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Rousseau's Legislators and the Exemplar of Sparta

As the cornerstone of Rousseau's political philosophy, the archeo-teleological quest to reconstruct a mythical Golden Age often led him to reflect on models of antiquity, both institutional and individual, against which the modern world might be read and understood. Among those that Rousseau more frequently evokes in his writings are the polis of Sparta and the figure of Lycurgus who gave the republic its laws. Indeed, the name of the latter and the fundamental role he played in the establishment of a republic of virtue appear consistently throughout Rousseau's works, including the *Discours*, the *Lettre à D'Alembert*, *Émile*, the *Contrat social*, the *Considérations sur le gouvernement de Pologne*, and various *fragments* and *mélanges*. His familiarity with the life and deeds of the lawgiver of Sparta dates, by his own confession, to his earliest youth when he began reading Plutarch. "Ce fut la première lecture de mon enfance, ce sera la dernière de ma vieillesse; c'est presque le seul auteur que je n'ai jamais lu sans en tirer quelque fruit" (1:1024). These readings and re-readings would leave an indelible mark on the future *philosophe* and would inform many of his later ideas and visions. "Les traces de ces hommes antiques firent en lui des impressions qui jamais n'ont pu s'effacer" (1: 819).

Rousseau's particular admiration for Lycurgus is founded, as he writes in the *Considérations*, in the Spartan's ability to have reformed "un peuple déjà dégradé" and to have instilled in them "cet ardent amour de la patrie qui fut toujours la plus forte ou plutôt l'unique passion des Spartiates, et qui en fit des êtres au-dessus de l'humanité" (3: 957). Lycurgus, in other words, knew how to "denature" men and make citizens of them, how to transform private self-interest into passionate energy for the "public thing," how to impose rule, discipline, and order to guarantee freedom, how to reshape human nature. It is precisely these same attributes with which Rousseau will endow his three principal "legislators." Wolmar, Émile's tutor, and the Legislator of the *Contrat social* all possess the ability to transform human nature for the common good of the polis, to replace individual desire with a passion for collective virtue. The goal of all three who, in short, represent re-writings of one another, is to make citizens of men and, I would suggest, the model on which they are based can be traced, at least in part, to the legislator of Sparta himself and to the contract he established with its citizens.

The *Social Contract*, as Paul de Man has written, "proposes a model for political institutions and reflects on the authority of legal language"

(246). Rousseau couches the thesis of the text in the following terms: “Je veux chercher si dans l’ordre civil il peut y avoir quelque règle d’administration légitime et sûre, en prenant les hommes tels qu’ils sont et les loix telles qu’elles peuvent être” (351). Rousseau thus enters into his subject with an immediate confrontation of present and future (“men as they are” vs. “laws as they can be”) and places between these two temporalities a hypothetical mode (“whether there can be”) that is to be the space of his discourse, a space in which the polemics of present conditions and future possibilities might be reasonably arbitrated.

The difficulties of such arbitration become quickly apparent and rhetorically impossible to obviate, as de Man points out. What, for instance, is one to understand by “men as they are”? Is reference made here to a constant, eternal principle that governs the human estate, or is Rousseau alluding to men as they are today? Clearly, the answer is affirmative in both instances. All men, be they in the hypothetical state of nature or the actual state of society, be they ignorant or enlightened, be they “good” or “evil,” possess a particular and private will that moves them to act and ultimately to effect change, according to time and circumstance. Change thus becomes an essential feature of the human trajectory, which permits the conclusion that while all men are indeed similar in that they act upon their respective wills, men as they are today are as different from men as they were, as they are from men as they will be.

To this point, the rhetorical logic of the argument seems easily accessible. It is upon considering the second part of the proposition (“laws as they can be”) that an insurmountable obstacle is confronted. For laws cannot be established by particular wills, laws can never consider “un homme comme individu ni une action particulière” (379). On the contrary, laws are acts established by the general will and combine “l’universalité de la volonté et celle de l’objet” (379). Hence, laws are regulatory texts that pursue “the interests of men in general against those ‘particular’ wills which lead men to seek privileges” (Shklar 185). Laws are safeguards that ensure the freedom of the general will of the sovereign against the self-serving, and therefore inegalitarian, particular wills of individuals, at a given moment. Legitimate laws, then, are a function of the immediate temporal and spatial circumstances of the sovereign that promulgated them. “Or la loi d’aujourd’hui ne doit pas être un acte de la volonté générale d’hier mais de celle d’aujourd’hui, et nous nous sommes engagés à faire, non pas ce que tous ont voulu mais ce que tous veulent [...] où il suit que quand la Loi parle au nom du peuple, c’est au nom du peuple d’à présent et non de celui d’autrefois” (316). Yet to define the “People of today,” to define “men as they are,” is not performable because of the constant state of change in

which they are engaged. Moreover, because laws are future-oriented promises (de Man 273), laws promulgated by the general will of today will not necessarily reflect the general will of tomorrow.

