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**The Sovereignty of Governed Populations: An Inquiry into the Displacement
of the Common Good in Modern Political Thought**

By Herminio Meireles Teixeira, B.A. Honors, M.A.

A thesis submitted to the Faculty of Graduate Studies in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy

Department of Political Science
Carleton University
Ottawa, Ontario
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**The Sovereignty of Governed Populations: An Inquiry into the Displacement of the
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submitted by

Herminio Teixeira, B.A.H., M.A.

in partial fulfilment of the requirements
for the degree of Doctor of Philosophy

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ABSTRACT

This thesis is not strictly speaking an examination of the state of the common good in modern political thought. As the Introduction will explain, the object of this study is a conceptually precise analysis of the historical rupture and displacement of the common good with the emergence of new domains and forms of modern governance in the latter part of the eighteenth century. By historical “rupture and displacement”, we mean that the traditional concept of the common good has broken with its foundations in the legal framework of Sovereign Right, and been modified into the multi-form tactics of an increasing governmental power over the life of living individuals and populations. The displacement of this historical rupture occurs in the fact that, in turn, the foundations of modern governance no longer reside within the constitutionality of Sovereign Law. Instead modern governance is founded on multiple and extra-legal domains of popular life that are linked by what Michel Foucault has aptly called the growing bio-power of the bio-politics of modern “governmentality”. Thus, we contend that the problem of justice should no longer be posed in terms of how the constitutionality of sovereign jurisdictions serve the common good. Rather, we suggest that the problem needs to be articulated as an increasing governmental power over our lives. This realization that the foundations, tactics and techniques of modern governance *are the* problems for justice, can help us to re-articulate new ways of resisting such governance, while developing the inherent capacities to govern our own lives.

There are two parts to the argument. Each part is comprised of two chapters. The defense of the argument then unfolds as follows:

Part One examines two paradigmatic but contrasting accounts of the centrality of the common good in ancient and early modern sources of the study of politics. In chapter one we show how Aristotle understood the nature of the common good as the political apogee of an art of ruling founded on the excellences of virtuous rule and its required regimes. Chapter two examines the work of Thomas Hobbes as a sustained rejection of the Aristotelian tradition. We show Hobbes depicting this tradition of regimes of virtuous rule as politically dangerous and undesirable due to the excessive demands they place on a human nature that is more truly defined by the motions of its passions than by the wisdom of its reason.

Part Two targets the rupture and displacement of the common good into domains that are revealing of a governmental power over life. Chapter three analyzes the reversal and transformations of the relationship between sovereignty and government in the work of J.J. Rousseau (amongst several other writers of the period). In Chapter four we reveal the emergence of new domains of governance defined by the bio-politics of modern governmentality. Our conclusion then examines how a genealogy of modern Liberalism may in fact reveal that its discourse of rights is not founded on the efficiency of markets, or its administrative procedures, or even the legal recognition of national communities. Its rights may in fact reside with tactics of social resistance against the very forms of governance they were born to sanction in the broadest sense of the word.

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Para os meus pais, Almerinda e Armenio

Mindo

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Introduction

This study began as an inquiry into the question of the common good in modern political thought, but detoured into a necessary analysis of the powerful role of modern government. We say that it «detoured into a necessary analysis» because we found it a requirement that our study take seriously the historical transformations and re-constitutions of the theme of the common good. To take seriously the detours of history does not mean however that one only has to examine historical conditions and contexts, that one need only become a historicist and chart the changing evolution of a central political concept such as the common good. Detours force us to adapt the understanding of things to the discontinuities of an historical evolution. They make it necessary to think differently about historical origins, often forcing us to realize that we have to look to other places and figures, in order to understand where we are. If we face up to the limits and constraints of history, to the play of her finitudes, she makes wanderers of all who seek to understand their present. And perhaps this is as it should be for anyone who inquires into the history of their present. For what else is a history of one's present than the realization that the study of what one was must serve life, if it is to help us take hold of what we are becoming?

So what did our historical inquiry into modern modifications of the common good reveal about what we are becoming? That the common good, at least since the latter part of eighteenth century, no longer occupies its central place as the

goal, the meeting place, of the forces of political struggle. It has become, so we will argue, at best the juridical instrument for a governmental power over life. We believe Michel Foucault rightly described this transformation as a problem of «governmentality».¹ We will show that this term accurately describes a dominant form of modern governance that is no longer circumscribed within a common good expressed in the constitutionality of its highest law. Governmentality means, more fundamentally, that government justifies its existence, wagers it in fact, on the living conduct and vitality of populations. Modern government has become vital. Its role is not to rule the nature of political action, but to constitute the life of living populations.

One of the best indications of this is the historical dissolution of a need, beginning at least in the seventeenth century and coming to fruition in the eighteenth. Without a trace of nostalgia, let us call this «need» the key figure seen to emerge from political struggles over the common good: the nobleman, the virtuous, the awe-inspiring Sovereign, in short the figure whose words and deeds craft and display an art of ruling and/or the superior force of sovereign power. We are not seeking here the price of the disappearance of this art of ruling. Nor are we simply questioning the nature of its replacement. This is the case for a very simple reason. It is a reason that has very much to do with the effects that detours and discontinuities have on the historical constitution of certain concepts and

¹ Michel Foucault, «La Gouvernementalité», in Dits et Écrits, volume two, (Paris : Éditions Gallimard, 1994), pp. 635-656. Subsequent references will be made to this edition.

rationalities. Said simply, the art of ruling the limits of the common good into existence was not replaced. It was displaced. This means it turns up in other places, other neighboring practices, with other constraints, other rules of constitution and veridiction, and therefore other problems and roles. And yet this displaced common good retains the same name.

The virtue of a ruler, or even the power of a Sovereign, takes its bearings from public places, from the theaters of actions, words and events. Even a solitary (to not use the legal sounding «private») activity, such as the writing and reading of texts, can unfold as a ruling event if it successfully questions the political limits of these theaters of public life. These theaters could be political assemblies, public gatherings and events, or, at the limit of these, the grounds for emerging warfare. Up until the eighteenth century of western political history, there were essentially two types of responses to the potent power exhibited in these theaters of public and political life. The first demanded a capacity to participate in their customs and norms, and sought to cultivate the dangerous limits of actions and speeches into the best kind of political rule possible. Knowing the ways the different political regimes ruled was therefore crucial in two paradigmatic ways. Firstly, knowing how to act for or against political regimes was essential to one's ability to secure the goods of life itself: one's body, one's family, one's home and community. Secondly, and of a different but higher order, this practical knowledge of ruling regimes is what allowed one to rise above concerns for the maintenance of life itself (oeconomia), and transform one's existence in line with the different and greater good that is political life. Indeed, in this response, the common good is necessarily

circumscribed by how different political regimes rule the public actions, words and deeds of their citizens. An exemplary figure of this first response is Aristotle.

But because this response was dependent on the virtue of these regimes that serve the common good, many modern detractors will decry its historical infrequency, the fragility of its endurance, and even the justness and soundness of its practicality.

Seeing itself as modern, the second response looks at these theaters of human action and fears the passionate demands and political expectations they place upon both ruler and ruled. The common good of political life therefore has to be secured in advance of the political regimes that emerged as the rule of human associations. Indeed, the actions leading to the earliest of human associations is now a fundamental problem for the institution of political power. One can even say a different common good will in fact be shaped by political artifices of security, by concerns for the sustainable development of life itself. As we know today, in our present, these concerns have become planetary.

These concerns were being spoken of regularly in the vocabulary of seventeenth century political thought, as the problem of Sovereign unity. Here, in this second response, Thomas Hobbes will constitute our primary exemplar.

This second response, as we will see in our second chapter, radically rejects (for reasons of security) the positive and most active element of the classical art of ruling. It rejects its participatory ethic as dangerous, and the virtues of its ruling powers as dubious. But it retains the hierarchy of rule in the unity of its legislative offices, and in the frightening and anxious images they

impress upon the imagination; namely, the power of political artifices to extract death in return for life. Though this sovereign right to extract death affirms the awesome brutality and therefore utility of the sword, it does so because it desires peace. To desire such peace is to realize, so we contend, that there are those actions, events and realities of the human being with whom one wants, one needs, one *has* to make peace. The hierarchy of the art of ruling is therefore still effective here, but only because at the origins of their associations, human actions prove to be most worthy adversaries of the institutions of political power. At this point we will even make the unpopular claim that this classical liberal, Thomas Hobbes, was a quintessential peace theorist. The sword of his Sovereign, the artifices of his armour and body, are very real arms and defensive preparations born of the images of assaults, invasions, divisions and usurpation. His, to continue our unpopular claim, is a profound interest in a type of perpetual peace that the latter part of the eighteenth century can only conceptualize as a lapsed type of political knowledge; one progressively overcome and rendered a mere study in the errors of our past. Why do we think so? Because Hobbes's concepts afford a brilliant description of a field of political reality that, by the mid-eighteenth century, is radically dissipating as a foundation for the emergence of modern government. This field is what we have been calling the formidable theaters of human action. For Hobbes politics is defined by how it deals with the dangerous actions of these theaters. It must limit, divert, re-direct and obviously eliminate them when and if necessary. Because of these theaters, the perpetuity of his concept of peace simply can not be experienced as a structured field of

reality that could govern the possibility of these dangerous actions in advance of their appearances. Instead (and what a good seventeenth century peace theorist he was!) Hobbes's perpetuity is one of constant preparedness to fight for peace, to defend it, to redeem it, to imagine it, to rationalize («ratiocinate») it, to plan for it, and, of course, to procure the enjoyment of it in the security of «commodious living».

