Rousseau's great legislator: an empty form of authority?

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Rousseau is supposed to be the father of the modern theory of the state. The third book of his *Social Contract* is a teatise on different forms of government – on democracy, aristocracy, monarchy – but also on government in general and »its tendency to degenerate.« How could this tendency to degenerate be explained in relation to the concept of the legislator as an instancy of pure, impersonal law, an empty form of government, introduced in the second book?

Besides the idea of Rousseau's »invention« of the modern state, he is suffering from a much wider range of »paternity complex,« and he is regarded as the father of many other things: modern educational theory, anthropology, literary theory, theory of music, theory of theatre, etc. But the problem of paternity in Rousseau could be approached from quite a different point of view, claiming that the very instancy of the father, in all its multiple forms and images, was invented by Rousseau himself.

The central issue of Rousseau's work is, so to speak, civilization and its discontents. Examining the paternal figures and the images of authority, we have to start with his famous sentence, according to which »Emile is an orphan.« Schérer understands it as the abolition of the paternal function, and Châteaux as if the tutor has to take the place of the father.[1] But speaking of the modernity of Rousseau's project, the problem should be brought together with the whole range of paternal functions, as reinvented in Freud, making government, together with education and psychoanalysis, one of the three impossible professions.[2] What is to be questioned, is the very nature of this impossibility.

If we look at Rousseau's images of authority, the multiple images (some of them partly overlapping, the others distinguished from a common counterpoint, some of them clearly different, the others slowly sliding into each other), all these multiple images become suddenly intelligible in the horizon of Rousseau's prevalent endeavour. First, one has to cope with the

1. *Cf.* R. Schérer, *Emile perverti ou des rapports entre l'éducation et la séxualite*, Laffont, Paris 1974, and J. Château, *Jean-Jacques Rousseau et sa philosophie de l'éducation*, Vrin, Paris 1962.
2. *Cf.* S. Freud, »Die endliche und die unendliche Analyse« (1937d), *Studienausgabe*, Ergänzungsband, Fischer, Frankfurt/M 1975, p. 389.

actual authority, the »biological« father in the sphere of the political, the royal authority. His role is to maintain the false, destructive social order, and his interest lies precisely in exploiting his subjects. But this is not just the problem of heredity, for even elective kings become tyrants. Thus, the difficulty seems to be a deeper one, concerning the very essence of the government.[3]

Then there are, in opposition to the actual authority of the monarch, several other paternal figures: the legislative authority from *Contrat social,* acting as »merely a mechanical device;« the therapeutic authority, as examplified in Wolmar from *Julie ou la nouvelle Héloïse;* the palliative authority, (again in Wolmar, but in the image of the legislator as well); and finally the domestic or preventive authority from *Emile ou de l'éducation.*[4]

The royal authority is analyzed in tension with the ideal authority of the pure, impersonal rule of law. Yet, the pure legislative authority with no personal influence on people is again of no real value, since law is not self-perpetuating; so the legislator has to reconstruct every man of the community, being responsible for the spirit of laws, and thus for continuing education. It has to be a creative authority, as Judith Shklar puts, proceeding by force of personality. Nonetheless, here again Rousseau remains ambiguous, since he finally doubts, once again, whether it was possible at all.

Then we have the therapeutic authority of Wolmar, his self-sufficiency, justice and love of order. Like the legislator, he is made according to the image of God, having the palliative force of his invisible omnipresence, needing to do very little – he just simply must be there. Wolmar is the most perfect image of a man of authority, although very little is said about his outlook. His look, *»fin et froid,«* reaches everyone's heart directly, and he knows all about them.

And here again, this rule of abstinence could be perhaps even better pursued analyzing the tutor's first and principle rule of negative education – pure prevention of perversion and deviation from nature, because of which Emile has to be under total, omnipresent surveillance of his tutor. Emile is not supposed to make a step on his own, not previously previewed or intended by the tutor. He is never to be left alone, neither during the day, nor at night; the tutor's control is not to relax even for a moment. And like Wolmar, he does not hesitate to employ deceits. Even when Emile is grown up and is about to

3. *Cf.* J.-J. Rousseau, *Contrat social, Oeuvres complètes,* Vol. III, Bibliothèque de la Pléiade, Paris 1964, Book III, Chapter 10, and *passim.* I am also referring to A. Grosrichard's unpublished lecture at University of Ljubljana, Ljubljana, February 1988.

