EDITED BY:

Janusz Grygieńć, Krzysztof Łazarski,
Wiesław Wacławczyk

Human Rights and Politics

Warszawa 2013

Recenzent:
dr. hab. Jędrzej Skrzypczak

ISBN 978-83-933914-8-6

Wydawca BMT ERIDIA Sp. z o.o.
Wydawnictwo ERIDA
erida@erida.com.pl
tel. 22 771 98 66

Warszawa 2013

Janusz Grygieńć
Nicolaus Copernicus University in Toruń

General Will, Natural Law and the Human Rights Theory

Abstract:
The article aims at presenting the place occupied by human rights in Jean-Jacques Rousseau's philosophy. Most significant subject of the analysis conducted here is the question of the relation binding human rights with the general will. The author examines the potential for reconciliation of the two concepts. Firstly, he analyzes the view suggesting the omnipotence of general will (as presented e.g. by Leo Strauss). Second, he turns to the opposite theory which is based on the belief in the general will's dependence upon factors such as God and natural law (as proposed writings of Robert Derathé and Bernard Bosanquet). Third, he subjects both theories to confrontation with Rousseau's writings. Ultimately, he aims at reconciling and then applying those theories to the human rights theory.

Keywords: general will, human rights, natural law, democracy, legitimacy

The main concern of this essay is the question of possible application of Jean-Jacques Rousseau's philosophy to the human rights theory. It centers readers' attention on a specific mode of interpreting Rousseau's works, the accuracy of which is often doubted, but which nonetheless might be viewed as the most intriguing way of understanding his philosophical legacy.

Extensive literature concerning the problem of the relations between the human rights theory and Rousseau's ethical and political concepts, points out two main positions: first that suggests to look at the source of the positive laws exclusively in the orders of the general will (Leo Strauss, 1965; Sabine 1973; Thakurdas 1976); and second the recognizes the factors supreme to *volonté générale*, e.g. the law of nature (Bosanquet, 1916: 399-404; Cobban, 1964). It is commonly believed that the transition be-

tween these two standpoints (the first was most popular in the nineteenth and at the beginning of the twentieth century) took place with the publication of Robert Derathé's *Jean-Jacques Rousseau et la science politique de son temps* [Derathé, 1970]. Derathé pointed out two sources of law in Rousseau's thought that are autonomous to peoples' opinions and beliefs, i.e., God and nature. This essay considers the possibility of founding Rousseau's human rights theory precisely on these grounds. The line of argument looks as follows: first it presents the conception that looks for the origin of every legislation exclusively in the general will; second it turns to Derathé's theory, analyzing its main components; third it confronts Derathé's standpoint with Rousseau's writings; and forth, it tries to apply Derathé's conception to the human rights theory.

Let us start with the analysis of interpretation of Rousseau's philosophy that stresses the omnipotence of the general will. Those who believe in the accuracy of this idea usually underestimate, or even reject, the possibility of extrapolating the modes of behavior typical of the hypothetical state of nature to the civil society, following Rousseau's remark that "when we have defined a law of nature, we shall be no nearer the definition of a law of the State" (Rousseau, 1913a: 32).[1] This means that Rousseau's well known concepts of *l'etat de nature* and *l'age d'or*—where the simplicity of individual as well as of "social" existence protected men from developing *amour proper*—do not imply any criteria of human conduct in the social state.[2] Knowledge of how natural men used to live, or what was the nature of their interrelations leaves us with no insight as to

---

[1] Cf. Rousseau, 1913b: 251, where the author states that "if the voice of nature is best counselor to which a father can listen in the discharge of his duty, for the Magistrate it is a false guide, which continually prevents him from performing his, and leads him sooner or later to the ruin of himself and of the State, if he is not restrained by the most sublime virtue."