Readers of Rousseau know full well that the concept of government in du Contrat Social was to be expanded into a global project for international relations and the possibility of a truly perpetual peace. Though it never came to fruition, he did write some critical commentaries on the revered Abbé Saint-Pierre's work on perpetual peace.² But, and this is the most important transformation we studied, his government of perpetual peace *is* the living possibility that one could structure fields of actions such that one governs their appearances and disappearances. This is why the political concepts of Rousseau's texts are often pointing to different places when he purports to decipher the common good (i.e., «the General Will»). His political works (and many others of the period) reveal an intense attention paid to governing practices that *do* seek to structure the possible fields of action of living bodies. This is the problem of government as it exists for Rousseau. It is simply not a possibility, even non-existent, in the imagined political realities of the likes of

² See Jean Jacques Rousseau, Oeuvres Complètes, four volumes, (Paris : Bibliothèque de la Pléiade, Éditions Gallimard, 1964). All subsequent references will be made to this edition of the original French works. For the reference to the «project» see the last chapter of du Contrat Social; *ibid*, volume III, p.470. For the commentary on the Abbé's project, *ibid*, volume III, p. 591-600.

Hobbes and/or Montesquieu. Their political problems of governance are wholly confined within the framework of Sovereign Right and the constitutionality of the law. Rousseau's problem is a radical displacement of this. Simply put, we will show that his problem is articulated as a need to conduct and constitute the subjects, and objects, of political power, not administer to their actions. As we will show in Part Two of our study, Rousseau describes governing practices that do not exist in the guarded places of Sovereign Law. They are found, rather, in the structured fields of living bodies tending to their own vitality. We will see the radical politicization of new things, such as the health and hygiene of populations, the fecundity of women's bodies (not at all the same as administering to birthrates, which is as old as ancient Greece and Rome), the discipline and productivity of laboring bodies, the political administration of childhood itself, to list a few of his new governmental jurisdictions. It is our view that a genealogical history of this transformation of modern government affords us the most persuasive explanation. But this leads us into methodological concerns.

Having described what our thesis is, let us bring its objective into even greater relief by explaining what it is not. This will also serve to clarify the methodology we have already referred to as a genealogical history of the concept and practices (indeed the concept as practice) of modern government.

This study does not follow the philosophy of the history of government. Nor is it an attempt at a history of ideas in context. It is definitely not another assessment of the arguments that moral and social philosophy present to modern government. These are all venerable traditions with established contributions. This

is also why what follows is not another series of studied insights into the essence of an author's, or an historical period's, political thought. Our objective is *not* to decipher the thought of the following thinkers, though we describe the emergence of key concepts and rationalities in their works : of Aristotle, Hobbes, Montesquieu, the Marquis d'Argenson, Rousseau, or Foucault for that matter. As genealogical descriptions of the transformations and re-emergence of the modern concept of government, we borrow an approach that is very much a Nietzschean one. But as a genealogy we also see it working much in line with what Foucault called a *critical history of concepts and knowledge in struggle*.³ Foucault's own reading of Nietzsche's use of genealogy demonstrates the approach of this critical history very effectively. An explanation of some of its key features should suffice as an explication of our methodology.

Genealogy takes seriously the nature of breaks, ruptures or discontinuities, of those finite but decisive struggles, in the historical constitution of knowledge and human experience.⁴ By taking them «seriously» we mean we try to describe the small but crucial modifications and/or correction of fields of experience and objects of knowledge (or especially human experiences constituted as objects of knowledge), such that the rules (or norms) identifying the true and the false of entire

³ See Michel Foucault, Power/Knowledge : Selected Interviews and Other Writings, 1972-1977, translated from the original French by C.Gordon et al (N.Y. : Pantheon Books, 1977), p. 85 (*italics mine*).

⁴ See especially the seminal essay, which we rely on heavily, «Nietzsche, Genealogy, History», in Language, Counter-Memory and Practice : Selected Essays and Interviews by Michel Foucault, translated from the French by D. Bouchard (N.Y. : Cornell University Press, 1977), pp. 139-164.

domains of human experience, are transformed and displaced. A good example comes from the work of the noted historian of biology and medicine, Dr. Georges Canguilhem, whose works Foucault found very useful.⁵ He shows in his studies of the actual evolution of the scientific concept of «régulation», that it emerges in eighteenth century theological problems regarding the nature of God's governance of His creations. But by the nineteenth century this theoretical problem of theology and astronomy starts to emerge elsewhere, as social and organic fields for the regulation of the conduct and health of bodies. This becomes a verifiable truth with the advent of Bernard's clinical pathology.⁶ Foucault also describes this approach quite clearly in the following explanation of the effects of historical displacements: "They show that the history of a concept is not wholly and entirely that of its progressive refinement, its continuously increasing rationality, its abstraction gradient, but that of its various fields of constitution, that of successive rules of use, that of the many theoretical contexts in which it developed and matured."⁷

These «various fields of constitution» are the precise descriptions of the displacements effected by the modifying limits, the corrections and modifications, of

⁵ For confirmation of his debt to Canguilhem's works, see Foucault's introductory essay to the second edition of the former's, On the Normal and the Pathological, translated by Carolyn R. Fawcett (Boston: D. Reidel Publishing Company, 1966), especially pp. xviii-xx, for his innovative relating of Canguilhem's critical history of concepts and rationalities with Nietzsche's genealogical approach to history.

⁶ See Ideology and Rationality in the History of the Life Sciences, translated by Massachusetts Institute of Technology Press, (Boston: Massachusetts Institute of Technology, 1988), pp. 94-99 especially.

⁷ Michel Foucault, The Archeology of Knowledge, translated by A.M.S. Smith, (N.Y.: Pantheon Books, 1972), p. 4.

the historical constitutions of knowledge. To put it succinctly, what founds the truth of an historical and political reality like government, is often found in other places. For example, one that illustrates the heart of our thesis, Rousseau writes as if he is addressing the same reality and stated problem as his predecessors, such as the natural rights theorists; namely, the problem of the true and legitimate foundations for modern «gouvernement». But we will show, especially in our fourth chapter, that Rousseau's foundations *do not* reside in the sovereignty of the law and its institutions. They *do not* therefore emerge from that originating and freely given consent of the governed. Unlike Hobbes and the entire natural rights tradition, Rousseau does not target the problem of true human experiences (i.e., the role of the passions) that could then be used to constitute the best form of sovereignty. Instead, there is occurring in his work an effort to devise a political form of sovereignty that can best constitute the truth of human experience. This is not simply a reversal of priorities, for what emerges in the transformation is a new and more efficiently accessible field upon which to found a truly modern government. He finds and founds his true foundations on the actualities of the life of living populations. And the rules for these true foundations operate not as a ruling art, and/or a representation of the contracted wills of citizens. They work now to render actual (true) the conduct, constitution, production and reproduction of bodies and populations as founding realities.

In Rousseau, so we will see in the two chapters of Part Two, modern government is constitutive of its own foundations: the assembled life of its population. As Foucault describes the relationship between genealogical histories

and the origins of supposed immobile foundations : «It is no longer one of lasting foundations, but of transformations that serve as new foundations, the rebuilding of foundations.»⁸

As a last word, one should explain how genealogical histories treat the sanctity of the origin, for in the study that follows we admit to soiling and dispersing those guarded origins of peoples that governments know all too well how to deploy as a power over life. We know, do we not?, that they claim to do so «legitimately», all in the hallowed name of sovereignty. But up close, as we just noted, we will see how modern government (since the eighteenth century) finds the crisis of its sovereignty in and around the conduct of bodies, families and populations. And yet does this not risk becoming just another genealogy of an origin, such as the government of peoples and/or the mapping of national destinies? In other words, are we not merely replacing one foundational origin (popular sovereignty) with another («governmentality»)? Does this not amount, then, to yet another attempt to identify and recover the historical and political legitimacy of an origin? Following Foucault and Nietzsche, we do not agree that such conceptions of historical origins can characterize the effectiveness of an historical genealogy:

On the contrary, to follow the complex course of descent, is to maintain passing events in their proper dispersion; it is to identify the accidents, the minute deviations – or conversely, the complete reversals – the errors, the false appraisals, and the faulty calculations that gave birth to those things that continue to exist and have value for us;⁹

⁸ Ibid, p. 5

⁹ Op. cit. Foucault, *Language Counter-Memory and Practice*, p. 146.

Perhaps this study can help us to conceive of the modern government of the conduct of populations as a dangerous historical error, but one that «... gave birth to those things that continue to exist and have value...» for our lives. And what would these be according to our study of the common good and modern governmentality? These, we believe, would be the ways of governing our own lives as the critical problem opposed to governmentality.

The following is a summary of the four chapters (in two parts) in which the trajectory of our genealogy will unfold:

In the first two chapters of Part One, we simply explore and describe two paradigmatic, but different, understandings of the common good : Aristotle's art of ruling and the virtues of its political regimes, and Hobbes's turn to regimes of security and the unity of Sovereign Offices. Their descriptions constitute the important background for the profound historical and conceptual break studied in Part Two. In chapter one of Part One, we examine Aristotle's emphasis on the art of ruling and the different ways it is practiced in the different domains and experiences of those fundamental kinds of human associations : the household and the political cultivation of the good life. The careful distinction and relation of these different realms of the cultivation of virtue, is where we situate the critiques and classification of the different regimes according to the justice of the common good. Here, it will be shown that the common good is clearly identified with regimes that rule on the basis of political and civic virtue, and not on the management of the life of the living.

In the second chapter, we show an undermining of a political common good founded on traditions of the ruling virtues. At the origins of the liberal tradition, we find figures such as Hobbes contending that the nature of human beings and their fundamental associations simply does not sustain such ruling hierarchies and/or teleologies. They are dominated by the movements («endeavours»), images and actions of the passions. To fail to address this politically, through the artifices of the sovereignty of the state, is seen as a dangerous vulnerability to the natural condition of warring multitudes. Hobbes's common good is founded on the philosophical-moral ideal of an artificial «Common-wealth» emerging out of the imagined war relations of the multitudes. His common good is the guarantee of peace and security, brought by the powerful sword of the artificial sovereign. His sword is seen as not just a repressive measure. It is also as a symbolic but very concrete and physical gesture. Its preparedness and motions recognize the always looming presence of a formidable adversary: the passionate and often vainglorious onslaught of human actions. Deciding the very possibility of their existence and/or appearance is simply not possible in this way of positing the problem of the common good.