4. I am referring to J. Shklar, *Men and Citizens.* A study of Rousseau's social theory, Cambridge University Press, Cambridge 1969, and her paper »Rousseau's images of authority,« in M. Cranston (ed.), *Hobbes and Rousseau.* A collection of critical essays, Anchor Books, New York 1972, p. 333-365. However, Shklar is speaking about four distinctive images of authority, but from the paternal instancy point of view there is no essential difference between the last two.

marry, the tutor says: »I must be very careful, that he chooses his beloved according to his, that is, according to my choice.«[5]

The three Freudian images of authority and of impossible professions meet here another, yet related, question, namely, how to explain the greatness of the paternal figure on which authority is based. This is the problem Rousseau has to cope with all the time, as soon as he discovers that the magical force by which they operate has to be personal, that one has to have the law *plus* the magnetic personality. This is also why Shklar is so puzzled by the fact that of all Rousseau's images of authority, the legislator is the least well drawn and the least convincing figure. They have to have an example, so impressive that it inspires the wish to imitate – the guiding hand, of course, has to remain hidden. The real legislative authority is supposed to prevent perversion, like Emile's tutor, and he has to be a Godlike creature as well, like Wolmar, a *subject who is supposed to know,*[6] creating a kind of psychic dependency that is the condition of possibility, the necessary condition for freedom and order.

Instead of speaking about the tension between the actual and the ideal, doubtfully possible – or impossible at all – we have more likely to do with the instancy of the law, the name of the father, on the one hand, and the characteristic of greatness itself, the greatness of the great man, which, according to Freud's analysis in *Der Mann Moses und die Monotheistische Religion* (1939a),[7] is not to be measured by their work, the products of their activity, but by the way they influence the others, by their broad impact and fascination.

Namely, when Rousseau mentions the concrete examples of the great legislators, he says: Licurgus, Numa and Moses, or Numa, Solon, and Moses, and this puzzles Rousseau's interpreters very much.[8] The Spartan and the Roman are brave heroes, of course, since the myth of antiquity was so important for the Enlightenment, but why Moses, why this figure from Jewish, not Christian, religion?

Here again we have the two images of Moses, the image of the great legislator and that of *faiseur des miracles,* a miraculous personality, and it has nothing to do with, or should at least be taken apart from, the *légation divine.* But it has to do with Rousseau's invention of the paternal instancy, reinvented by Freud,

5. *Cf.* J. Château, op. cit., p. 189. On »negative education« *cf.* J.-J. Rousseau, *Emile ou de l'éducation, Oeuvres complètes,* Vol. IV, Bibliothèque de la Pléiade, Paris 1969, p. 323 ff.
6. *Cf.* J. Lacan, *Les quatres concepts fondamentaux de la psychanalyse,* Le Séminaire XI, Seuil, Paris 1973.
7. *Cf.* S. Freud, *Der Mann Moses und die Monotheistische Religion* (1939a), *Studienausgabe,* Bd. IX, Fischer, Frankfurt/M 1975, p. 455; cf. also S. Freud, *Massenpsychologie und Ich-analyse* (1921c), *ibid.,* p. 61.
8. *Cf.* B. Baczko, »Moïse, législateur...«, in S. Harvey, H. Hobson, D. Kelley & S. S. B. Taylor (eds.), *Reappraisals of Rousseau.* Studies in honour of R. A. Leigh, Manchester University Press, Manchester 1980, p. 111-130.

where Moses is put into relation to Oedipus and to its beyond, to the basic impossibility of its resolution.

Whereas Lycurgus, Numa and Solon are the embodiment of an ideal, the pure negative of the present-day tyranic kings and governors, Moses represents the other side of the coin. His magnetic personality, as Rousseau puts it, his secret, hypnotic power derives from what Freud calls the uncanny, *das Unheimliche:* »something archaic and very well known,« which has been subjected to repression. The hypnotism of the archaic places thus Moses, beyond the series of the great legislators, into a quite different line of succession. Together with the primal father, *Urvater,* he represents a horrifying image of the big Other, a tribute to be paid to enter into civilization and the reason of its discontents. It is the side of the paternal instancy which opens the dimension of *the real,* of the impossible – an irreductible remnant and a residue of *the symbolic.* It is the other, darker side of the legislator, of this symbolic instancy of impersonal law, decribed by Lacan as an instancy of wholeness, of horrifying, unavoidable presence.

