

Locating Rousseau's Legislator in The Social Contract

Unlike other noteworthy political philosophers such as Thomas Hobbes or John Locke, Jean Jacques Rousseau is the only political philosopher to include a legislator in his fundamental

doctrine. Some have argued that the role of the legislator is one of Rousseau's weakest points. In fact, Rousseau himself acknowledges the challenge of the legislator: "Thus in the task of legislation we find together two things which seem to be incompatible: an enterprise too difficult for human powers, and, for its execution, an authority that is no authority."¹ Clearly, it is difficult to define exactly what role the legislator plays in Rousseau's *Social Contract*; however, when viewed in light of the ancient guardians in Plato's *Republic*, the role of the legislator becomes less obscure. One cannot help but notice fundamental similarities between the superior character, intelligence and communicative skills of the legislator and the guardian. Their ultimate purpose and legitimacy differs, however, in that the legislator plays a more esoteric role in his relation to the people to order to persuade them of his ideas. Conversely, the guardian's purpose is one of enlightenment through reason since persuasion is never necessary. Furthermore, both of the philosophers' works are the result of different time periods. Unlike Plato, Rousseau must account for the modern tradition of individual consent to political legitimacy. This paper will analyze the similarities between Rousseau's concept of the legislator and Plato's concept of the guardian. It will also explore the critical differences between the two.

Just as in Plato's days of antiquity, Rousseau requires the modern legislator to be intellectually superior and morally sound. This is one of the great similarities between Plato's guardian and Rousseau's legislator. Only those capable of high intellectual pursuits without accompanying pleasure pursuits are worthy to discern the rules of society. As Rousseau states, "In order to discover the rules of society best suited to nations, a superior intelligence beholding all the passions of men without experiencing any of them would be needed."² This ascetic

¹ Jean-Jacques Rousseau, *The Social Contract, A Discourse on the Origin of Inequality, and A Discourse on Political Economy* (Stilwell: Digireads Publishing, 2005), 20.

² *Ibid.*, 19.

lifestyle free of intemperate passions is very similar to the simple lifestyle of the guardians. Rousseau goes on to highlight very Platonic ideas for the legislator such as finding happiness in ways independent of the people's common idea of happiness. However, the legislator must be able to understand the people's concept of happiness. The legislator, in other words, identifies with the people, but remains looking in as to preserve his perspective of the good.

The legislator's communication with the people, a second similarity, exhibits additional Platonic elements. Plato introduces the ideology of the *Myth of the Metals* to allow the people to understand why the guardians must rule. According to Plato the real reasons are too far advanced and complicated for common folk, thus a story must be told: "It is true, we shall tell our people in this fable, that all of you in this land are brothers."³ Rousseau recognizes this need as well: "Wise men, if they try to speak their language to the common herd instead of its own, cannot possibly make themselves understood."⁴ Rousseau concludes that the herd is too selfish to understand broader aims of government. The people will only demand the functions of government that help their particular interest, not the general purpose. Thus, a legislator must be able to communicate the laws that are best for society through conventional methods. Plato similarly proposed rule by the guardians, which was best for the people. By employing this ideology, however, Rousseau by no means devalues the importance of the general will. It is, in fact, this general will, a result of modern political thought, which sets Rousseau apart from Plato.

The state of Plato's guardians and the state of Rousseau's legislators are the result of very different time periods and different philosophical traditions. Even though Rousseau is the only modern philosopher who meets the ancients on their own terms, he still must partake in the

³ Plato, *The Republic of Plato* (Oxford: Oxford University Press, 1941), 106.

⁴ Jean-Jacques Rousseau, *The Social Contract, A Discourse on the Origin of Inequality, and A Discourse on Political Economy* (Stilwell: Digireads Publishing, 2005), 20.

modern dialogue demanding his attention. Thus, Rousseau is similar to Plato, but different due to the political thought of the time period surrounding him. As Patrick Riley points out in his article *A Possible Explanation of Rousseau's General Will*, "The general will has continued to be taken seriously because it was an attempted amalgam of two extremely important traditions of political thought, which may be called roughly, ancient 'cohesiveness' and modern 'volunteerism.'"⁵ Rousseau is one of the last philosophers that attempted to bridge these two paths of political thought. In the role of the Rousseau's legislator, these two conflicting traditions merge to create the general will. The general will, in turn, is the fusion of the individual's consent to a political system with the preservation of the community's idea of the common good.

These fusions cease to take place when stark differences are examined. A fundamental dissimilarity between Plato's guardian and Rousseau's legislator is the purpose for which they occupy their position. While Plato's guardian seeks to enlighten himself and thus enlighten society by ordaining through philosophy the higher purposes of life, Rousseau's legislator lacks the will, time and means to do so. Instead of enlightening, he must persuade. In contrast to the guardians, for the legislators, "it is not a matter of teaching me what justice is but of showing me what interest I have in being just."⁶ Through methods other than reason, the legislator persuades the people to consent to his decisions regarding the law. This appeal to the general will shows how Rousseau values the general above all else. In fact, at every assembly of the people where a legislator would be present expounding his ideas, Rousseau dictates that two questions be asked: "The first is: 'Does it please the Sovereign to preserve the present form of government?' The second is: 'Does it please the people to leave its administration to those who are actually in

⁵ Riley, Patrick. 1970. "A Possible Explanation of Rousseau's General Will". *The American Political Science Review*. 64 (1): 86-97.

⁶ *Ibid.*, 40.

charge of it?”⁷ Contrastingly, the guardians would hardly foresee a need to partake in this community-wide questioning.