[2] In the case of state of nature one cannot speak of any forms of communal existence, whereas the golden age was the only period in mankind's history when peoples' coexistence did not take on the form of "comparing oneself to others"—the source of social misery. Although this *l'age d'or* may be seen as essentially social, Rousseau reserves the term "social" to the unnatural and intolerable condition of the societies *par excellence*.

the nature of their relations in the society and state (cf. Rousseau 2004: 263). Naturally, Rousseau's works often suggest legitimacy of using such parallels.[3] Nonetheless, this argument has been commonly rejected by scholars and replaced with the negation of the existence of any laws of nature in a civil society. This meant the refusal of recognition of any law springing from sources different than the communal general will. An example of such viewpoint is Strauss's interpretation of *Du Contrat Social*. It is based on the belief that:

> Freedom in society is possible only by virtue of the complete surrender of everyone (and in particular of the government) to the will of a free society. By surrendering all his rights to society, man loses the right to appeal from the verdicts of society, i.e. from the positive law, to natural right: all rights become social rights. Free society rests and depends upon the absorption of natural right by positive law of a society which is constructed in accordance with natural right. The general will takes the place of the natural law (Strauss: 260).[4]

Charles E. Vaughan's account of Rousseau's philosophy coincide on this point with the later position of Strauss, although his conclusion is that Rousseau might not have been aware of the complications caused by the *First Draft* of *Du Contrat Social* (Vaughan, 1915: 436, 440-442; cf. Cobban: 164). It is in this book that the explicit rejection of the theory of natural law occurs in the most direct and unconditional way:

> les notions de la loi naturelle, qu'il faudrait plutôt appeler la loi de raison, ne commencent ŕ se développer que quand le développement antérieur des passions rend impuissants tous ses préceptes. Par oů l'on voit que ce prétendu traité social, dicté par la nature, est une véritable chimčre; puisque les conditions en sont toujuors inconnues

---

[3] It is particularly *Emile, or on Education* that provides us with fragments suggesting the suitability of an interpretation pointing to the relevance of the "natural sentiments" (Masters: 37-53).

[4] Similar views were expressed by George Sabine (1973: 587) and Frank Thakurdas (1976: 57, 61-62). However, elsewhere Thakurdas let himself to be deceived by the *First Draft of Contrat Social,* holding that the "law of nature" finds its application to the sphere of international relations (Ibidem: 53).

on impraticables, et qu'il faut nécessairement les ignorer ou les enfeindre (Vaughan, 1915: 449).

Authors sharing Vaughan's and Strauss's point of view are united in the belief that any analogy between the hypothetical state of nature and the social state should be deprived of legitimacy. Consequently, when Rousseau was pointing to the "real" character of an "instinctive" heading towards freedom and equality, he used the notion of "nature" not in its "hypothetically historical" but rather "normative" meaning. "Naturalness" referred in his writings not to something that really "used to be", but rather to what it „ought to be". In the mentioned *Geneva Manuscript* of *Du Contrat Social* Rousseau launched a frontal attack on the idea of natural law (the attack did not coincide with the final version of *Du Contrat Social*).[5] It is commonly held that this manuscript was to play the role of critical answer to Dennis Diderot's article on *Droit Naturel* published in the *Encyclopedia*. Diderot maintained the belief in the possibility of the "general will of the human species" (Diderot, 1915: 432). He found it to be nothing else but the natural law itself—a complex of opinions shared by each rational being—"la volonté générale est dans chaque individu un acte pur de l'entendement, qui raisonne dans le silence des passions sur ce que l'homme peut exiger de son semblable et sur ce que son semblable est en droi d'exiger de loi" (Ibidem: 432). Rousseau could only disagree with such a thesis, although he remained unambiguous. On the one hand, he admitted that one may speak of affinities between people who are in the emotional sphere, which might be viewed as some form of general will of humanity. If by the "general will of the human species" was meant only this, then Rousseau would have admitted the accuracy of Diderot's statement. But on the other hand, the diversity of customs among different cultures suggests something different: perception of humanity as homogeneous is an effect of mere extrapolation of the relations typical of our own community to the others. Thus, if the expression "general will of the human species" is to mean anything at all, it has to refer to the state of nature only. It is one thing to say that people in such a state were similar in some respect and another to ascribe the general will to human species.