A rhetorical impasse is reached. Present and future seem unbridgeable. It would appear that either the sovereign is obliged to dispense with laws as quickly as it writes them, or the present must find itself forever subjugated to the will of the past. Neither one nor the other alternative is desirable because each entails a loss of freedom for both the individual and the sovereign. In the former case, particular will is completely effaced by the sovereign; in the latter, general will is rendered silent by the past. The citizen and the sovereign are left quite voiceless.

Can there then be “any legitimate and reliable rule of administration” to bring about civil order in this world of babel or aphony? Rousseau identifies such a voice in the figure of the lawgiver, who is “à tous égards un homme extraordinaire dans l’État [...] par son génie [...] et] par son emploi” (382). How is the lawgiver to accomplish this task? How is he to draw order from chaos and servitude? He must believe that he is

en état de changer, pour ainsi dire, la nature humaine; de transformer chaque individu, qui par lui-même est un tout parfait et solitaire, en partie d’un plus grand tout dont cet individu reçoit en quelque sorte sa vie et son être; d’altérer la constitution de l’homme pour la renforcer; de substituer une existence partielle et morale à l’existence physique et indépendante que nous avons tous reçue de la nature. Il faut, en un mot, qu’il ôte à l’homme ses forces propres pour lui en donner qui soient étrangères et dont il ne puisse faire usage sans le secours d’autrui. Plus ces forces naturelles sont mortes et anéanties, plus les acquises sont grandes et durables, plus aussi l’institution est solide et parfaite. (381–82).

The lawgiver is a designer and inventor. He is the engineer of a social contract and political order that promise gains to individuals who enter into them. The lawgiver is he who promises that, “au lieu de détruire l’égalité naturelle, le pacte fondamental substitue au contraire une égalité morale et légitime à ce que la nature avait pu mettre d’inégalité physique entre les hommes, et que pouvant être inégaux en force ou en génie, ils deviennent tous égaux par convention et de droit” (367). The lawgiver is an individual of superior intelligence who is able to de-nature and re-form those who would believe him. As the formulator of laws, he is the maker of promises upon which he wills the people to depend. Because of his extraordinary powers of persuasion, and in the Messianic function he assumes, individual wills willingly renounce their independence in exchange for freedom, and the sovereign will entrust the general will to his direction. It is only through the intervention of this visionary that a total reconciliation of present and

future, of “men as they are” and “laws as they can be,” can be achieved. The lawgiver thus becomes the conscience of the sovereign and the voice of the citizen, who agrees contractually that the lawgiver change his human nature and mar his constitution in order to strengthen it.

In this respect, the *Social Contract* becomes intimately bound to the *Émile*, for the lawgiver arrogates to himself the same function claimed by Émile’s tutor. It is, moreover, noteworthy that the opening lines of the two texts are structurally identical and that the texts then proceed in similar fashion to reconcile rhetorically the apparent contradictions they contain; nature needs culture to reassert itself just as freedom requires chains to be protected and legitimated. Both the lawgiver and the tutor are engaged in the constructing of nature in terms of a humanly achieved balance between potential capacities and conventional dictates.

