In the state of nature, we are absolutely free and all actions are limited only by our own capabilities. This condition of total permissibility is avoided by the formation of the sovereign, wherein each individual cedes their natural right to do anything. But the sovereign only garners authority from the people and has no external or natural right to control, **Rousseau:**[[1]](#footnote-1)

I SUPPOSE men to have reached the point at which the obstacles in the way of their preservation in the state of nature show their power of resistance to be greater than the resources at the disposal of each individual for his maintenance in that state. That primitive condition can then subsist no longer; and **the human race** would perish unless it changed its manner of existence. But, as men cannot engender new forces, but only unite and direct existing ones, they **ha[s]**ve **no other means of preserving themselves than the formation, by aggregation, of a sum of forces** great enough to overcome the resistance. These they have to bring into play by means of a single motive power, and cause to act in concert. This sum of forces can arise only where several persons come together: but, as **the force and liberty of each** man **are the chief instruments of** his **self-preservation, how can [t]he[y] pledge them without harming [their] own interests**, and neglecting the care he owes to himself? This difficulty, in its bearing on my present subject, may be stated in the following terms: *"The problem is to find 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."* This is the fundamental problem of which **the *Social* *Contract* provides the solution.** If then we discard from the social compact what is not of its essence, we shall find that it reduces itself to the following terms: *"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."* At once, in place of the individual personality of each contracting party, this act of association creates a moral and collective body, composed of as many members as the assembly contains votes, and receiving from this act its unity, its common identity, its life and its will. This public person, so formed by the union of all other persons formerly took the name of *city*,and now takes that of *Republic* or *body**politic*; it is called by its members *State* when passive. *Sovereign* when active, and *Power* when compared with others like itself. **Those who are associated in it take** collectively **the name of** *people*, and severally are called **citizens**, as sharing in the sovereign power, and *subjects*, as being under the laws of the State. But these terms are often confused and taken one for another: it is enough to know how todistinguish them when they are being used with precision. This formula shows us that the act of association comprises a mutual undertaking between the public and the individuals, and that each individual, in making a contract, as we may say, with himself, is bound in a double capacity; as a member of the Sovereign he is bound to the individuals, and as a member of the State to the Sovereign. But the maxim of civil right, that no one is bound by undertakings made to himself, does not apply in this case; for there is a great difference between incurring an obligation to yourself and incurring one to a whole of which you form a part. *But the body politic or* **the Sovereign,** drawing its being wholly from the sanctity of the contract, **can never bind itself**, even to an outsider, **to do anything derogatory to the original act**, for instance, to alienate any part of itself, or to submit to another Sovereign. Violation of the act by which it exists would be self-annihilation; and that which is itself nothing can create nothing. In order then that the social compact may not be an empty formula, it tacitly includes the undertaking, which alone can give force to the rest, that whoever refuses to obey the general will shall be compelled to do so by the whole body. This means nothing less than that he will be forced to be free; for this is the condition which, by giving 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 abuse.

Thus, **the standard is consistency with the sovereign’s constraints of political legitimacy** – in the case of the resolution, the sovereign acts through the U.S. government. Prefer the standard – violating it dissolves the political state, **Rousseau 2:**