[5] Implicit rejection of the natural laws, as Vaughan rightly points, is already present in *Discourse sur l'inégalité* (Rousseau, 1915a: 136-138).

The notion of general will refers to peculiar form of the interrelations between individuals and between particular people and communities. What generates will is a common interest, i.e., what *ought to be* (Rousseau, 1913a: 28). Hence individuals participate in *la volonté generale* as long as they strive to realize the common good. As such, the general will may be ascribed only to the political organisms. If appropriate dispositions of individuals are necessary for its appearance (those enabling the unification of personal and common interest), its *conditio sine qua non* becomes the existence of a small community, in which social relations would be transparent, with no place for associations or political parties (Rousseau, 1915c: 462).[6] The ideal would be the community of *Clarens* described in *La Nouvelle Héloďse* (Shklar, 2001: 161-179).

Every criterion of human behavior, the notions of "goodness" and "evil," occurs only in societies and only subsequently they gain their definitions. As Roger Masters puts it, "natural law cannot be logically and historically prior to civil society for the simple reason that civil society is historically and logically prior to the natural law" (Masters: 269). *La loi naturelle* is strictly of unnatural character (Noone, 1972: 23-25; Strauss: 246-249). The fact that natural people could have displayed some qualities does not suggest that the nature of their qualities will be the same today and, even less, in the future.[7]

The mentioned earlier work of Derathé develops argument very different from the one presented above. Derathé refers to thinkers such as Samuel Pufendorf and John Locke. Their theories are usually perceived as antagonistic to Rousseau's. For example, they accept the existence of inalienable rights reserved to the human beings only by the virtue of being humans. Scholars who stress the difference between Pufendorf and Locke, on the one side, and Rousseau, on the other, invoke the fact that Locke and Pufendorf perceived both natural men and the law of nature as generally

---

[6] If there were such associations, they would have their own will that would be general in relation to their participants but particular when compared with the will of the social whole (Rousseau, 1913a: 54-55).

[7] The ahistorical character of Rousseau's deliberations was pointed out by many scholars, including Strauss (Strauss: 251) and Ernst Cassirer (Cassirer, 1956: 94).

rational. Not only the civilized, but also the primitive men took hold of the notions of "goodness" and "evil". Assuming that discovery of the meaning of such notions is possible to all who reason properly, and that reasonableness is (and always was) a distinctive feature of most of the people, Locke and Pufendorf could claim that both the primitive and the socialized men could perceive it. That is why Locke argued that the necessity of entering the social contract was not result of the lack of the moral code, but rather of the need for institutions that everyone would subordinate to. In case of a conflict between two (or more) persons such institutions could legitimately resolve conflicts between them by justly subsuming particular cases to the universal rules of a rational, inborn moral code.

Things are very different with Rousseau, who acknowledges a major qualitative difference between the state of nature and the social state. The first is pre-rational, the second is thoroughly rational. With entering into the social state, rules of behavior of the primitive men lose their control over themselves:

> the passage from the state of nature to the civil state produces a very remarkable change in man, by substituting justice for instinct in his conduct, and giving his actions the morality they had formerly lacked. Then only, when the voice of duty takes the place of physical impulses and right of appetite, does man, who so far had considered only himself, find that he is forced to act on different principles, and to consult his reason before listening to his inclinations (Rousseau, 1913a: 18; cf. Rousseau, 1913b: 267).