Already in the short introduction to Part Two, we contend that the realities, both those imagined and concrete, of the above possibility is now available to Rousseau's concept of modern government. In fact, we believe it is accurate to describe his political reasoning about sovereignty as a governing of the common good into existence. But this only becomes possible with a radically new form of governance founded on a power over the life of living: especially the assembling

and generation of its populations. This is demonstrated in two different ways in chapters three and four.

Chapter three shows a historic reversal of the traditional (i.e., pre-eighteenth century) relationship between government and sovereignty. But it is shown to be not a simple reversal of priority and thus a crisis in the legitimacy of Sovereign Right. Instead it also focuses on a radical transformation of both the mode of governance and new extra-legal realities that are its own. Ones that are its own ends, its own reasons for being, and hence *not* those contained and finalized within the framework of sovereign law.

Chapter four completes this examination of the historical constitution of modern government, by precisely elucidating some of the new objects and subjects of governmental power. We call these the «new domains» of governance. In the concluding sections of this chapter we document and explain what we understand as the «displacement» of the common good by modern «governmentality». We elucidate these other places of the practice of governmentality, as the emerging «bio-power» of a new «bio-politics».

In our conclusion we explicate these terms and draw some implications of modern Liberalism and its antagonistic element of struggle for the government of our own lives.

PART ONE:

THE ART OF RULING, SOVEREIGN UNITY AND THE COMMON GOOD

But what might be called a society's 'threshold of modernity' has been reached when the life of the species is wagered on its own political strategies. For millennia man remained what he was for Aristotle: a living animal with an additional capacity for a political existence; modern man is an animal whose politics places her/his existence as a living being in question.¹⁰

Michel Foucault

¹⁰ The History of Sexuality, Volume I: An Introduction, translated by Robert Hurley (New York: Vintage Books, 1980), p. 143. Subsequent references will be made to this translation of the French original.

Chapter One:

The Art of Ruling, the Political Regime and the Common Good: Aristotle

It is relatively clear that the aim of achieving the common good is central to Aristotle's political writings. What is more difficult to discern, however, are the conditions under which the common good is said to either thrive or deteriorate. This is a difficulty that tends to persist precisely because the conditions that shape the common good are not solely and strictly political. The different ruling relationships and ends of family life are necessary conditions for the flourishing of politics. We must keep this consideration in full view even when, and especially when, Aristotle tells us explicitly for the first time in Politics (book III, ch.6) that political associations exist for the purpose (telos) of the common good. As he tells us regarding those individuals who no longer need to associate solely for the sake of mutual subsistence, "... it is also the case that the common advantage brings them together, to the extent that it falls to each to live finely."¹¹

It appears therefore that the common good will be determined by the forms of ruling which bring us together in the political pursuit of the good life. What we must be careful not to overlook, however, is how ruling relationships first emerge in the conditions of household management, and how these forms of rule continue to

¹¹ see Aristotle's Politics, book III, ch.6, 1278b20-25, translation by Carnes Lord (Univ. of Chicago Press, 1984), p.94. Subsequent references will be made to this edition and translation.

effect the development of political forms of rule even though these latter strive toward a clearly different telos; namely, the good life of virtuous living and not mere self-sufficiency. For in a follow up to his above statement concerning the role of the common good in the fostering of political associations, Aristotle has no problem accepting that some political partnerships may come together for no other initial purpose than the maintenance of life itself;¹² a purpose he seems to restrict to the life of the household in Politics, book I. This would suggest therefore that Aristotle is willing to consider political associations that pursue a common good that undermines its political nature. These associations seek the maintenance of life itself and not the good life. Their lack of virtuous rule (tyranny, oligarchy, democracy) and their deviation from the justice of the common good are what occupy the majority of Aristotle's critical analyses (up to books VII and VIII). Regimes that collapse their political rule into forms of household management are of great political concern to Him. What sphere of life the concern of the common good is to occupy therefore is not immediately clear to the political ruler. What is clearer is that Aristotle does go to great pains to separate the concerns of household management from the just and nobler pursuits of political life. It is less evident, however, that Aristotle holds this separation of household from political life as a formal principle from which the political concerns of the common good are then

¹²Ibid, p.94, 1278b25. He qualifies the centrality of the common good with respect to fostering political associations in the following way: "It is this [common advantage] above all, then, which is the end for all both in common and separately; but they also join together, and maintain the political partnership, for the sake of

to be handled. Instead, there is evidence to suggest that Aristotle conceived this important principle as an inherently conditional one. It is a separation that will develop if and when certain conditions are met that enable the political pursuit of the common good. These conditions can be lost early on with the unjust rule of a household manager, or later on with the political rule of an unjust regime that can have the reciprocal effect of deteriorating the stability of household rule.

In light of this, what we are considering here is how Aristotle understood that the reciprocal relationship between our household and political lives achieves its happiest result in the political emergence of the common good. We must elaborate further the manner in which our political concerns are said to rule over our household ones.

According to Aristotle, political matters that either promote or dissipate the common good are said to be the general concern of the two branches that make up what he calls political science (*politike episteme*): the capacity of the citizenry to deliberate rightly regarding the virtuous course of action, and the ability (embodied in the statesman and regime) to legislate laws (*nomoi*) in accordance with such a capacity.¹³ The difficulty arises once we realise that the fostering and/or hindering of the capacity of the former, and the ability of the latter, emerges in an area of human life other than political association; namely, in domestic life and the forms of

living itself. For there is perhaps something fine in living just by itself, provided there is no great excess of hardships."

¹³see Aristotle's Nicomachean Ethics, book VI, ch.8, 1141b27-1142a12, translation by J.A.K. Thomson (Penguin, 1953), p.213-214. Subsequent references will be made to this edition and translation.

rule of household management. Furthermore, it is by no means obvious that Aristotle has completed his discussion of the role of household rule with the beginning of book II of Politics. For just as the household provides the conditions for the emergence of the different life of the city (i.e., polis), a stable and just city must in turn take an essential interest, through its political form of rule, in maintaining the just and conditional autonomy of these earliest ruling relationships. Aristotle's own involved examination of perverted types of regimes in Politics, books IV, V and VI, is consistently underscored by the attention he pays to the debilitating effect these regimes have on the citizens capacity to live in accordance with the common good. In the extremes of oligarchy and democracy, for example, the citizens' capacity to reason politically according to what is best in common is undermined by the fact that the exercise of the art of ruling in these regimes cannot develop beyond that of the household.¹⁴ The strength of these extreme political claims to rule is in this respect always a test-case for the availability of households and public conditions which foster the common good.

¹⁴op. cit. Politics, bk.IV, ch.11, 1295b18-25, p.134. Speaking of the extremes of wealth and poverty in the rulerships of oligarchy and democracy, Aristotle describes their effects on the over-all functioning of the city as follows: "So the ones do not know how to rule but only how to be ruled, and then only in the fashion of the rule of the master, and the others do not know how to be ruled by any sort of rule, but only to rule in the fashion or rule of a master. What comes into being, then, is a city not of free persons but of slaves and masters, the ones consumed by envy, the others by contempt. Nothing is further removed from affection and from a political partnership."

Even when Aristotle directly attributes the ethical capacities of the citizenry to the laws and ruling effects of the political forms of association (i.e. regimes),¹⁵ he never does so without an underlying concern for how political rule affects the different and stabilising forms of rule in household life. Importantly, if this concern is so central for Aristotle, it is so because he knows that although political life should rule domestic life it is never the same nor ever constitutive of this latter domain. One notes this especially if one considers Aristotle's criticisms of ideal regimes, both actual and in speech, in book II of Politics.

The problem with these regimes (especially Plato's in Republic V) is not simply that they regress to forms of household rule, but, more importantly, they also erode the very practice and fabric of the art of household ruling proper. Phaleus' regime, for example, attempts to moderate the accumulation of possessions without first moderating the desires of those who may later seek to accumulate. Aristotle's criticism is not solely that Phaleus reduces political rule to property distribution, but he also omits the earliest forms of rule which first shape the capacities of citizens' souls to either moderate or capitulate to the darker forces of desire.¹⁶

We will see this even more clearly with Aristotle's insightful critique of Socrates' community of property, women and children in book V of Republic, and

¹⁵ibid, book III, chs. 1 and 4; see also Ethics, book X, ch.9

¹⁶Aristotle takes issue here with Phaleus for the inability of his scheme to account for how equality of education and property does not necessarily result in people choosing not to "...aggrandize themselves with respect to goods or honor or both." (op. cit. Politics, book II, ch.7, 1266b34-38, p.68)

the second-best city of Plato's Laws. Again, we hope to show here how the problem is not only that Socrates turns the polis into a household, but that he turns it into a household which would no longer provides the conditions for the development of virtue in one's political life.¹⁷ Most importantly, however, these are regimes incapable of achieving and/or serving the common good.

What we are investigating therefore is the full scope of Aristotle's understanding of the political emergence of the common good. In pursuing this further, we will need to address two fundamentally related issues. Firstly, we must closely examine what the common good is according to Aristotle's own observations in Politics and Ethics. Secondly, we must bring to light what these conditions are which foster the political emergence of the common good. This must be done while keeping the role and nature of the ideal regime (Politics books VII and VIII) in mind. For the ideal regime is not only a best of all worlds which Aristotle applies to concrete political life. Its own conditional character and detailed attentiveness to concrete circumstances, together with its special emphasis on the ethical education of the young, serves the purpose of setting the practical limits and

¹⁷The problem with unity in Socrates's city is not only that the city would dissolve into a household, but also the household would further dissolve into an individual (ibid, bk. II, 1261a15-25, p.56); in other words, the ruling relationships which serve the common interest of those belonging to the household, would now be consumed by the interests of one person; see also Ethics, bk. I, ch.2, 1094b1-10, where Aristotle makes clear that the purpose of the household (self-sufficiency) should engender the political community and not the autonomous individual; "For even if the good of the community coincides with that of the individual, it is clearly a greater and more perfect thing to achieve and preserve that of a community; for while it is desirable to secure what is good in the case of an individual, to do so in the case of a people or a state is something finer and more sublime."

possible options for bringing the common good into practice under available circumstances. Instead of contemporary uses of the term "ideal", which generally convey changes away from the present by way of an imaginative leap to an improved future, we will follow Aristotle's sense of the ideal in his uses of the expression «best regime». Here the ideal is a moderating return to the political phenomena of the present through an understanding of the regimes in their most complete form. Only by rationally apprehending what is best in politics, can we bring to light the existing conditions of the political present.¹⁸ As a result, the ideal is not an extrinsic guide for shaping political arrangements. It can never be an instrument for molding citizens into existence. Rather it is an essential way of revealing those limits (both domestic and public/political) that show a potential political emergence, or derailment, of the common good.