The **public force** therefore **needs an agent of its own to bind it together and set it to work under the direction of the general will**, to serve as a means of communication between the State and the Sovereign, and to do for the collective person more or less what the union of soul and body does for man. **Here we have** what is, in the State, **the basis of government,** often wrongly confused with the Sovereign, whose minister it is. What then is government? An intermediate body set up between the subjects and the Sovereign, to secure their mutual correspondence, charged with the execution of the laws and the maintenance of liberty, both civil and political. The members of this body are called magistrates or *kings*, that is to say *governors*, and the whole body bears the name *prince*.[18](http://www.constitution.org/jjr/socon_03.htm#18) Thus those who hold that the act, by which a people puts itself under a prince, is not a contract, are certainly right. It is simply and solely a commission, an employment, in which the rulers, mere officials of the Sovereign, exercise in their own name the power of which it makes them depositaries. This power it can limit, modify or recover at pleasure; for the alienation of such a right is incompatible with the nature of the social body, and contrary to the end of association. I call then *government*, or supreme administration, the legitimate exercise of the executive power, and prince or magistrate the man or the body entrusted with that administration. In government reside the intermediate forces whose relations make up that of the whole to the whole, or of the Sovereign to the State. This last relation may be represented as that between the extreme terms of a continuous proportion, which has government as its mean proportional. The government gets from the Sovereign the orders it gives the people, and, for the State to be properly balanced, there must, when everything is reckoned in, be equality between the product or power of the government taken in itself, and the product or power of the citizens, who are on the one hand sovereign and on the other subject. Furthermore, none of these three terms can be altered without the equality being instantly destroyed. If the Sovereign desires to govern, or the magistrate to give laws, or if the subjects refuse to obey, disorder takes the place of regularity, force and will no longer act together, and the State is dissolved and falls into despotism or anarchy. Lastly, as there is only one mean proportional between each relation, there is also only one good government possible for a State. But, as countless events may change the relations of a people, not only may different governments be good for different peoples, but also for the same people at different times. In attempting to give some idea of the various relations that may hold between these two extreme terms, I shall take as an example the number of a people, which is the most easily expressible. Suppose the State is composed of ten thousand citizens. The Sovereign can only be considered collectively and as a body; but each member, as being a subject, is regarded as an individual: thus the Sovereign is to the subject as ten thousand to one, i.e., each member of the State has as his share only a ten-thousandth part of the sovereign authority, although he is wholly under its control. If the people numbers a hundred thousand, the condition of the subject undergoes no change, and each equally is under the whole authority of the laws, while his vote, being reduced to a hundred-thousandth part, has ten times less influence in drawing them up. The subject therefore remaining always a unit, the relation between him and the Sovereign increases with the number of the citizens. From this it follows that, the larger the State, the less the liberty. When I say the relation increases, I mean that it grows more unequal. Thus the greater it is in the geometrical sense, the less relation there is in the ordinary sense of the word. In the former sense, the relation, considered according to quantity, is expressed by the quotient; in the latter, considered according to identity, it is reckoned by similarity. Now, the less relation the particular wills have to the general will, that is, morals and manners to laws, the more should the repressive force be increased. The government, then, to be good, should be proportionately stronger as the people is more numerous. On the other hand, as the growth of the State gives the depositaries of the public authority more temptations and chances of abusing their power, the greater the force with which the government ought to be endowed for keeping the people in hand, the greater too should be the force at the disposal of the Sovereign for keeping the government in hand. I am speaking, not of absolute force, but of the relative force of the different parts of the State. It follows from this double relation that the continuous proportion between the Sovereign, the prince and the people, is by no means an arbitrary idea, but a necessary consequence of the nature of the body politic. It follows further that, one of the extreme terms, viz., the people, as subject, being fixed and represented by unity, whenever the duplicate ratio increases or diminishes, the simple ratio does the same, and is changed accordingly. From this we see that there is not a single unique and absolute form of government, but as many governments differing in nature as there are States differing in size. If, ridiculing this system, any one were to say that, in order to find the mean proportional and give form to the body of the government, it is only necessary, according to me, to find the square root of the number of the people, I should answer that I am here taking this number only as an instance; that the relations of which I am speaking are not measured by the number of men alone, but generally by the amount of action, which is a combination of a multitude of causes; and that, further, if, to save words, I borrow for a moment the terms of geometry, I am none the less well aware that moral quantities do not allow of geometrical accuracy. The government is on a small scale what the body politic which includes it is on a great one. It is a moral person endowed with certain faculties, active like the Sovereign and passive like the State, and capable of being resolved into other similar relations. This accordingly gives rise to a new proportion, within which there is yet another, according to the arrangement of the magistracies, till an indivisible middle term is reached, i.e., a single ruler or supreme magistrate, who may be represented, in the midst of this progression, as the unity between the fractional and the ordinal series. Without encumbering ourselves with this multiplication of terms, let us rest content with regarding government as a new body within the State, distinct from the people and the Sovereign, and intermediate between them. There is between these two bodies this essential difference, that the State exists by itself, and the government only through the Sovereign. Thus the dominant will of the prince is, or should be, nothing but the general will or the law; his force is only the public force concentrated in his hands, and, as soon as he tries to base any absolute and independent act on his own authority, the tie that binds the whole together begins to be loosened. **If** finally **the [government] should come to have a particular will more active than** the will of **the Sovereign, and** should **employ the public force** in his hands in obedience to this particular will, **there would be**, so to speak, **two Sovereigns, one rightful and the other actual, the social union would evaporate instantly**, and the body politic would be dissolved.