One of the main difficulties in interpreting Rousseau's work lies in its ambiguous, even contradictory nature. The theoretical tensions and conflicts seem to be so powerful that many interpretations, compared to each other, ended in the extreme opposites: Rousseau was proclaimed to be either totalitarian or liberal, promoting the civil society or the state, pure individuality or strict collectivity, not to speak about the discussions about his influence on the French revolution. This duality and contradictions should not be understood only as useful contradictions, showing us where a new concept has been produced and thus where to proceed, but as indicative of the basic position of his philosophy.

The latter could be grasped through the break in Rousseau's interpretations, brought about by Ernst Cassirer.[9] Here the famous unity of Rousseau's work, no less famous than his contradictions, is put into relation to Rousseau's place in the philosophy of the Enlightenment. Rousseau's claim for universality, for an all-round picture of humanity, is but the counterpart, the other side of the coin of Rousseau's, as Cassirer puts it, »passionate fight with his time,« and his being »the most dangerous enemy« of the Enlightenment. If Rousseau could be regarded as the central figure of the Enlightenment philosophy, it is precisely because he managed to displace its central point, not from reason to sensibility, from rational to irrational or from philosophical deduction to the nostalgic daydreaming, but to displace it »from the inside,« to point out its irreductably contradictory and deconstructive nature. He did so, not by turning away from it, but quite to the contrary, by deepening the project of modernity beyond its very limits.

9. *Cf.* E. Cassirer, *The Question of Jean-Jacques Rousseau,* Yale University Press, New Haven and London 1989, and his Philosophy of the Enlightenment, Beacon Press, Boston 1959.

For Rousseau the only possible solution is the very perverted, alienated civilization that he attacks as thoroughly as nobody else. The corrupted society becomes the foundation, even a new beginning, beyond any political revolution. But this one as well, of course, is marked by a constitutive impossibility, not only of the negative, say, natural and non-perverted education, but also of the government, for we have to live in monarchy, since nothing better is or could be available. The doing away of the monarchy, as unsatisfactory as it might seem to Rousseau and his contemporaries, could lead us only to an even worse solution, to despotism. On the other hand, we have the counterpart of the third of Freud's impossible professions, of analysis, in the paternal function, exemplified in Rousseau's therapeutic and palliative image of authority, in Wolmar. Here again, there is no way back, just as it is not possible to return to the state of nature, and in a certain sense also no way out, no future. As divine and as irreproachable Wolmar's procedure might be, the impossibility itself, *the real* in Lacanian sense of the word, turns out to be the ultimate reality: Julie cannot do anything else but commit suicide.

In its own way, the very solution to the perverted universe, the education of Emile, seems to be perverted as well, since we need a whole life, full time equivalent job of a tutor, one tutor for one child. And if that condition could somehow be fulfilled, the aim of education would perish anyway, as soon as the tutor would not be under the constant surveillance of his tutor, not only in his childhood, but all the time. In that very moment, the marriage with Sophie, which is supposed to engender the new human race, would become, like in Emile, a total disaster. Although the education is thus, at least for Rousseau, asymmetrical as regards to the other two professions, so to say, slightly more possible as they are, it at the end turns out to be an illusion, a necessary illusion as the only way out, and at the same time, the very source of the civilizational discontents he wanted so passionately to do away with.

But Rousseau, who was the first to point out the inner crack of the Enlightenment, did not identify himself either with the tutor or Wolmar, nor with any other images of authority. He identified himself with Saint Preux, with someone who has to submit to authority and to total dependency, with someone who is not able to find the way out of the perishing world. And the more he inclined to the self-sufficiency of the life outside society, the more he was aware that authority, forcing the man to live in freedom, as Rousseau says in *Social Contract,* is not just irreductible. The paternal authority, the father as a symptom, the instancy of otherness, of the outside, is for the father of the modern – or should one say postmodern? – theory of the state the very constitutive moment of the human condition. Rousseau's attitude towards the instancy of authority was as ambiguous as his work is with regards to all the other crucial points of his philosophy, but he never really believed that the total liberation, the disappearance of authority could, in principle, be possible.

If Sparta and Rome perished, what can endure? Speaking about the great legislator and paternal images of authority, Lacan's answer to this Rousseau's question would be: the archaic, the real, the impossible.