We will address these two central issues (the common good and the conditions of its emergence) by guiding the direction of our analyses in the following

¹⁸One can easily misconstrue here what Aristotle means by ideal, or "best" (arete). There is the best possible regime achieved under the most practical circumstances (Politics, books IV-VI), and the absolutely best regime possible given ideal conditions (Politics, bks. VII & VIII). The key to avoiding an undue separating or artificial relating of these two regimes, is to address the question why Aristotle would have anyone consider the choice of the best way of life and absolutely best regime (Politics, book VII, ch.1) if their actual political circumstances were not conducive to it (as the majority of actual circumstances tend to be). The most convincing answer, we think, is that a necessary and sufficient condition of what is invariably best are regimes which secure to their citizens the best life which their circumstances make possible. In other words, an essential criterion of what is truly best is that one first learns to do what is best under available circumstances. This is what we take Aristotle to mean when he tells us at Politics, book VII: "...for it is appropriate for those who govern themselves best on the basis of what is available

way: Respecting the teleology of the ideal regime, we will first seek to know the thing in its most complete form. Secondly, respecting the teleology of household rule, we need to understand how this is a different form of rule anchored to the good of life itself, but also a necessary condition for the political emergence of the common good. Thus, we will examine the political functioning of the common good under both ideal and conditional circumstances.

The problems of political justice and the proper distribution of goods and offices are central to our investigation. This confronts us with our first condition for the political emergence of the common good; this is the relevancy of constitutional rule and practice. Serving the common good will surely depend on the type of regime and constitution that is in place. What is a just distribution of offices in light of the competing claims to rule, which always surround constitutional practice? Any constitutional arrangement is always preceded by a variable measure of these competing claims, and we will see that Aristotle pays special attention to this through his consideration of the mixed regime (polity) and its "middling element". The central concern here is how a better political arrangement requires citizens capable of doing what is most advantageous under prevailing circumstances; i.e. under circumstances which are not the best. For the most part, the regime will always shape what statesmen and citizens consider as the best course of action. This concern already suggests to us that the common good will also reflect the

to them to act in the best manner, provided nothing occurs contrary to reasonable expectation." (op. cit. book VII, ch.1, 1323a15-20, p.197)

constraints of the regime as they exist in the ethical capacities of its rulers and ruled.

The knowledge and practices of distributive justice under the constitutional constraints of the particular regime, is Aristotle's way of addressing the ever-present possibility of conflict in the political community (*politike koinonia*). Developing a just form of rule is shaped by the ethical capacities and practices that comprise the differing claims to rule of the citizenry. We know that a form of rule which aims at the common good will require those citizens who know how to rule, those who know how to be ruled, or, ideally, those who are free and equal amongst themselves and who know how to do both in turn. What does Aristotle do, however, about regimes that neglect these citizens, or worse, actively rule against the exercise of their ethical capacities? What relevancy does the common good have for regimes that rule against the capacity for choosing what is commonly advantageous? For Aristotle surely recognised that perverted ruling conditions are the more frequent ones, and that these regimes will not capably defer to a more virtuous rule or the justice of the common good. Moreover, one should notice how he even seriously addresses the preservation of these unjust regimes (with an eye towards their improvement, of course) by keeping such ruling tendencies within their capabilities.

With the emphasis on capacities to choose the just form of rule, we will come to our second and apolitical condition for the political emergence of the common good: the role of household rule in engendering adult souls capable of citizenship. Here we will return and complete our opening discussion. We will

reconsider the meaning of Aristotle's notorious distinction between household and political forms of rule,¹⁹ and the relationship between the different purposes they intend. At that point, we should be able to see how the meaning of this distinction depends upon the form or political rule claiming the common good. Let us then begin with a description of the common good itself.

One of the first things we learn about the common good is its fragility. It is most often a response to erroneous political judgements, and ethical deviations. We already alluded to this with the above discussion of its conditional character. Aristotle himself gives us this impression when he first discusses deviations from the three good forms of regimes in Politics, book III. The first thing to go when a regime degenerates is the common good. The deviations are in fact distinguished from the good regimes by their loss of the common good; "... none of them is with a view to the common gain."²⁰ Also, the description of the common good first occurs in the context of a discussion of regimes that either destroy what is good for us in common, or simply lack the best conditions to ensure it. These are the popular extremes of oligarchy and democracy, and the five variations on kingly rule in Politics, book III (chapters 6-18). How then does the common good look when it does manage to hold sway in political life?

¹⁹I use the term "private" here at times interchangeably, throughout the paper, with Aristotle's use of the term "household" (*oekonomia*). It suggests a natural belonging emerging with the ruling relationships of the home, and the basic concern with self-sufficiency. It is important at this point not to conflate it with the modern legal/political determination of privacy; i.e. with the legal securing of natural rights such as life, liberty and property.

²⁰*Ibid*, p.96, 1279b10

Aristotle's clearest assessment of the question reads as follows: "The political good is justice, and this is the common advantage. Justice is held by all to be a certain equality, ...for they assert that justice is a certain thing for certain persons, and should be equal for equal persons."²¹ The manner in which this equality functions should therefore reveal the common advantage. A little further on, Aristotle elaborates his meaning of equality:

For some raise the question whether the legislator who wants to enact the most correct laws should legislate with a view to the advantage of the better persons or that of the majority, ...But correctness must be taken to mean 'in an equal spirit': what is enacted in an equal spirit is correct both with a view to the city as a whole and to the common advantage of the citizens.²²

"Equal spirit" here means the political attainment of justice. Equality is not decided in advance, but emerges to suit the conditions of a just political arrangement. As such, regimes enacting laws regarding who rules and in whose advantage, should legislate equality in the service of the ends of political justice and political life over all; political justice aims at the common good, which in turn promotes the good life of virtuous living. In effect, this is to say that equality is made to serve the justice of the common advantage, and not the other way around.

Equality must be evaluated and justified on the grounds of one's political contribution (be it virtue, honour, wealth or free-born poverty) to what is just and best in common. Although such a contribution is central to the legislation of

²¹Ibid, p.103, bk.III, ch.12, 1282b15-20

²²Ibid, p.106, bk.III, ch.13, 1283b35-40

equality, it is not as yet an argument in favour of a meritocracy. It simply means that claims in support of equality, or inequality, must first be conceived in relation to the claims of others. This is how, for Aristotle, equality is aimed at justice. Justice is the completion and whole of virtuous activity in our conduct toward others, and as he tells us in Ethics, book V: "And for this same reason - that it implies a relation to somebody else - justice is the only virtue that is regarded as someone else's good, because it secures advantage for another person, either an official or a partner."²³ How then does this equality actually work to bring about the justice of the common good?

To begin with, the claims of equals, or non-equals, always exist in relation to some thing and some one in particular. The justness of these claims, however, will exist in relation to the whole of justice in its authoritative sense; namely, as what is principally good for all in common as well as separately. It is here that we encounter Aristotle's famous statement regarding proportionate equality: "... justice is held to be equality, and it is, but for equals and not for all; and inequality is held to be just and it is indeed, but for unequals and not for all."²⁴

The problem is that when we consider the equality or inequality of things of our own, we are bad judges of ourselves. We tend to favour ourselves before others, and this severs equality from its goal of political justice. Those who are justifiably equal, or unequal, in a particular thing such as freedom or wealth, cannot assume that such equality (or inequality) applies to things in general. Clearly then,

²³op. cit. Ethics, ch.1, 1129b40-1130a5, 174

equal and unequal distributions of ruling offices are meaningful only in relation to what is commonly just. Aristotle refers to the concrete examples of the arts (techne) to illustrate his meaning. A well-born flute player is not equal or superior in his flute playing because he is well-born, but because he is skillful at playing the flute.²⁵ Similarly, in political claims to rule, pre-eminence in wealth, freedom or even virtue may have nothing to do with a justly distributed ruling ability. Except the difference of good political ruling is that its virtue (justice) belongs to the common good of others, and not primarily to the one exercising rule, as is the case in flute playing and the arts in general. The just equalities and inequalities of political rule, therefore, must be proportionate to what is good in common, and not equated with what is good in particular for those exercising rule.

This is why, for example, virtue is not wholly definitive of the common good, even though it remains the basis of the best claim to rule. For as Aristotle suggests to us, not all goods (be they skills, things or activities of the soul) are commensurable with one another. The claims of wealth or free-birth do not freely defer to the political appearance of virtue. In fact, they tend to do the opposite, which is to dispute and resist the political superiority of the excellent. This is especially the case because such claims never exist in isolation, but are always simultaneously mixed in most political associations.²⁶ One may know who the most

²⁴op. cit. *Politics*, bk.III, 1280a10-15, p.97

²⁵Ibid, bk.III, ch12, 1282b30-35, p.104

²⁶The problem of the common good is not just promoting a just form of rule over unjust ones, but of promoting a just one which always already exists under mixed conditions with other claims to rule. Aristotle explains the issue as follows: "...

capable rulers are and why, and yet one may still preclude the possible rise of a just political arrangement by neglecting the mixed and surrounding claims of prevailing circumstances. This would itself constitute a contribution to the demise of what is commonly advantageous, even though it is animated by the truly best claim to rule (virtue).