And the political state is a necessary precondition to realizing freedom, which is axiomatic to morality since statements of obligation imply that we can choose to act, N**euhouser:**

To say that the state realizes freedom is to imply that **without the state freedom is not real or actual** – or, in the words of Hegel cited above, that **human freedom is first constituted in the state.** On this view, the role of the state with respect to freedom is not, as Locke would have it, one of simply preserving and extending a freedom that individuals can possess independently of their membership in a political community. For Rousseau the freedom that deﬁnes our nature as human beings is ﬁrst constituted in the state and therefore depends upon the state for its very existence. Thus, the most basic thought of Rousseau’s political philosophy can be formulated as follows: The justification of the rational state resides in the fact that such a state plays an indispensable role in constituting human beings as bearers of free wills and is therefore essential to the fulﬁllment of their true nature as free beings. Elaborating this basic thought of Rousseau’s will involve, above all, specifying how the rational state realizes the freedom of its members. There are at least two ways one might conceive of the relationship between the state and freedom. First, **the state might be thought of as bringing about a set of determinate social conditions that make possible the freedom of its members.** On this view, the state would realize freedom by fulﬁlling (at least some of) the conditions that enable individuals to possess a free will. Membership in a rational state would then be a precondition of one’s essential freedom. A second possibility would be to understand **political membership** not as something that conditions, but remains external to, the freedom of citizens but rather as **a mode of relating to the social world that is itself an instance of freedom.** That is, **being part of a rational state might be regarded as constitutive of, or as embodying, the freedom of the individuals who compose it.** This is especially plausible if, as in the case of Rousseau, the rational state is held to be a democratic one in which (at least a part of) the freedom of citizens consists in their self-legislating activity. This set of conceptual possibilities can be summed up by saying that the rational state might relate to the freedom of its members either as a precondition or as an embodiment of that freedom

I contend a gun ban is inconsistent with constraints on political legitimacy.

First, rights derive through convention – this form’s Rousseau’s basis of limitations on the power of the sovereign, **Zhang:**