It is difficult to overestimate the impact that the emergence of societies have had on the human condition. Primitive human beings did not have any catalog of moral imperatives and prohibitions. Thus, one cannot utilize a moral vocabulary of any sort to describe this pre-social state. It would require theoretically unjustified act of prescribing to the natural man the attribute of rationality and its outcome—self-consciousness (the ability of juxtaposing some factual state of being, some "is" to some other, desired "should be"). Rousseau explicitly wrote that primitive man resembles animal, gaining the rules of conduct instinctively. The socialized man acts differently. Although he acknowledges some imperative rules of behavior, he has to deal with an inner struggle between the two selves:

first, the rational, aiming at the realization of the categorical imperative and second, the sensual, constantly striving to please himself. Not until the present one may speak of the imperatives and prohibitions *par excellence*. This concerns also human rights, the rules of private and public conduct indicating existential minimum, which everyone "deserves", which "should be" provided to all by virtue of their being humans.[8] It is therefore not surprising that many scholars looked for the accurate source of laws, including human rights, where the "duties" are born—in the interpersonal relations (and not in the instinctive calls of the hypothetical, primitive, natural man). They did not see linkage bonding the natural and the social existence.

Unlike them, Derathé claims that these two puzzle-pieces—the rules of human behavior in the hypothetical state of nature and in the social state—in fact do match each other. How is it possible, if the natural man is so very different from the socialized man? The answer is that the same law of nature, which previously determined human conduct by the use of an instinct, is transformed in society into the law of reason.

Arguments justifying such a standpoint take on many forms. On the one hand, Derathé supports his thesis with quotations from Rousseau's writings. *Du Contrat Social* serves as the source to the most of these quotations. For example, Rousseau writes that "we are bound then to distinguish clearly between the respective rights of the citizens and the Sovereign, and between the duties the former have to fulfill as subjects, and the natural right they should enjoy as men" (Rousseau, 1913a: 27; cf. Rousseau, 1913a: 28). In *Emile* it is stated that "there is therefore at the bottom of our hearts an innate principle of justice and virtue, by which, in spite of our

[8] This issue is even more complicated than one could assume. According to the author of *Du Contrat Social*, the ways of proper human behavior are determined by reason and conscience. Indeed, it is very difficult to find a satisfying explanation of relations binding those two categories. Most commonly, commentators tend to belittle the role played by one of them, practically eliminating in this way the mentioned opposition. The main problem with this juxtaposition is that the voice of conscience seems to be an atavism—some middle ground between the instinct and the reason. This is why its existence contradicts the possibility of a radical break-up between the state of nature and the social state.

maxims, we judge our own actions or those of others to be good and evil" (Rousseau, 2006: 345), and in *Considérations sur le Gouvernement de Pologne* that "law of nature is a holy law which doesn't fall under the statute of limitations speaking to the heart and reason of man" (Rousseau, 1915b: 445; cf. Ibidem: 268, 273). *Julie ou la Nouvelle Héloise*—beside the description of the ideal society governed by the rules of nature described in the letter X (part IV), addressed by Saint-Preux to milord Edward (Rousseau, 1997: 362-386)—provides also the evidences of "naturalness" of such institutions as marriage (part II, letter II).

But the crucial role is played here by the fragment of *Réponse a une Lettre Anonyme dont le contenu se trouve en Caractere Italique dans cette Réponse*, in which Rousseau states that there are three forces superior to the general will: God's authority, law of nature and honor (Rousseau, 1835: 179; cf. Derathé: 157; Cobban: 76). Since the last one does not play a significant role in Rousseau's deliberations, the subject of analyses conducted here will be two others forces: God and the law of nature. The possibility of founding human rights theory on the existence of God it based on argument developed in *Profession of Faith of Vicar Savoyard*. It is there that Rousseau presents his views of deistic natural religion—the only form of belief thoroughly rational and thus acceptable to all rational creatures. As such, it does not require rituals and priests, for by introspection and rational arguments, it compels every reasonable person to the acceptance of three basic dogmas: first, "that there is a will which sets the universe in motion and gives life to nature" (Rousseau, 2006: 325); second that "If matter in motion points to a will, matter in motion according to fixed laws points me to an intelligence" (Rousseau, 2006: 327); and third, that "man is free in his deeds and being like it he is animated by immaterial soul" (Ibidem: 335). Particularly important are the two first articles suggesting validity of identifying God with will and supreme reason (Ibidem: 329, 412), thus leading to the statement that God constitutes the eternal source of the "eternal truths" (Ibidem: 339). Life spent in accordance with them is identified here with the life conforming to nature. The "organ" verifying if conduct is directed by those truths is conscience—the "voice of the soul", which "never deceives us;... it is to the soul what instinct is to body" (Ibidem: 343). Indeed, not thoroughly understandable dialectics of reason and conscience are being drawn here. God, who is the