Hence, the virtuous cannot claim to rule, or may not be fitted to rule, solely on the merit of virtue alone. Their virtue must be proportionate to what is good in common under given circumstances. It may be more commonly advantageous that the virtuous few defer to a moderate mixture of wealthy (i.e., oligarchic) and free-born (i.e., democratic) claims to rule. Otherwise, the conditions for the emergence of virtuous rule may be altogether undermined by the greater force of existing oligarchic, democratic or especially tyrannical claims to rule which ignore the rule of virtue altogether.²⁷

In this sense, a regime guided by the common good would be one which not only seeks what is advantageous, but goes about it by identifying partial claims to rule for what they are; extreme claims which reduce what is good in common to

for one the authoritative element is the wealthy, for another the excellent men, and in the same manner for each of the others. Still, we are investigating how the matter is to be determined when these things are present simultaneously. Now if those possessing virtue were few in number, in what way should one decide it?"

²⁷We will see below how the appearance of the exceptional man -the man of outstanding virtue - proves this rule. He is injurious not only to the perverted regimes, but to the politically just ones as well. He is a source of envy and factionalism and is therefore prone to ostracism. Only under the best of conditions can he take his proper place as the most capable ruler (ibid, ch.13, 1284b25-30, p.108).

what is good in particular, and threaten the very existence of the regime itself.²⁸ How do the regimes go about doing this, for surely the survival of the common good depends on it? For this answer we must take an even closer look at the meaning of proportionate equality, and how it brings about the justice of the common advantage. Up to this point we have only established that equality, or inequality, is meaningful for Aristotle only in relation to the justice of the common good. How does proportion bring a political justice to equality?

A proportionate equality is often conceived as a determination of the equal or unequal on the basis of merit. This is easily determined where the arts are concerned. A physician's skill is what merits his/her inequality in medical matters. Here, merit exists in advance and decides in favour of inequality because a physician's art is proportionate to his/her superiority in questions of physical health. Although similar with respect to favouring merit, the area of political rule brings a significant change to how merit is favoured in the pursuit of the common good. Unlike the singular excellences of the applied arts, the virtue of a meritocracy can only be determined according to what is politically just under given circumstances. As we suggested above regarding a just distribution of political offices, an outright favouring of the rule of the virtuous can be inappropriate in a political association dominated by oligarchic and democratic claims to rule. Aristotle cautions aristocracies precisely in this sense. The cause of their demise is a failure to blend

²⁸As Aristotle describes these claims: "... by speaking to a point of a kind of justice, [they] consider themselves to be speaking of justice simply." (ibid, bk.III, ch. 9, 1280a20-25, p.98)

virtue with a balanced mixture of prevalent claims such as wealth and free-birth.²⁹ Again, it is not decided in advance that the excellent should rule, but only afterwards when and if the common advantage of these particular claims can support the rule of the virtuous few. Now, what does this say about merit and proportionate equality when their purposes are aligned with political justice?

Initially, it shows us that Aristotle's hierarchical classification of forms of regimes is a political determination of what is justly and commonly advantageous, and not, strictly speaking, a meritocracy. Aristotle knew full well that the rule of merit is rarely automatic in politics. The rule of merit has, for the most part, only an indirect relationship to what is available and most advantageous for all in common. In other words, unlike the directly applied excellences of the household and technical arts, the political, or even monarchical,³⁰ rule of the excellent is always circumscribed by the political justice of the common good. The rule of merit is therefore not directly proportionate to what is best for a particular regime. Indeed, we will see that the mixture of polity is in most cities the most feasible regime for establishing the political community and its common good. It is true that this

²⁹Aristotle explains the demise of regimes as a deviation from justice in the regime itself. In aristocracy this is caused by a failure of the regime to properly mix the wealthy and poor in the distribution of offices according to virtue: "The beginning point in polity is when democracy and oligarchy have not been finely mixed, and in aristocracy these things and virtue as well, though above all the two - I mean rule of the people and oligarchy." (ibid, bk.V, ch.7, 1307a5-10, p.160)

³⁰I am thinking here of the rule of the absolute monarch. Although it is not a political form of rule, its possible development requires, as a pre-condition, the best form of political community (see ibid, bk.III, chs.13 & 17). More will be said on this below, for it is questionable whether the absolute monarch - or, the man of outstanding virtue - is only incidental to the best political community.

mixture aims directly at political community, but one must keep in mind that this community functions, for Aristotle, as a way of life whose conditions are designed to accommodate the virtue of the best forms of rule.³¹ More will be said on the polity and its connection to the best regime shortly.

Aristotle first illustrates this connection between political conditions and ethical excellences in his discussions of the variations of the main regimes. For example, in Politics, book IV, he deals directly with the question of what regime is advantageous for which cities and sorts of persons. In a city dominated by oligarchs and democrats, a legislator should always include in his distribution of offices citizens who share a comparable interest in both wealth and free-birth; what Aristotle calls the "middling element" which the existing classes of people tend to share.³² By attaching the middling element to the dominant ruling class (be they oligarchs or democrats), one can guard against either extreme and promote what is

³¹Aristotle describes the mixed polity as a way of living most human beings can share. It involves choosing the best regime and way of life without the availability of the best conditions: "...judging with a view neither to virtue of the sort that is beyond private persons, nor to education, in respect to those things requiring special advantages provided by nature and an equipment dependent on chance, nor to the regime that one would pray for, but a way of life which it is possible for most to participate in, and a regime in which most cities can share?" (Ibid, bk.IV, ch.11, 1295a25-30, p.133)

³²see ibid, bk.IV, ch.12, p.136-137. The prudence of such an action is not simply that it maintains a just distribution of goods, offices and honors, but that it discourages excess and deficiency in the ruling individuals themselves. Such ethical conduct is far more difficult to achieve than a material distribution. As Aristotle tells us, a moderate rule which is equidistant from the extremes, seeks "...not the mean of the thing, but the mean relative to us." (see Ethics, "the doctrine of the mean", bk.II, ch.6, 1106b5-6, p.100)

better for the regime and all in common. Clearly this is not the best political arrangement, but it is a better one, more capable of moderation and stability.

If, on the other hand, the legislator attaches only the excellent few to the ruling class, he may ironically preclude the emergence of virtuous rule by undermining the moderate balance between oligarchs and democrats. For as Aristotle tells us, aristocrats tend to see their likeness in the class of notables, and their demise occurs when they favor the latter and neglect the role of the free-born poor.³³ Aristocracies degenerate toward oligarchies precisely when there is no longer a democratic element in the ruling class which can moderate the oligarchic tendencies of the notables.

Aristotle reiterates this same point in Politics, book V (chs. 8-12), except now he is speaking about preserving regimes. At first glance, it seems odd that he would also consider preserving regimes that he has, as of books II and III, condemned for their deviation from the justice of the common good. Yet this is consistent with our interpretation of Aristotle's thinking on the political justice of the common good. When he writes of preserving perverted regimes such as oligarchies and democracies, Aristotle is not simply suggesting (much like Machiavelli's Prince) that one make the best of an inherently disordered situation, and seek stability above all else. By preservation he means the improvement of what is good and the lessening of what is bad under the available circumstances of

³³Aristotle explains it as a weakening of the authoritative element of aristocracy (virtue) due to a strengthening of its oligarchic element. Its tendency is

a generally bad political arrangement. Aristotle believes that there still exists a sense of proportion under unjust regimes, except that their equalities and inequalities cannot achieve what is justly advantageous for all in common. Rather, the rulers' aim should be nothing higher than legislating equality in proportion to what sustains the regime.

For example, an oligarch might rule more effectively and avoid the factions of oligarchy if he were forced to swear an oath upon taking public office, that he would never act unjustly towards the interests of the multitudes.³⁴ Similarly, a law suited for the preservation of oligarchies could stipulate that the wealthy will be punished more severely for crimes against the poor than for crimes against their own class.³⁵ Conversely, ruling democrats would have similar restrictions with respect to oligarchs; particularly in the area of confiscating and redistributing wealth.

Essentially, these are measures which maintain what is good about bad regimes; namely, they preserve the rule of law in equal spirit. They do not so much look to preserve the content of the law (as these are often the bad laws of bad regimes), as they prevent the manipulation of the authority of the law against an opposing class.³⁶

to degenerate into an oligarchy and be overthrown by the rule of the very class it disenfranchised; the democratic. (Op. cit. Politics, bk. V, ch.7, p.159-162)

³⁴Ibid, bk.V, ch.9, 1310a5-10, p.166-7

³⁵Ibid, ch.8, 1309a20-25, p.165

³⁶Although it is additional to our present argument, one should not fail to mention that Aristotle advises us on the preservation of tyrannies as well. Unlike stable oligarchies and democracies, however, a lasting and stable tyranny is the

Importantly, however, one should not lose sight of the fact that these are still unjust regimes which do not seek the common good. Also, one should keep in mind that central to Aristotle's insight is the importance of preserving (i.e. improving) the regime. The common good, political justice and the spirit of equality can only become choices citizens are capable of making if they are fostered from a view to the stability of the whole of the regime (be it an inherently just or unjust one).