On the basis of what authority, however, does the tutor assume his role? It is precisely on the principle of a contract or, as Janie Vanpée has pointed out, of a “double contract, first between the preceptor and the father of the future pupil and then, when the child comes of age to understand what a contract implies, between the preceptor and the child itself” (Vanpée 74). In the first case, the father willingly yields all his paternal prerogatives to the tutor who, in his turn, comes to supplant the father as the only voice which the child must heed. “Émile est orphelin. Il n’importe qu’il ait son père et sa mère. Chargé de leurs devoirs, je succède à tous leurs droits. Il doit honorer ses parents, mais il ne doit obéir qu’à moi. C’est ma première ou plutôt ma seule condition” (4: 267) If the contract with the father, whose surrogate and voice the tutor becomes, is legitimate by reason of mutual agreement, the contract with the child is essentially a pseudo-contract founded on false premises. The tutor’s task, then, is to form the child carefully and “lead him first to recognize by himself that his relationship to his teacher is founded on a contract beneficial to him and then to choose willingly to continue the contract” (Vanpée 75). Once this recognition is achieved, it becomes the foundation of a second contract whereby the child desires and actively seeks out the governance of the tutor. “Ô mon ami, mon protecteur, mon maître! reprenez l’autorité que vous voulez déposer au moment qu’il m’importe le plus qu’elle vous reste; vous ne l’aviez jusqu’ici que par ma faiblesse, vous l’aurez maintenant par ma volonté, et elle m’en sera plus sacrée. [...] [V]euillez sur votre ouvrage, afin qu’il demeure digne de vous. Je veux obéir à vos lois, je le veux toujours, c’est ma volonté constante; [...] rendez-moi libre en me protégeant contre mes passions qui me font violence; empêchez-moi d’être leur esclave” (*Émile* 651–52). Émile’s plea is couched in the very terms of the citizen who yields to the lawgiver. A contract is entered into and an exchange is agreed upon.

The child swears obedience and docility; the tutor promises to make him the happiest of men (653). The original, proleptic contract seems now to be legitimated, and the tutor is more fully empowered to strengthen his student's constitution and to pursue his own dream of self-sufficiency.

Émile, of course, is allowed in no way to develop autonomously or spontaneously. The terms of the contract preclude that possibility. And the result is not necessarily a fortuitous one since Émile, walking "comme un somnabule" (643) through his carefully orchestrated "natural" Éducation, is a creature of convention, a being whose every movement has been carefully decided by his tutor. Even in the end, as Émile prepares to assume his "fonctions d'homme" (4: 868), he turns to the tutor and asks that the latter continue to govern him. Émile is impelled forever to invoke a contractual relationship not initially of his own design but whose binds cannot be shaken off. And the tutor, as arbitrator and mediator of social dicta, as the shaper of human nature, is alone able to manipulate and create a "sauvage fait pour habiter les villes" (4: 484). *Émile*, so it seems, was doomed to be a "beau roman" (777).

Rousseau's popular novel, *Julie ou La Nouvelle Héloïse*, is closely related to the *Émile* in its consideration of the mutability of human nature. From its title and initial letter to its conclusion, the work's concern with Éducation and reform is consistent. St. Preux, of course, is engaged by Madame d'Étange to serve as tutor to her daughter. Julie's later marriage to Wolmar is marked by a careful process of learning and rehabilitation. The education of their children, for example, follows that of Émile (Starobinski 106). And Julie is brought to accept the tenets of domestic order and tranquillity embodied by her husband as the basis of social well being.

Wolmar stands as the operational center of the reconstructed society at Clarens and makes promises — as lawgiver — upon which he wills others to depend. He functions, too, and not unlike the preceptor, as the surrogate of the father, supplanting the Baron d'Étange as controller of ultimate power at Clarens where he is looked upon as absolute master. "L'ordre qu'il a mis dans sa maison est l'image de celui qui règne au fond de son âme, et semble imiter dans un petit ménage l'ordre établi dans le gouvernement du monde. [...] On y reconnaît toujours la main du maître et l'on ne la sent jamais [...]. [O]n jouit à la fois de la règle et de la liberté" (2: 371–72). Wolmar is an exemplary administrator, dispassionate yet fair, and Julie submits to his authority as she had to that of her father. As she writes to St. Preux after her marriage: "Liée au sort d'un époux, ou plutôt aux volontés d'un père par une chaîne indissoluble, j'entre dans une nouvelle carrière qui ne doit finir qu'à la mort" (340). Individual will and freedom are thus denied in favor of a social order where general will is once again

articulated and shaped by a voice whose authority resides in the terms of a contract, arranged in this instance by the Baron and finally acceded to by Julie. Chains become the guarantor of freedom.

Wolmar is the architect and governor of the restructured and closed society of Clarens, a totally self-sufficient estate where each individual willingly performs his designated function for the good of the general social order, where workers and master alike live together in apparent harmony and transparency. The success of Wolmar's society has been due to his ability, his "art" (453), to make those in his service believe that they want to do what he would oblige them to. By his acute powers of reason, observation, and persuasion he has conditioned others to accept his will as their own. And as in his relationship with Julie, so does Wolmar define his association with other members of the community in terms of a contractual agreement. "Mes enfants, [...] ne songez qu'au présent et je vous réponds de l'avenir. [...] [S]i mes projets s'accomplissent et que mon espoir ne m'abuse pas, nos destinées seront mieux remplies et vous serez tous deux plus heureux que si vous aviez été l'un à l'autre" (496). Wolmar's rhetoric is remarkably similar to that of the lawgiver and the tutor. As the maker of laws, he formulates promises for the future. As an educator and moral director, he demands obedience and docility from those under his tutelage. As with the other two figures, Wolmar's project entails nothing less than the profaning of one's constitution, of negating the past, in order to re-form human nature.