Supreme Reason, states the "eternal truths" communicated to us by conscience, that is to say—irrationally. Rousseau explains this paradox as follows: "to know good is not to love it; this knowledge is not innate in man; but as soon as his reason leads him to perceive it, his conscience impels him to love it; it is this feeling which is innate" (Ibidem: 349).

The natural laws are dependent on God's will and the "eternal truths" He creates. Although Rousseau opposed Spinoza's pantheism, similarly to the author of *Ethics* he stated that we can acquire knowledge of God by studying the nature in which He has revealed Himself through the natural laws. As far as the foundation of nature resides in the Creator Himself, the distinction between Him and His laws may be seen as pointless. By examining the impact that the natural laws have on human behavior, simultaneously we examine God's will. Examining the laws of nature that reflects human reasoning is *ipso facto* strictly theological inquiry. For this reason, it justifiable to consider both these categories—God and the law of nature —simultaneously under the name of the law of nature.

In search of a law of nature coincident with the orders of general will Derathé points to the conditions of entering the social contract. According to Rousseau, this act is categorically obligatory to all partaking in it. But why should a people feel compelled to remain faithful to arbitrary rules? It seems that nothing should stop them from violating previous arrangements. The act of joining society and declaring to keep to the rules of law does not provide sufficient basis for their further observance. Although it might seem obvious that keeping the terms of agreement is morally good, just as breaking them is morally bad, why individuals who have no morality (people in the hypothetical state of nature) should be truthful and consistent? When and how did they gain this sense of moral responsibility for the community, which will stop them from violating the terms of the social contract?

It seems that there is no simple answer to these questions. For to join any contract, such individuals would have to be a part of another one, in which they would all agree to obey the *pacta sunt servanda* rule. Partaking in any contract is reasonable only if we are convinced that other individuals will keep their word, which is the same as saying that they will obey the *pacta sunt servanda* rule. This however inevitably leads to *reductio ad infinitum*, for there will always be the need for some previous

contract being the foundation of the next one. Thus, we establish a rule, which, while being commonly respected, has never been a matter of discussion, a rule that everybody agrees on, although no obligation to its observance has ever been stated. The only explanation of this paradox is that the self-evident nature of the *pacta sunt servanda* rule springs directly from the "human nature". As Derathé puts it, "so the theory of social contract cannot be reconciled with the negation of the idea of natural law because it is the foundation of all pacts" (Derathé: 160; cf. Ibidem: 166). Not only the idea of self-government is reconcilable with the theory of natural law. It is even impossible to admit that it could not rest on it (Ibidem: 164-165).

Hence there is a place for natural laws in Rousseau's philosophy. Natural laws uninterruptedly gain social acceptance. They are the very foundation of the social order. It is impossible to reject their existence. They are inherent to people's modes of thinking, and play a role similar to that of the Kantian synthetic *a priori* judgments in epistemology or categorical imperative in ethics. Although they are not based on experience, nonetheless, they apply to practice.