This is how Aristotle justifies his detailed study of unjust regimes. It is not just intellectual curiosity which motivates his study. Nor is it the effort of a detached academic who seeks nothing more than the conceptual clarification of repressive forms of political rule. Instead, Aristotle is intent on investigating how to improve certain forms of rule from within their own available circumstances, for this is how citizens primarily experience their regimes (not as a remembered past, or an approaching future, but as a continuing form of ruling relationships). As he tells us: "For it is indeed possible for an oligarchy or a democracy to be in an adequate condition in spite of departing from the best arrangement. But if someone tightens

only one of the bad regimes that must at least take on the appearance of a good regime such as monarchy. A tyrant interested in a long-lasting stability for his regime should act in ways that appear opposite to the usual methods used by tyrannies to consolidate their power: be moderate in life, befriend the notables while remaining popular amongst the many, account for expenditures, inspire awe rather than fear, show possession of at least military virtue, etc. (see *ibid*, ch.11, p.173-178). Yet Aristotle is not, like Machiavelli, advocating here the political usefulness of duplicity. He admits this is still a tyranny motivated by the consolidation of power, but he will not ignore the fact that the capacity for improvement now exists both in the conditions of the regime and in the conduct of the tyrant himself; "... in terms of character he will either be in a state that is fine in relation to virtue or he will be half-decent - not vicious but half-vicious." (*ibid*, 1315b5-10, p.178)

either of them further, he will make the regime worse first of all, and eventually not even a regime.”³⁷

The worst case scenario is clearly the destruction of the regime itself. Without the regime the capacity for an improved form of rule is either further debilitated, or lost altogether. Whether it is a just or unjust constitution in place, Aristotle's first priority is that citizens continue to habituate themselves to the ruling relationships that the regimes provide. We will reconsider this point below, when we discuss constitutional rule as a condition for the emergence of the common good.

So far we have examined how proportionate equality functions to attain the justice of the common advantage, and how this justice must reflect the conditions of the regime. We still need to clarify, however, what Aristotle understands by a justice which must always reflect the political conditions of the regime. We know that proportionate equality achieves the political justice of what is good in common. Through our discussion of the different political circumstances of the regimes, we saw that what is political about this justice is that its rectifying and distributing is done with a view to what is best for the particular regime. This is not a justice defined as reciprocity. If it was, justice would never become distinct from equality. Instead, reciprocity and equality must be based on what is justly proportionate to the good of the regime. Political justice improves upon equality when simple reciprocity is no longer sufficient.

³⁷Ibid, bk.V, ch.9, 1309b30-35, p.166

Aristotle gives us a concrete example of this by merely considering how the craftsmen of the different skills come to associate and exchange their crafts. A doctor's equality, or inequality, is reciprocally clear so long as he contends with only patients and other doctors. Yet this equality becomes quickly insufficient once a doctor's exchange of skill requires his association with farmers, builders, generals, statesmen and so on.³⁸ These are contributions which are both different and regularly unequal in application. The legislators seeking an arrangement that is politically just must now establish equality no longer in relation to the goods of the particular contributions, but in proportion to how this good serves the particular regime in common. The equality and inequality of rulers and ruled, therefore, is not a claim belonging to (or, originating in) us, but one belonging to what is advantageous for the regime. That which is politically just for the regime is that which brings proportion to claims for and against equality. It is this, as Aristotle says, which holds the political association together.³⁹

However, it is not advisable to conclude from this that Aristotle here renders political and distributive justice wholly relative to the regime. Nor is such a conclusion a productive one, for it often leads to a premature focusing of the issue mainly on the relationship between absolute and particular justice. It is quite different and more persuasive to consider how the relativity of political justice emanates from what is good for the particular regime. The issue changes slightly but significantly.

³⁸Op. cit. Ethics, bk.V, ch.5, p.182-187

Political justice is not simply relative to the regime, but is always relative to what is the best advantage for the regime. In other words, moral excellence is not itself a relative ethical disposition, but its development and availability in the particulars of the regime (i.e. the ruling relationships) is, for the most part, precisely so. What is just and best can exist (in principle) in all places and all times, but what is just and best about particular things can exist everywhere in variation. In Aristotle's thinking, one can only consider the choice of what is everywhere the most just and best regime if one is first capable of choosing what is advantageous relative to the particular regimes. The choice of the former cannot emerge without an habituation in, and capacity for, the choices of the latter. In this sense, the meaning of Aristotle's statements regarding absolute and particular justice becomes clearer.

Absolute justice, as we have said, is the completion of virtuous conduct and exists everywhere as an ethical disposition of the soul. Such justice is how virtue exists in relation to others. Particular justice, on the other hand, is not necessarily virtuous activity (as our earlier discussion of political justice suggested), but is actuated primarily by the pleasure that the advantage offers.⁴⁰ The completion of virtue in the soul is only possible, however, when and if justice, and the other virtues, is practised in our particular dealings with others. Few of us are capable of living the whole of a virtuous life, but more of us are capable of choosing the

³⁹Ibid, 1132b30-40, p.183

advantage of what is available. One's capability, of course, does not ensure the making of a good choice. Yet the purpose of any regime is to decide and promote the most advantageous choices available for the pursuit of a stable regime in particular, and a good life in general. If these choices are to come to light as they exist in particular regimes, what is particularly advantageous about them must be made intelligible. In this sense, political justice simply means choosing the advantage, but doing so always in relation to what others pursue as advantageous. The regime is therefore pivotal precisely because it reflects and promotes the advantages which a political association has justly, or unjustly, chosen.

This is the purpose of Aristotle's insistence on an evaluation of absolute justice and the best regime. They are invaluable as criteria for habituating citizens to choosing their political advantage. The fact that the best regime is arguably unattainable does not detract from its pertinence. Evaluating the just political arrangement in its most complete form will require, according to Aristotle, a practical knowledge of how to attain the specific advantages which can be made commonly available under the different regimes.⁴¹ Again, few of us are actually capable of this prudence, for, unlike virtuous rulers, the majority of rulerships tend to pursue first what the regimes make available for us separately. Yet the justice of

⁴⁰Ibid, bk.V, ch.2, 1130a35-1130b8, p.175: " But whereas particular justice is concerned with honour or money or security or any single name that we can use to cover all three, universal justice has the same field of action as the good man."

⁴¹This is how he understands the prudence of political science in Ethics. By ruling from the particulars of experience, the prudent ruler deliberates rightly about the best things attainable under the regime; prudence is concerned with conduct,

the best regime not only reveals this political limitation, but it also constitutes an account of how the different regimes deviate from what is commonly best for them. It is a benchmark for where and how deviation occurs in the regimes, and, more importantly, for where improvements are needed if the regime is to stably endure.

These improvements (eg. a mixed distribution of political offices) may contribute to the development of what Aristotle calls "equipment" for living a good life;⁴² particularly for the morally excellent who are capable of choosing the most choiceworthy life. Or, as is more often the case, they may do nothing more for the regime than to stabilise its rule. In both cases the aim is the most possible improvement circumstances admit.

In the first case just mentioned the improvement aimed at was the unqualifiedly good life. In the second case improvement merely aimed at what is necessary for the preservation of the regime. Regardless of the strength of their differences, both political arrangements presuppose the existing role of the best regime; namely, they contain the ubiquitous impetus for self-improvement. As Aristotle might phrase it, the consideration of the best regime exists potentially in the impulse for improvement which all the regimes can share. Importantly, what we are suggesting is that, as an impulse towards self-improvement, the best regime serves the essential task of circumscribing what can be capably improved, and

"... and conduct has its sphere in particular circumstances" (ibid, bk.VI, ch.7, 1141b15-20, p.213).

⁴²Op. cit., Politics, bk.VII, ch.13, 1331b40-1332a5, p.217. By equipment Aristotle means external goods and resources which facilitate the capacity for virtuous conduct in the best regime (see also Ethics, bk.1, ch.9, p.80-81).

what can not, in the relative circumstances of the regimes. The preservation of a democracy (oligarchy, or even tyranny) is clearly not an approximation of the best regime (even though its more moderate rule is now a better friend of virtue). However, its capacity to improve relative to conditions belies a consideration of what is best which moderately delimits what can and cannot be done under available rulerships.⁴³

Another illustration from Aristotle can help to crystallise what the best regime means to the attainment of political justice in the common good. Again, it comes from how virtues are determined in the skillful arts. By analogy, Aristotle compares the preservation of regimes (especially democracies and oligarchies) to an artist's rendering of a particular nose. The artist can surely paint what is reputedly considered to be the beautiful nose. Yet he will not do that in the case of a hooked or snub nose, for such a nose shows its deviations and particular imperfections once the beautiful nose appears to us. Instead, Aristotle contends that the skillful artist will render beauty to the deformed nose only by keeping true to how its imperfections depart from both extremes: the beautiful and the ugly. His point is

⁴³Aristotle's distinguishing of the good man from the good citizen proceeds along the same reasoning. The good man does not simply reveal the limitations, or disadvantages, of conducting one's life solely as a good citizen. He also reveals what is the advantage specific to the citizen. The emergence of the good man delimits for us what makes a citizen a capable one; i.e. knowing how to rule and be ruled under the laws of the regime. He shows us that an appeal to good citizenship cannot be made to prudence (phronesis), for this is not their virtue. It must instead appeal to what is advantageous about the true opinions citizens learn through habituation under the laws of the regime; for that is their respective virtue, a knowledge of ruling and being ruled under the laws (op. cit. Politics, bk.III, ch.4, 1277b5-30, p.91-92).

not only that there is an available beauty relative to the features of a hooked or snub nose. Aristotle also wants us to see that a consideration of the beautiful (or the best) moderates our evaluation of the particular nose.

If the artist paints the nose without a view to its distance from the beautiful, he can distort its features to the point that it no longer resembles a nose. The grasp of the beautiful is what enables the artist to take stock of the features relevant to the available nose. The artist must be careful not to try to simply approximate the beautiful in his rendering of the available nose; "... he will in the first place eliminate any moderateness in the part and eventually will go so far as to make it not even appear to be a nose on account of the pre-eminence and deficiency of the opposites..."⁴⁴

Aristotle sees the legislator(s) requiring this same sort of expertise at times when the development of the particular regime takes a significant departure from what is best. Tyrannies, oligarchies, and democracies are defined by their active destruction of the common good. Aristotle is aware that these types of rulers do not generally relinquish, or even change their rule, when their departures from the common advantage cause them to suffer political instability. He is also aware that even if they did relinquish rule (or if they are overthrown), one is still faced with

⁴⁴Ibid, bk.V, ch.9, 1309b25-30, p.166

citizens whose sense for the politically advantageous was shaped by the ruling regime.⁴⁵ The common good is still at best a distant possibility.