Another fundamental difference between Rousseau and Plato can be seen by an examination of how Rousseau defines the role of the legislator. Unlike the guardian, the legislator must earn his authority through persuasion. He must prove that his proposition put forth is the best. Rousseau acknowledges the constraints of this difficult position: “The legislator therefore, being unable to appeal either to force or reason, must have recourse to an authority of a different order, capable of constraining without violence and persuading without convincing.”⁸ This is clearly contrary to anything the guardians would encounter because they exercised authority without question. Rousseau’s position also starkly diverges from his contemporaries such as Hobbes and Locke. While Hobbes was a proponent of force and Locke an advocate of reason, Rousseau condemns both!

It is critical to examine this divergence from reason given the context during which Rousseau was writing; reason, above all, was most valued because everything was believed to be made transparent through reason. Rousseau goes so far as to condemn the ancients for their use of reason in the *Discourse of Inequality*: “Although it might belong to Socrates and other minds of the like craft to acquire virtue by reason, the human race would have long since have ceased to be, had its preservation depended only on the reasonings of the individuals composing it.”⁹ Rousseau’s problem with reason is that it has spoiled the natural goodness of the state of nature. Man, due to his natural compassion, already knows what is good. Reason only isolates the individual and produces unnecessary cares and toils. Since society twists and perverts man, laws

⁷ Ibid., 48.

⁸ Ibid., 20

⁹ Ibid., 97.

are necessary. Although reason has diluted society, Rousseau argues that it is only reason that can fix it.

Since the legislator cannot rely on reason, Rousseau proposes a fairly musical means of giving the legislator legitimacy. The alternative is persuasion, which is based on feelings. Rousseau argues that for people to be able to support such a legislative institution of government there must be some “social spirit, which should be created by these institutions, would have to preside over their very foundation...”¹⁰ It is the legislator’s job to inspire this feeling. Perhaps this is why Rousseau was so interested in a great initiator of feeling, namely, music. Music could express and induce feelings that words never could. Colm Kiernan notes in his article on *Rousseau and Music in the French Enlightenment* that Rousseau opposed the leading music theorist of his day, Jean-Philippe Rameau, arguing against Rameau’s insistence on mathematical relationships in music. Rousseau, instead, emphasized the primacy of melody and opposed Rameau’s objectification of music.¹¹ This seems most consistent with Rousseau’s arguments against reason and for the natural state of man in his *Social Contract*. Just as man is most happy and free in the state of nature, music is best enjoyed unrestricted and free from its modern analytical framework.

In addition to Rousseau’s emphasis on feeling, it is critical to note how he connects feeling and persuasion to the divine and celestial in lawmaking. For instance, in the chapter on the legislator, Rousseau references how Judaic law is still respected because of how it was ordained: “The Judaic law, which still subsists...still proclaim the great men who laid them down; and while the pride of philosophy...sees in them no more than lucky impostures, the true

¹⁰ Ibid., 20.

¹¹ Colm Kiernan, “Rousseau and Music in the French Enlightenment,” *French Studies Journal* 26(1972):156.

political theorist admires, in the institutions they set up, the great and powerful genius which presides over things made to endure.”¹² Not only does he speak against the fallacies of philosophy and reason, but upholds what his contemporaries would consider negligent in modern political thought. It follows that since Rousseau so emphasizes general will and equality, the legislator must be able to appeal to a higher power to obtain his legitimacy. The legislator’s connection with the divine and with the people gives rise to his authority and power: “It is the great soul of the legislator which can move people.”¹³ Rousseau is quick to clarify, however, that “politics and religion have among us a common object, but that, in the first periods of nations, the one is used as an instrument for the other.”¹⁴ Nevertheless, civilized religion and moral spirit are necessary to instruct the people and give the legislator legitimacy.

As the father of the Romantic Movement, Rousseau certainly embodies the reaction to the Enlightenment’s severance of humanity from society. Based upon his idea that man is essentially good, it is apparent that there is no need to have an overly authoritative legislator. Similar to Plato, Rousseau recognizes the legislator’s role in drawing out the “good”: “...although the law does not regulate morality, it is legislation that gives it birth.”¹⁵ Composed partly from both Platonic influences and the modern era, the legislator plays a critical role in society. Not only does he persuade the people that his ideas are worthy of their consideration, but takes on the role of a moral leader with a Platonic eye for the good in life. From a broader historical perspective the comparison of the legislator and the guardian display how one era

¹² Jean-Jacques Rousseau, *The Social Contract, A Discourse on the Origin of Inequality, and A Discourse on Political Economy* (Stilwell: Digireads Publishing, 2005), 21.

¹³ *Ibid.*, 20.

¹⁴ *Ibid.*, 21.

¹⁵ *Ibid.*, 60.

learns and builds from another; it is evident that Rousseau's legislator is deeply seated in the philosophy of antiquity. Consequently, a more complete understanding of Rousseau's legislator is reached when Platonic overtones are evaluated.

Bibliography

Colm Kiernan. "Rousseau and Music in the French Enlightenment." *French Studies Journal* 26 (1972):156.

Jean-Jacques Rousseau. *The Social Contract, A Discourse on the Origin of Inequality, and A Discourse on Political Economy*. Stilwell: Digireads Publishing, 2005.

Plato. *The Republic of Plato*. Oxford: Oxford University Press, 1941.

Riley, Patrick. "A Possible Explanation of Rousseau's General Will". *The American Political Science Review*. 64 (1970): 86-97.