If we accepted the existence of the natural laws in the social state, what difference would it make to the legal order? Could the natural law, as the law of reason, have any impact on the positive legislation? Could the natural law justify political revolts? Is it possible to reconcile the jurisdictions of the natural law and of the general will? It seems that the last two questions may be answered affirmatively. Assuming that desired form of the positive law is always the expression of the general will, one might conclude that the desired socio-political order is only of conventional, and not natural origin.[9] But this would be untrue, since the law of nature de-

[9] "Desired form" means enacted with fulfillment of all the institutional requirements demanded by Rousseau, i.e., existence of the lawgiver, civic religion, but most of all—the generality of the law both in its "subject and essence," for "the general will, to be really such, must be general in its object as well as its essence;... it must both come from all and apply to all;... it loses its natural rectitude when it is directed to some particular and determinate object, because in such a case we are judging of something foreign to us, and have no true principle of equity to guide us" (Rousseau, 1913a: 27).

limits the scope of legislation that can be approved by the citizens of the democratic state. Some legal regulations will never be approvable. This would be the case of renunciation of one's freedom. It is unacceptable because it is contradictory to rational human nature—one cannot give everything away in order to gain nothing or a promise of vague future benefits. "For him who renounces everything no indemnity is possible" (Rousseau, 1913a: 10). This kind of behavior would be irrational and unacceptable, such a contract would therefore be invalid (Ibidem: 10). One may risk the following thesis: in case of the democratic order, the law of nature cannot justify the change of the political *status quo*. This means that no one can use natural law in attempts to establish a dictatorship in a currently democratic state. At least two arguments support such a thesis. The first one is based on the *pacta sunt servanda* rule. Citizens of the democratic state, by partaking in the legislative process (such as choosing their representatives), commit themselves to the observance of the laws. It is therefore only through the democratic procedure that they can seek to replace democracy with other form of rule. The second argument points to the fact that the laws of nature delineate the scope of possible legislation, by not allowing, for example the renunciation of personal freedom. Subordination to Hobbesian Leviathan would mean the exchange of freedom for serfdom. This would be an irrational decision, therefore, invalid. Thus the concept of the laws of nature in case of society ruled by a properly enacted laws seems to have no relevance at all. Since the imperatives of the general will, finding their expression in the positive law, will never be irrational, they cannot contradict the laws of nature, as they are at the same time the laws of reason.

It seems that the problem would present itself differently in the undemocratic order, where irrational laws might be enacted. In a democracy this is impossible because of the form of legislative system that makes the laws general both in their "subject and essence." The rules of law are the outcomes of everybody's decisions and apply to everyone. An individual, while deciding on some matter, always directly decides about oneself. It would be an absurd situation, if the society gave itself away to the Leviathan or enacted laws harmful to itself. In case of the despotic reigns, where the interest of the ruler does not have to coincide with interests of his subjects, generality of the law—the guarantor of its rationality—may be

eliminated. Such an individual may apply two standards to his decisions. If the matter concerns him—he will listen to dictates of reason, but if the matter concerns his subjects, whose businesses often contradict his own—then it is very likely that his decisions will violate the laws of nature.

What is then the role of human rights as a specific modification of the laws of nature? Assuming that they are not just abstract demands, expressing the desire to equate the rights of the privileged with those of the unprivileged or to ascribe a privilege to those society members who actually are equal with others, what do they express? How can they contribute to changes in the social and political reality? And, above all, how can Rousseauean laws of nature provide any support for the "human rights" imperatives in their form popular nowadays. The adherents of the omnipotence of the general will answer unanimously. An example can be made of Maciej Starzewski's statements, who while considering the legislation of the French National Assembly during the period of the French Revolution, stated that the

> second famous act of the Assembly, *Declaration of Human and Civil Rights*, is soaked up with liberalism which is alien to Rousseau – the adherent of state's omnipotence. (...) *Declaration* has been called the social contract of the reborn France. If it is a contract, surely not in the Rousseauean type – unconditional, whole content of which is about complete surrendering of the individual to the society, surrendering deprived of all reservations. (...) Declaration restricts activity of the state, which according to Rousseau cannot be legally limited (Starzewski, 2002: xliv-xlv).[10]