Rousseau starts this book by legitimacy. Unfortunately, we have very short life and no human being ever lives long enough to experience the historical changes of the society. Rousseau’s problem is a common problem to people who is born in a ready society with existing classes, governments and cultures. Back into the civilization history, there are too many examples of making power by force. Thus the first point Rousseau argue is that **power is not right**, unless it transfers obedience into duty, strength into right. **Otherwise there is no need for** a **further discussion** of the formation of the society: **the strongest wins everything. Rather, Rousseau argues that right comes from social convention.** But what types of social convention will prevent the strongest from being the absolute king of all others? Rousseau doesn’t answer this question directly. Instead, in book I the first sentence is: *MAN is born free; and everywhere he is in chains.* My interpretation is that Rousseau uses the Nature law to justify the social convention. To be more specific, Rousseau assumed that men are aware of the fact that freedom is the given property as a birthright, or, he assumes the existence of Nature Law and the awareness of the Nature Law by the majority people. As I have mentioned in class, in ancient Chinese philosophy, there is no counterpart of the Nature Law of freedom. In Confusion man is born of the society at no price, and in Taoism man is for the nature. But no statement is for the individual himself. In the following 2000 years of literature, there is still no idea about the born rights. Thus one first question about the modernization of China could be the Nature law. To be more generalize, do people realize that they have some born right and do people have right to claim that right? We see that the modernization of China began from end of last century adopts a quite different approach. The identity of Nation as a whole plays an extremely important role. This is an interesting topic but I won’t have space to discuss it in length. Based on Nature law, **[hu]man[s] choose**s **to enter the social contract** at the price of his nature right. He gains civil liberty and proprietorship of all he possesses. Rousseau didn’t specify what is nature law and what is the Nature State as Locke did. He might take it for granted. What behind the nature law is the choice of alternatives. We have seen that the whole modern economic theory is based on the concept of opportunity cost. It is not hard to find out the direct relationship between the opportunity cost and the concept of the nature law. Here we see how powerful the idea is; it is the foundation of our modern society. Sovereign and Law It is interesting to see the explanation why human being needs a society anyhow. Hobbes identified the war of everyone against everyone for self-preservation as the cause. Montesquiieu thought it was in the human nature (in his nature law) that people want to live with others. Rousseau was similar to Hobbes. He identified self-preservation as the primary goal and he also mentioned the commonwealth that people gain from participating the social contract. Rousseau didn’t specify what is sovereign. Again, he might think the idea self evident as the nature law. And he really regards the whole of social contract participants as the sovereign. What he did, is to develop a theory of political law based on this sovereign. I don’t know whether Rousseau was the first one to give that meaning to the word sovereign and many other words. But it is amazing that we still use the words Rousseau used in his Social Contract. Of course, we still use his ideas today. Rousseau specifically makes distinguish between the two concepts about common will, the will of all and the general will: There is often a great deal of difference between the will of all and the general will; the latter considers only the common interest, while the former takes private interest into account, and is no more than a sum of particular wills: but take away from these same wills the pluses and minuses that cancel one another,[7](#07) and the general will remains as the sum of the differences. Now though he noticed that people have private interests, he believed that in the aggregate will all the private interests will cross one anther to some degree. If not then there exist some common interests for all social participants. Therefore his sovereign is popular sovereign in the form of everyone’s democratic right. Rousseau opposed interests of associations formed by some members of the society. He said that When one of these associations is so great as to prevail over all the rest, the result is no longer a sum of small differences, but a single difference; in this case there is no longer a general will, and the opinion which prevails is purely particular. This is dramatically different from the works of Marx who emphasized at the very beginning that all opinions are opinions of social classes. Thus in Marx’s phrases, there is no room for Rousseau’s sovereignty. This is very interesting. The whole French Revolution was sort of based on Rousseau’s system. When Marx observed the world, which is supposed to be based on sovereign and general will, he observed the right of the strongest at the social class level. Though Marx might goes to some extreme case, his work states some weakness of Rousseau’s dream. That is, if a social contract is violated totally, how can people come back to the ideal state. This type of dynamics is not considered by Rousseau. Though he in later chapters mentioned the decay of government, his social movement is based on the friction between sovereign and government. Or, **on the legitimacy of government**. He didn’t ask the question how to institute the sovereign itself. Rousseau further discussed the freedom and equality in terms of social contract. In other words, social contract is based on these two properties. Based on equality, the sovereign no long makes distinguish between individuals. This also makes **a ceiling for the power of sovereignty**, that **is, it cannot exceed the limits of general conventions.** I have already discussed the law system in Rousseau's book. Even though he is not generally regarded as founder of modern law system, his description about law is clear and intuitive. For Rousseau, *BY the social contract we have given the body politic existence and life; we have now by legislation to give it movement and will. For the original act by which the body is formed and united still in no respect determines what it ought to do for its preservation.* Rousseau adopted a narrow definition of law. The law is about the relation between two aspects of the entire object, without there being any division of the whole. Thus law is always general, because law considers subjects en masse and the actions in the abstract, and never a particular person or action. This satisfies Rousseau's general will. Because general will itself will not direct to a particular object. And the greatest good of all should be the end of every system of legislation. Thus we meet the two common factors again, Freedom and Equality. Law is divided by the relationship it is specifically designed to deal with. The Fundamental Laws (Political laws) states the relationship between the government and sovereignty. The Civil Law states the relationship between members one to another, or member to the body as a whole. The Criminal Law is for relationship between the individual and the law, in another word, the dis-obedience of the law and its penalty. Rousseau regarded morality and custom as the fourth and the most important one. This might be based on his belief that society comes from convention, which is the base for the sovereign will. But seems to me that the fourth law is not in a written form and thus might have different interpretations by social contract participants.