Yet, knowing this distance can be as positive an influence on legislators as seeing one's approximation to what is best. One cannot expect that rulers and classes of citizens educated under a deviated regime will have the capacity to apprehend the common advantage (or especially to institute it) in times of political turmoil. One generally expects an opposite, politically unstable outcome. Aristotle understands this and, in turn, advises lawgivers accordingly. Seeing how the regime departs from the best political arrangement, a ruler will be unable (and unwise) to legislate the common good, but he can preserve those parts of the regime which support and improve its existence. Where the contributions of a proportionate equality do not exist, he (they) should see the particular sources of conflict and intervene to remedy them. He should, for example, remedy the balance between rich and poor by knowing those things which characteristically preserve and destroy democracies and oligarchies. In democracies the multitudes must be kept under the rule of law, and the rich must be legally protected from confiscations. In oligarchies the laws must be drafted with a view to protecting and strengthening the poor.⁴⁶

⁴⁵Ibid, bk.V, ch.9; see also Ethics, bk.10, ch.9, 1179b29-1180a15, p.337: "But to obtain a right training for goodness from an early age is a hard thing, unless one has been brought up under right laws."

⁴⁶These measures are designed simply to keep the antagonized classes from rejecting the regime in superior numbers (Op. cit. Politics, bk.V, chs.8-9, see also bk.VI, chs.5-6). They are not guided by the principle of proportionate equality, or the attainment of political justice. The conditional survival of the regime is the

One is not seeking the survival of the regime at all costs, but its conditional preservation. The task of the legislator(s) in these political associations is not to rule in favor of what is unavailable. The common good cannot be achieved in these forms of rule, but the conditions, both political and private, which preclude the common advantage and threaten the regime are available and remedial. Aristotle's aim is not the preservation of deviated regimes, but their improvement from within their own conditions. His advice on this is clear: "One should not consider as characteristic of popular rule or of oligarchy something that will make the city democratically or oligarchically run to the greatest extent possible, but something that will do so for the longest period of time."⁴⁷

We are now at the point where we must examine more closely the centrality of the regime as a condition of the common good. We have seen how Aristotle places much importance on the preservation of the regime, especially under regimes which deviate from the common advantage. It is understood that proportionate equality achieves the political justice of the common good. It does so not by determining equality in advance, but by evaluating equality in relation to what is best for the regime.

Where the deviated regimes are concerned, we have seen that legislators can only remedy conditions at best. The aim, or good, of these regimes is not therefore the common good but the conditional preservation of the regime.

sole but necessary principle of intervention;"...the great principle that has often been mentioned - to keep watch to ensure that the multitude wanting the regime is superior to that not wanting it." (ibid, bk.V, ch.9, 1309b15-17, p.166)

Consequently, our present task requires that we examine how the common good emerges from the preserved conditions of the particular regimes. When and how is a regime capable of choosing what is best in common? For this we will need to consider the best rulerships which emerge from preserved and stable regimes. Our concern is to establish how and when Aristotle understood that conditions were sufficient for the emergence of just regimes which attain the common good. We have dealt directly with the deviated regimes and the preservation of ruling conditions, but we have not directly considered the regimes which complete these improvements and achieve the common good. We can best address this issue by briefly surveying the just regimes, and by paying particular attention to the relationship between what is best and most practicable; between the best and mixed regime. These regimes show us the essential relationship between knowing the best conditions for the political emergence of the common good, and having the capacity to choose what is commonly advantageous for the regime.

Aristotle places the preservation of the regime above all else for a basic reason. The achievement of what is best, and the improvement of what is available, is possible only because the regime continues to habituate citizens to its form of rule. Simply agreeing to what is politically best can be futile according to Aristotle. Citizens must be habitually capable of choosing what is politically advantageous. As Aristotle tells us, the best laws are useless, no matter how much political consensus is achieved, unless they are reflected in the political habits and

⁴⁷Ibid, bk.VI, ch.5, 1319b40-1320a5, p.189

education we receive from the regime.⁴⁸ The best regime implies the rational and habitual perfection of a practical rulership. It reveals the conditional necessity of the regime. Its functioning rulership is a perfection of the necessary parts of a just political arrangement. Just forms of rulership must exist from the management of the household right up to the education of the young and the laws of the constitution.

The justice of the best regime is not, like the other regimes, a justice relative to its political conditions; like the virtue of its citizens it must be unqualified. Its political rule does not depend on chance elements such as a balancing of factions or a redistribution of wealth. Its excellence (virtue) is essential to the rulers and ruled of the regime. Moreover, their rulership exists not according to fortune, but by their knowing and choosing the virtuous course of action.⁴⁹ Aristotle understands that the possibility of such a choice presupposes the flourishing of the morally excellent citizen. The best regime and the just regimes in general, deal primarily with how the facilitation of the virtuous life is achieved in light of what circumstances admit.⁵⁰ If the excellent are few and do not rule, how is virtue then facilitated in the

⁴⁸Ibid, bk.V, ch.9, 1310a15, p.167

⁴⁹Ibid, bk.VII, ch.13, 1331a30-35; see also Ethics, bk.1, ch.9, 1099b21-30, p.81: "That the most important and finest thing of all [happiness] should be left to chance would be a gross disharmony."

⁵⁰By circumstances Aristotle does not only mean the completion of household and political conditions which enable the happiness of virtue in rulers and ruled. This is our central concern, but we should not overlook the fact that the best regime also requires a physical environment whose equipment should be commensurable with the rule of virtue. Unlike the former conditions, however, these are not essential to the form of rule, for they are often subject to chance. The excellence of the best rulership is never defined by things such as the availability of

political community? To answer this question we must consider the unique nature of the mixed regime, for it is here that conditions are said to be most practical for the political attainment of the common good.

The mixed regime is unique in that it is the only just regime which can attain the common good without relying on the rule of the virtuous. We are speaking of a regime whose conditions are at best favourable to the rule of the virtuous. It is called "polity" and its form comprises a mixture of wealthy and poor in its ruling classes.⁵¹ The form of polity is defined by this mixture, yet unlike the other regimes, its form partakes of all the other forms of rule. We have seen that with deviated rulerships the mixture of disenfranchised claims to rule is essential to the preservation of the regime. This mixture only attains the common good, however, when it is ruled by what Aristotle calls the "middling element", or middle class. Their claim to rule is moderation. They are the individuals who conduct their lives as a mean between the claims of wealth and poverty. A middling life is in this sense an ability to choose self-sufficiency; to choose a life in between the

wealth, the size and position of the territory and population, commercial and military seafaring, or the site of the city (ibid, bk.VII, esp. chs.4,5,6,& 11). The best form of rule can be mitigated by these factors, but not changed or preserved essentially. One can only reasonably expect these circumstances when adhering to the common good. The conditions of the common good must be complete under the best rule, but circumstances will always be inherently variable. Aristotle qualifies life under the best regime no longer according to conditions, but only according to circumstances. This is what he means at the opening of bk.VII, when he explains that those who rule best on the basis of what is available to the regime will conduct themselves best "...provided nothing occurs contrary to reasonable expectation." (ibid, 1323a15-20, p.197)

⁵¹Ibid, bk.IV, ch.8, 1293b30-40, p.130

necessary and the excessive pursuit of property and the merely free access to political offices.

This regime is also practical for basically two reasons: firstly, as a mean, moderation is a virtue, but, unlike the other virtues, Aristotle contends that it is "... the mean that is capable of being attained by each sort of individual"; secondly, as a result of this middling life, these are the individuals who are "... readiest to obey reason."⁵² They may not have the intellectual virtue of rulership (i.e. phronesis), but they are capable of ruling and being ruled in turn.

Aristotle, however, is not so optimistic about the prospects for achieving rule by the middling element. For it to be effective the middle class must be numerous, and he concedes that this is difficult to achieve. The practicality of the polity is that more than any other regime, it is best at attaining the common advantage in the majority of cities. For this to occur, the middling element must be numerically superior to both of the extremes, or at least to one of them (so that it can tip the scale against the excesses or deficiencies of either).⁵³ Aristotle's concern for the choice of the best life offered by the regime reveals the limits within which a polity can be instituted. One therefore improves its conditions not by initially distributing rulership to the moderate rule of the middling sort. First, the legislator(s) must know how to remedy the inherent inferiority of its numbers. The essential mixture which

⁵²Ibid, bk.IV, ch.11, 1294a30-35 & 1295b5, p.133-134

⁵³Ibid, 1295b35-40, p.134-135

gives polity its form can only be made available for the common good, if the numerical balance between competing claims to rule is first addressed.⁵⁴

The mixture of the polity solves the problem by first blending the differences of sheer numerical size. The accidental factor of class size must first be legislatively controlled if a moderate political rule such as polity is to emerge. A middle class tends to be small and ineffective precisely where oligarchic or democratic claims are numerous and widespread. The first mixture the polity requires therefore is one which will increase the number of its middling element. For this reason Aristotle suggests that the mixed regime will justly rule only from within large democratic cities. Just in terms of numbers, a democracy increases the size of the middle class. So, an accidental commensurability exists between polities and democracies simply because both identify political authority in the rule of the many. This is why Aristotle sees democracy as the most stable and remedial of the deviated regimes: "And democracies are more stable than oligarchies and more durable on account of those of the middling sort, who are more numerous and

⁵⁴Aristotle does see numerical size as only an accidental attribute of the forms of rule. Further, he argues that identifying regimes according to numerical size often obscures the real differences between competing claims to rule; namely, claiming authority on the basis of wealth, poverty or virtue. Yet, Aristotle realizes that the accidental always accompanies the essential; politically, one cannot address the authority of a claim to rule without first taking stock of its size. Despite being accidental to the regime, numerical size will delimit the prospects for a regime seeking the common good, or its own interests: "...for few are well off, but all share in freedom - which are the causes of both groups disputing over the regime." (Ibid, bk.III, ch.8, 1280a1-5, p.97); the same reasoning also holds for numerical equality - the equal or unequal number of possessions and privileges always circumscribes the justness of proportionate equality. (ibid, bk.V, ch.1, p.147-149)

have a greater share in the prerogatives in democracies than in oligarchies."⁵⁵ Hence, factions are mitigated just by maintaining the numerical blend between the middling and the poor classes.