According to Starzewski, human rights cannot be reconciled with the supremacy of the general will. But there is also a different standpoint, occupied by the adherents of primacy of natural laws (e.g. Derathé). According to them, if the general will (and thus also positive legislation) of the state had violated some human right, then people whose rights had been violated would suffer obvious injustice, even if there was no institu-

[10] Maciej Starzewski (1891-1944)—Polish lawyer, professor of the Jagiellonian University, member of the Polish Parliament, translator and commentator of Rousseau's writings.

tion to confirm this inequity. Positive legislation retains its legitimacy from conforming to natural laws.

Although seemingly contradictory, both these standpoints – that of Derathé and that of Starzewski – may be reconciled. The Polish scholar rightly ascribed omnipotence to general will. Derathé, on the other hand, was not mistaken when he identified the laws of nature with the code of imperatives necessarily accepted by all individuals. If the human rights theory is to be based on the grounds provided by the Rousseauean laws of nature, it would occur that these rights already exert their influence on the legislation of each democratic state. They are an element constantly present in our perception of reality, an element that in itself does not require deliberation and voting. This does not mean that they do not require protection. The mere consciousness of their existence is not a guarantor of their observance. In an ideal community, with citizens acting accordingly to what they find to be right, the problem of observance of human rights would be non-existent. But in the real communities their protection should be provided at least to the so called "first generation of human rights" (the civil and political rights), since they constitute the foundation of the democratic order and thus also of all other rights.[11]

The issue of the second, the third, and the fourth generation of human rights (the economic, social & cultural rights, the collective rights, the redistributive and minorities rights, rights in information society, right to sustainable development for the future generations) seems to be quite different. These rights may be characterized as optional and conditional, and not as fundamental and universal. Their observance is not directly implied in Rousseau's theory of natural law. There is only one exception: the situation when the level of social misery is high enough to threat the proper functioning of democracy and therefore also of the first generation of human rights. The second, the third and the fourth generation of human rights are to be protected only as far as it is necessary to protect the civil and political rights.

---

[11] Legislation of democratic states is general in subject and object— is created by all people (directly or indirectly) and applies to all people. Thus each citizen of the democratic state, in his own interest, strives to legally protect human rights dictated by reason (e.g. prohibition of renunciation of one's freedom).

Although it seems possible to ground the human rights theory on the Rousseauean concepts of the general will and the law of nature, the understanding of the term "human rights" itself would have to be significantly altered. It would not point to some array of particular entitlements, but rather to the specific modes of thinking characteristic of all people. Human rights would be equivalent to the number of rules recognizable by everybody (e.g. the wrongs of slavery or *pacta sund servanda* rule), inherent to human reasoning and thus always present in the legislative systems, at least under the democratic regime.

Bibliography

Bosanquet, Bernard. 1916. *Review of J.-J. Rousseau, 'The Political Writings of J.-J. Rousseau' (ed. C. E. Vaughan)*. "Mind," Vol. 26, pp. 399-404.

Cassirer, Ernst. 1956. *The Question of Jean-Jacques Rousseau*. New York: Columbia University Press.

Cobban, Alfred. 1964. *Rousseau and the Modern State*. London: George Allen and Unwin.

Derathé, Robert. 1970. *Jean-Jacques Rousseau et la science politique de son temps*. Paris: Librairie Philosophique J. Vrin.

Diderot, Denis. 1915. "Droit Naturel," (in:) Charles Edwin Vaughan (ed.), *The Political Writings of Jean Jacques Rousseau. In Two Volumes*. Vol. 1, Cambridge: Cambridge University Press, pp. 429-433.

Masters, Roger D. 1968. *The Political Philosophy of Rousseau*. New Jersey: Princeton University Press.