America’s social conventions negate, **Pavlich ’12:**

“Clarifying America’s Gun Culture” 12/05/12 http://townhall.com/columnists/katiepavlich/2012/12/05/clarifying\_americas\_gun\_culture/page/full

The first **gun culture is deeply seated in American history** and her founding. **Founding Fathers** like George Washington **understood that an armed citizenry would prevent government tyranny**, which is why we have the Second Amendment. This is a concept rapper Ice-T understands but sadly doesn’t promote in his songs. “It’s legal in the United States, it’s part of our constitution. You know, that’s the last defense against tyranny,” Ice-T said in a local television interview last summer. Each year, more than 75,000 National Rifle Association members meet for the NRA Annual Meetings. The majority of those people carry concealed and every year, everyone who attends that meeting goes home bullet wound-free. Historically in America **we’ve had a deep respect for firearms. The vast majority of people have used them to celebrate American history, for collection, personal protection, hunting and sport.** We see American gun culture celebrated each year when dads take their kids elk hunting for the first time. We see it when women head to the range to safely practice shooting their new pink pistols. We see it when a mother shoots an intruder while she is home alone in order to protect her children. We see it practiced when **thousands of people sign up for concealed carry** permit and hunters’ safety classes **each year.** Not to mention, the multi-billion-dollar firearms industry employs millions of people and provides the government with billions in tax revenue every year.  The other gun culture in America can be found in the inner city of Chicago, Washington D.C., New York City, Los Angeles and others. Ironically, violent gun culture is found within gangs in cities with the strictest gun laws. It is the same culture promoted in Hollywood films made by liberals, glorified by rappers whose music is worshiped in violent gang plagued neighborhoods and disrespectfully joked about at NBA parties. For example, just recently [we saw](http://www.usatoday.com/story/gameon/2012/12/03/tim-duncan-tony-parker-joey-crawford-halloween-guns/1742303/)photos of San Antonio Spurs players Tim Duncan and Tony Parker pointing fake guns at the head of a referee they don’t like. On Saturday morning, a Halloween picture of Tim Duncan and Tony Parker holding fake guns to the head of a Joey Crawford impersonator went viral, surfacing on Reddit and quickly spreading across the Internet. In the photo, the San Antonio Spurs teammates are pointing fake guns at the back of the head of a man dressed in a makeshift Crawford referee uniform. A noose hangs above the fake Crawford. Duncan, dressed like the comic book hero The Punisher, presses his fake gun against Crawford's head while Parker, in a leather jacket and an eyepatch, points his fake gun and mugs for the camera. Crawford is an NBA referee who has a long past with the San Antonio Spurs. In 2007, he ejected Duncan for laughing while on the bench, then allegedly challenged him to a fight. He was fined $25,000 by the NBA. Growing up, I was always taught never to point guns, even fakes ones, at other people. Obviously Duncan and Parker didn’t have the same respect in this situation. In cities like Chicago, where 10 murders a weekend is average with more than 436 happening in 2012 alone, the breakdown of the family, lack of firearms education and a missing respect for proper firearms use is to blame for a violent gun culture in addition to the individuals committing the crimes. Many in the media, including Costas and Whitlock, lump everyone who happens to own a gun into the same gun culture category. Why they do this, only they know. But in the case of former NFL player Jovan Belcher shooting the mother of his child nine times and then taking his own life, there has been no discussion from either newsman about the proper use of a firearm. Hint: It’s not to kill one of your girlfriends because she stayed out too late at a concert. **There are approximately 60 million gun owners and 100 million handguns in America.** Each day, the vast majority of those gun owners use their guns properly. That is a gun culture to celebrate.

Second, polls validate that America is staunchly against handgun ban – to pass one would clearly violate the constraints of the general will, **Jones ’11:**

Jeffrey M. Jones “Record Low 26% Favor Handgun Ban” 10/26/11 http://www.gallup.com/poll/150341/record-low-favor-handgun-ban.aspx

PRINCETON, NJ -- **A record-low 26% of Americans favor a legal ban on the possession of handguns in the United States** other than by police and other authorized people.

1. Rousseau, Jean Jacques. “The Social Contract or Principles of Political Right”. 1762. Translated by G.D.H Cole. <http://www.ruthdunn.org/Rousseau's%20The%20Social%20Contract.pdf> [↑](#footnote-ref-1)