of modern individualism in Adolphe.
so ennobled, and his whole soul so uplifted, that [...] he would continuously praise the joyful instance which took him out of [the state of nature] for ever, and, instead of a stupid and unimaginative animal, made him an intelligent being and a man”. In framing the pros and cons of ancient liberty compared to the modern individualist notion, Constant is clearly indebted to Rousseau: “[...] political liberty is the most powerful, the most effective means of self-development that heaven has given us.” Because political liberty, without exception, establishes an equal footing for the care and assessment of the citizen’s most sacred interests, it “enlarges their spirit, ennobles their thoughts, and establishes among them a kind of intellectual equality which forms the glory and power of a people”.147

One can emphasize the removal of external impediments to individual actions as threshold for liberty to arise (as liberal theory on “negative liberty” does). Or, one can focus on a sphere of liberty as warranty against arbitrariness (as neo-roman theory does). Instead, the writers I have been considering have suggested that participation in the public realm and responsibility is intrinsic, and not just instrumental to freedom. These “ancient” thinkers hold that political participation is necessary for the full flourishing of the individual, altering the very character of liberty along the way. Between individual and community there is a dialectical relation constructing freedom in, but also in respect of the public sphere. In the self-governing community Rousseau sought to construe, men encounter others as bearers of moral dignity who deserve respect and regard, and the possessor expects the same standing for himself from others, which ultimately renders him capable to be the self-deviser and director of his purposes. Moreover, citizenship is assumed to be a vehicle for the moral and intellectual development of men. Rousseau can therefore justly claim, in Émile, that “one must not confound what is natural in the savage state with what is natural in the social state”. And furthermore, writing in the discourse of the dialogues: “I also know that absolute solitude is a state that is sad and contrary to nature; affectionate feelings nourish the soul, communication of ideas enlivens the mind. Our sweetest existence is relative and collective, and our true self [notre vrai moi] is not entirely within us”.150

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146 OC III, 364/195.
147 CONSTANT, ‘The liberty of the ancients compared with that of the moderns’, 327.
148 DENT, Rousseau, 104-107 and 144-153, and TODOROV, Frail Happiness, 55-66 take up this aspect of Rousseau’s legacy at length.
149 OC IV, 763-764.
150 OC I, 813 (original emphasis).


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