What problematizes the position of Wolmar, of course, is ascertaining the source of his authority. We should recall that his marriage to Julie was arranged by her father as recompense to Wolmar who had once saved the Baron's life. Upon learning whom the Baron has named as her future husband, Julie responds with a bitter and angry invective. "Enfin, mon père m'a donc vendue? Il fait de sa fille une marchandise, une esclave, il s'acquie à mes depends! [...] père barbare et dénaturé!" (94). Julie understands only too well what is at stake here. The Baron plans to consign his daughter to someone else in order to free himself from a moral obligation. It is but another manifestation of the social contract where an individual will becomes a pawn to be brokered and eventually subsumed to the will of another. Granted, marriage was a contractual form long recognized and validated by the civil state. But does such recognition render the contract any more legitimate? Similarly, we must question whether the second contract between the preceptor and *Émile* can be legitimate since it was founded on false premises. Or can the assumed authority of the lawgiver ever be authenticated?

As is so often the case with Rousseau, the answers to such ques-

tions are hardly simple or clear-cut. On the one hand, Julie's accusation of unnaturalness would suggest a negative reply, a conclusion borne out by the archeological reconstruction of human nature Rousseau examines in the *Discours sur l'inégalité*. In short, a lawgiver-tutor-Wolmar triumvirate cannot situate its authority in a state of nature because such a state "n'existe plus, [...] n'a peut-être point existé, [et] probablement n'existera jamais" (123). In the absence of a past, present, and future, these figures, whose functions of mediation and arbitration depend on temporal and spatial circumstances, could possess no authenticity. It is, then, by the civil state that their existence must be sanctioned because only within that construct may their function be deemed legitimate. Yet in the second *Discourse*, Rousseau submits that the founding of the civil state was but a subterfuge, a scheme prompted by an imperious individual (164), an imposter whose successors have been many.

The legislator envisioned by Rousseau, however, does not resemble this original imposter (384). His interests are not for personal gain but for public good. Rousseau's lawgiver, tutor, and Wolmar strive to achieve a state that will endure, contracted by a people or persons willing to submit, in the name of harmony and transparency, to his disinterested vision. They are akin to Lycurgus who "commença à vouloir remuer tout le gouvernement de la chose publique, et changer entièrement toute la police: estimant que faire seulement quelques lois et ordonnances particulières ne servirait de rien, non plus qu'à un corps tout gâté, et plein de toutes sortes de maladies, rien ne profiterait d'ordonner quelque légère médecine, qui ne donnerait ordre de purger, résoudre et consumer premièrement toutes ses mauvaises humeurs, pour puis après lui donner une nouvelle forme et règle de vivre" (Plutarch 91). According to Plutarch, Lycurgus, having accepted the Spartans' request that he return and establish a new civil order, successfully instituted a series of political, economic, and social reforms designed to instill among the citizens a love of state, virtue, and civic responsibility. "[E]stimant que la félicité de toute une ville, comme celle d'un homme particulier, consiste principalement en l'exercice de la vertu, en union et concorde des habitants, il composa et dressa sa forme de gouvernement, à cette fin que ces citoyens devinssent francs de cœur, contents du leur, attempés en tous leurs faits pour se pouvoir maintenir et conserver en leur entier très longuement" (Plutarch 128).

Lycurgus, in Rousseau's view, was able to redress the problems that plagued Sparta and to save the state from dissolution by reshaping the nature and interests of its citizens. His authority to do so was derived from the people itself who expressed a desire for change and direction. Similarly, Rousseau's legislators all invoke the notion of human nature as their

legitimizing trope, redefining man as a human creation. The lawgiver, the tutor, and Wolmar each engage in the remaking of the human estate, basing their rights to do so upon the contracts into which they have respectively entered. It is a tenuous agreement at best, as both the exemplar of Sparta and Émile's tutor understood, and can only be productive as long as both contracting parties remain willingly united (4: 267). Yet the contract remains fundamental to the lawgiver and to the social body he governs and reforms, for without its binding powers his system, too, must inevitably disintegrate and fall into silence or turmoil.

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