

Part 8: Book 2, Chs. 11 & 12

Book 2, Ch. 11: The Various Systems of Legislation

The “end of every system of legislation” reduces to two things: “liberty and equality.”

Rousseau’s rather twisted definitions of liberty and equality come to the forefront.

“I have already defined civil liberty”

Recall: Civil liberty is [liberty limited by the general will](#). The general will’s powers are, according to Rousseau, necessarily unlimited. Therefore, “civil liberty” is no liberty at all, or whatever the State decides to leave to its cowed and dependent people.

“liberty, because all particular dependence means so much force taken from the body of the State, and equality, because liberty cannot exist without it.”

Liberty, in fact, cannot exist *with* most meaningful definitions of equality. The only possible hold out is “equality under the law,” which would require all laws to apply to all citizens equally (e.g. no individual or group identifiers in the law), but Rousseau has [already said in Book 2, Ch. 6](#) that the law absolutely can be used to nudge various groups in various ways.

“by equality, we should understand, not that the degrees of power and riches are to be absolutely identical for everybody; but that power shall never be great enough for violence, and shall always be exercised by virtue of rank and law; and that, in respect of riches, no citizen shall ever be wealthy enough to buy another, and none poor enough to be forced to sell himself: which implies, on the part of the great, moderation in goods and position, and, on the side of the common sort, moderation in avarice and covetousness.”

This is again a bit of subsistence farming thought. What it effectively does is create a permanent underclass of welfare recipients, since [“poor” is always a relative statement that can be used to justify more expropriation](#). Then, we also cut the heads off of any potential great servants of the consumers, preventing them from reaping the benefits of their good choices, while also creating a vast parasitic bureaucrat class that gets its cushy pay from overseeing the movement of wealth from the rich to the poor.

“Such equality, we are told, is an unpractical ideal that cannot actually exist. But if its abuse is inevitable, does it follow that we should not at least make regulations concerning it?” “[B]ecause the force of circumstances tends continually to destroy equality... the force of legislation should always tend to its maintenance.”

If the force of legislation should always be toward the maintenance of unpractical equality, it means that the State will be effectively welfare-statist or socialist. This is simply the unproductive and parasitic claiming power over the productive. No productive person should consent to being subjugated in this way, which goes well along with Rousseau’s subsistence farming thoughts.

These goals must be modified to account for the conditions and temperament of the people.

Effectively meaningless, allowing legislators vast leeway in deciding what should be law... of course to their own benefit.

Extended paragraph on basically people should do what is most profitable under the circumstances and conditions they're in.

Don't need the State for this. All he's talking about is people choosing their relatively most productive type of labor, just as one might for [Ricardo's Law](#). Also worth noting that Rousseau wrote this well after [The Wealth of Nations](#). The State is not necessary to enforce people working where they have the most comparative advantage, except that Rousseau's welfare state will require "whips" to keep people from becoming layabouts.

Footnote 1, p. 46: Defense of autarky/protectionism... M. d'Argenson: "Any branch of foreign commerce creates on the whole only apparent advantage for the kingdom in general; it may enrich some individuals, or even some towns; but the nation as a whole gains nothing by it, and the people are no better off."

Autarkic nonsense. False distinction between individuals and "the people." Argument leads to complete trade isolationism and... poverty again.

"What makes the constitution of a State really solid and lasting is the due observance of what is proper, so that the natural relations are always in agreement with the laws on every point, and law only serves, so to speak, to assure, accompany, and rectify them."

Laws should be good and do good things! Idiotic utopianism without any sense of incentives or public choice problems or calculation problems.

If legislators make the wrong choices, then "laws will insensibly lose their influence, the constitution will alter, and the State will have no rest from trouble till it is either destroyed or changed"

But the State is permanent and [indivisible](#)! In Rousseau's framework, the only way to exit the body politic is through a crime that the body politic itself says requires you to be kicked out! As long as the State believes it might rehabilitate you, it can still claim you as a member.

Book 2, Ch. 12: The Division of the Laws

Four classes of laws.

Does this violate Rousseau's [earlier dictum](#) that Law is perfectly general, but decrees are specific?

1) "action of the complete body upon itself, the relation of the whole to the whole, of the Sovereign to the State" = "political laws" or "fundamental laws"

This part seems to be consistent with his earlier concept of Law, for better or worse.

"a people is always in a position to change its laws, however good; for, if it choose to do itself harm, who can have a right to stop it?"

This is kind of the problem that people like Locke are trying to work around. A State with strictly limited powers would be an example of such an attempt. This would be true given Rousseau's framework and its totalitarian State, however.

2) "members one to another, or to the body as a whole" Make each individual independent of others but dependent on the city, "as the strength of the State can alone secure the liberty of its members" = "civil laws"

These *could* be general but are likely to be filled with nudges and castes. The dependency of the individual on the State is still disconcerting and leads to dangerous incentives.

3) "relation between the individual and the law, a relation of disobedience to its penalty." = "criminal laws"

These are even closer to being meaningless as anything other than decrees, since they can only take the forms of punishments or expulsions.

4) "most important of all... forms the real constitution of the State, takes on every day new powers, when other laws decay or die out, restores them or takes their place, keeps a people in the ways in which it was meant to go, and insensibly replaces authority by the force of habit." = "morality" "custom," "the great legislator concerns himself in secret"

Yet earlier the existence of customs and traditions was an obstacle to the legislator. This is the real chunk and Rousseau's characterization of it is worrisome, since he suggests that the clever legislator may fiddle with these in secret, using subterfuge or propaganda.