Noone, Jerome B. Jr. 1972. "Rousseau's Theory of Natural Law as Conditional," *Journal of the History of Ideas*. Nol. 33, No. 1 (1972), pp. 23-42.

Rousseau, Jean-Jacques. 1835. "Réponse a une Lettre Anonyme dont le contenu se trouve en Caractere Italique dans cette Réponse," (in:) Jean-Jacques Rousseau, *Śuvres complčtes de J. J. Rousseau avec des notes historiques*. Vol. 3, Paris: Furne, pp. 178-179.

Rousseau, Jean-Jacques. 1913a. "Social Contract," (in:) Jean-Jacques Rousseau, *Social Contract and Discourses*. Tranls. G. D. H. Cole, London: J. M. Dent & Sons Ltd., pp. 3-125.

Rousseau, Jean-Jacques. 1913b. "A Discourse on Political Economy," (in:) Jean-Jacques Rousseau, *Social Contract and Discourses*. Transl. G. D. H. Cole, London: J. M. Dent & Sons Ltd., pp. 247-287.

Rousseau, Jean-Jacques. 1915a. "Discourse sur l'origine et les fondements de l'inegalite parmi les hommes," (in:) Charles Edwin Vaughan (ed.), *The Political Writings of Jean Jacques Rousseau. In Two Volumes*. Vol. 1, Cambridge: Cambridge University Press, pp. 125-220.

Rousseau, Jean-Jacques. 1915b. "Considérations sur le Gouvernement de Pologne," (in:) Charles Edwin Vaughan (ed.), *The Political Writings*

of Jean Jacques Rousseau. In Two Volumes. Vol. 2, Cambridge: Cambridge University Press, pp. 424-516.

Rousseau, Jean-Jacques. 1915c. "Geneva MS," (in:) Charles Edwin Vaughan (ed.), *The Political Writings of Jean Jacques Rousseau. In Two Volumes*. Vol. 1, Cambridge: Cambridge University Press, pp. 446-511.

Rousseau, Jean-Jacques. 1915d. "Projet de Constitution pour la Corse," (in:) Charles Edwin Vaughan (ed.), *The Political Writings of Jean Jacques Rousseau. In Two Volumes*. Vol. 2, Cambridge: Cambridge University Press, pp. 306-355.

Rousseau, Jean-Jacques. 1997. *Julie, or the New Heloise. Letters of Two Lovers who Live in a Small Town at the Foot of the Alps*. Trans. Ph. Stewart, J. Vaché, Hanover: University Press of New England.

Rousseau, Jean-Jacques. 2004. *Letter to d'Alembert, and Writings for the Theater*. Trans. A. Bloom, Lebanon: University Press of New England.

Rousseau, Jean-Jacques. 2006. *Emile. On Education*. Trans. B. Foxley, Charlestone: BiblioBazaar.

Sabine, George Holland. 1973. *A History of Political Theory*. Hinsdale, Ill.: Dryden Press.

Shklar, Judith. 2001. "Rousseau's Images of Authority (Especially in 'La Nouvelle Héloïse')," (in:) Patrick Riley (ed.) *The Cambridge Companion to Rousseau*. Cambridge: Cambridge University Press, pp. 161-179.

Starzewski, Maciej. 2002. "Introduction," (in:) Rousseau, Jean-Jacques. *O umowie społecznej*. Warszawa: DeAgostini, pp. ix-lxxii.

Strauss, Leo. 1965. *Natural Right and History*, Chicago: The University. Chicago Press.

Thakurdas, Frank. 1976. *Rousseau and the Concept of the General Will (the Pursuit of an Elusive Concept)*. Calcutta: Minerva Associates (Publications).

Vaughan, Charles Edwin. 1915. "First draft of Contrat Social,"(in:) Charles Edwin Vaughan (ed.), *The Political Writings of Jean Jacques Rousseau. In Two Volumes*. Vol. 1, Cambridge: Cambridge University Press, pp. 434-445.