But this is not enough to foster moderate rule, or especially the common good. The middling element still requires a regime in which it can capably rule. Democracy is formed by the rule of the many, but not the just rule of the many. Beyond achieving numerical strength, the polity must still fulfil the form of its rule (its essential and not just accidental conditions), which is to bring moderation to the ruling class. How then does a polity emerge from a deviated regime like democracy?

Aristotle's answer lies in legislation. A polity must blend oligarchic laws into a democratic regime. The laws should provide incentives for both to participate in ruling. Aristotle believes that only by legislating this mixture can a regime open itself to the rule of the middling element.⁵⁶ Or, more precisely, moderate rule will be achieved if and when the contributions of the opposing classes have been made proportionate to the common good of the regime. In effect, law must intervene so as to enable the rule of the middling element. Aristotle's suggestions for the accomplishment of this task are strategically aimed at the distribution of ruling offices.

⁵⁵Ibid, bk.IV, ch.11, 1296a10-15, p.135

⁵⁶"The manner of mixing them is this. The defining principle of a good mixture of democracy and oligarchy is that it is possible for the same polity to be spoken of as either a democracy or an oligarchy, and it is clear that it is because

He seeks the mixture of the laws traditionally used by oligarchies and democracies to disenfranchise their opposing classes; particularly those laws regulating areas such as assemblies, offices, courts, the military and even physical conditioning. The laws used by oligarchs against the multitudes should be appropriated by democratic regimes whose laws tend to alienate the well off. Again, the mixture of these laws is designed to implement incentives for improving the form of rule. For example, in a democracy, oligarchs should be fined for not attending to their public offices. This prevents democratic interests from dominating the ruling offices of the regime. Conversely, democrats should always be paid for attending to their political functions. This alleviates the burden of their poverty and allows them to attend to their ruling functions.⁵⁷ In both cases, Aristotle suggests implementing legislation that requires the contributions of the opposing classes be made proportionate to what is best for the regime.

Consistent with this argument is Aristotle's singling out of military offices as the most important ones for a finely mixed polity. The reason for this is he realises that the majority of people in a polity will still possess democratic souls. A good mixture must address the fact that the democratic classes will tend to ignore the advantage of the city in favour of their own pressing concerns (poverty and freedom). Even when they share none of the prerogatives of the regime, democrats will remain tranquil so long as their disenfranchisement from the regime

the mixture is a fine one that those who speak of it do so in this way." (ibid, bk.IV, ch.9, 1294b10-20, p.131-132)

does not appear to them as an exacerbation of their poverty. Indeed, oligarchies exploit this tendency, but they often inadvertently create democratic factions precisely because they ignore how military service tends to be the only direct connection the multitudes have to the ruling regime. Aristotle's advice to oligarchies is to maintain a mixture of military offices above all else. The military leaders of an oligarchy should be trained in the warfare of the light-armed, rank and file divisions conscripted from the people.⁵⁸ This will make it easier for an oligarchy to align the military training of the multitudes with the advantage of the regime. Again, just in terms of numbers, the military potential of the multitudes stands as their single most advantage.

A polity, on the other hand, profits most from the military organisation of the multitudes. It favours the rule of the many, but it must seek their political participation without acquiescing to the claims of either wealth or free-born poverty. A polity must therefore appeal to the best of what is available and most accessible in the democratic soul. Aristotle has no illusions about what a democratic regime can reasonably expect from the multitudes. Above their wealth and freedom, the best contribution available from the people is their military virtue. Military courage and discipline is only a measurable part of the justice of the whole of virtuous living. Nevertheless, it is the virtue appropriate to the multitudes precisely because the many will support the regime if and when they see the defence of their livelihoods

⁵⁷Ibid, bk.IV, see esp. chs.9, 13 & 14 for the legislative devices needed for the institution of a polity.

associated with it. Generally speaking, the people do not concern themselves with the prerogatives of the regime, but they are a great source of defence when they see that the preservation of their own is at stake. Instead of just distributing and ruling over their wealth and freedom, the polity achieves a finely mixed participation of the multitudes by aiming its rule at that part of virtue proper to the habituations of the democratic soul; this proves to be military courage.⁵⁹

This is why Aristotle insists that a polity maintain its people trained and well armed.⁶⁰ By providing the people with sustenance and arms a polity ensures at least the numerical superiority of those sharing in the regime. Polity is therefore not a mixture which involves the rule of the virtuous. Only by mixing its laws, and legislating especially with a view to distributing arms and sustenance, can a polity induce a popular conduct befitting the common advantage. A moderate mixing of wealth and free-born poverty will not of itself improve the conduct of the multitudes.

⁵⁸ Aristotle's specific advice is to train the oligarchic youth with the multitudes in light-armed military tactics. (ibid, bk.VI, ch.7, 1320a15-25, 191-192)

⁵⁹ Still, one must not conflate this with the courage proper to moral excellence. Courage is achieving the mean between confidence and fear; it shows confidence or faces danger because this is a fine thing to do, or it is a disgrace not to do it (op. cit., Ethics, bk. III, chs.6 & 7, p.127-130). Here, Aristotle is instead referring to civic courage. At best, it resembles courage because it is grounded in a moral activity; it exercises a proper sense of shame, and shows bravery according to the honours it attracts and the disgraces it avoids. Civic courage does not, however, act in accordance with what is appropriate to the excellence of courage itself. Its acts are still conditioned by the honours and dishonours they receive under the relevant regime. This is why Aristotle ranks civic courage closest to the bravery of military rule. In a polity both are still kinds of courageous acts determined by what they receive and not the excellence of courage. Civic courage simply improves upon military bravery by effecting its activity not only through compulsion and fear, but through shame, honour and dishonour (ibid, ch.8, 1116a25-40, p.131).

On this issue Aristotle is clear; a polity must also legislate in favour of the warrior element of the democratic soul:

and when the multitude governs with a view to the common advantage, it is called by the term common to all regimes, polity. This happens reasonably. It is possible for one or a few to be outstanding in virtue, but where more are concerned it is difficult for them to be proficient with a view to virtue as a whole, but some level of proficiency is possible particularly regarding military virtue, as this arises in the multitude; hence in this regime the warrior element is the most authoritative, and it is those possessing heavy arms who share in it.⁶¹

In effect, polity is the most widespread achievement of political community. It is so because it attains the free and equal rule of its citizen body, but it does not do so based on the rule of the morally excellent. Instead, it relies mainly on that part of virtue relevant to military organization. From Aristotle's viewpoint, the political community of polities provides the conditions for choosing the common advantage for a basic reason. Polities can mix and moderate claims to rule precisely because their laws are now adapted to the rule over souls, and not over things (i.e. wealth, freedom or military honour). This is not the rule of the excellent, but it is now one more favourable to the rule of the soul.

In terms of appearances and circumstances, a finely mixed regime still looks like a democracy or oligarchy.⁶² In terms of its form of rule, however, it is closest to an aristocracy. Aristotle is in fact reluctant to separate polities and aristocracies in

⁶⁰Op. cit., *Politics*, bk. III, ch.7, p.95-96; bk. IV, ch.13, p.137-138

⁶¹Ibid, bk.III, ch.7, 1279a37-1279b5, p.96

⁶²Ibid, bk. IV, ch.9, 1294b14-20, p.132

the way that he separates and classifies the other regimes. Apart from the first and best regime, an aristocracy is best when it adds the rule of the excellent few to the fine mixture provided by the polity.⁶³ It is in this sense that the political rule of polity opens up a greater field of choices when seeking the best available rulership. Yet, Aristotle in no way presupposes that polities can turn oligarchic and/or democratic souls into the virtuous souls of aristocratic excellence. The latter remain the few who are capable of a virtuous life, but polity does legislate forth the political conditions which can support the emergence of the best form of rule available.

We have considered the question of the common good in terms of the ways the different regimes can capably facilitate virtue. It is readily apparent that Aristotle favours political forms of rule for this reason, but it is less apparent that he is willing to accept this kind of rule as the complete story regarding the rule of the best. It is true that even where kingly rule is concerned, Aristotle favours those types of monarchy which adhere to the rule of law. He even concedes that where law is not precedent, the judgement of the many is better because it is less corruptible than a monarch's. Also, he accepts that kingly rulerships have become impractical and outdated due to the increasing size of cities.⁶⁴ But in the type of monarchy where the rule of virtue is so clearly evident, Aristotle is far less equivocal. This concerns

⁶³Ibid, bk.IV, chs.7 & 8, p.129-131; see esp. 1294a20-25: "...it is evident that a mixture of the two - of the well off and the poor - is to be spoken of as polity, while a mixture of the three should (apart from the genuine and first form) be spoken of most particularly as aristocracy."

⁶⁴Ibid, bk. III, ch.15, p.110-113; see also bk. IV, ch.13, p.137-139

the possible emergence of the man of outstanding virtue, and the political conditions required if a city is to justly defer to his absolute kingship.

According to Aristotle, the absolute king rules because of his exceptional virtue, but his superiority amidst political forms of rule is anything but an exception. Where the common good of the just regimes facilitates the rule of virtue, the kingly rule of the outstanding man achieves and completes it. Absolute kingship is not a political form of rule, and the presence of such an exceptional man reveals the limits of political community, particularly with respect to fostering the rule of virtue. It is true that the best regime of Politics, books VII and VIII, is the optimal form of political rule because its common good functions according to the direct rule of the virtuous. Even so, Aristotle wants to make clear that it is not the best form of virtuous rule. The man of outstanding virtue reminds us that virtue is not a political determination, although he also shows us that the emergence of his rule requires a sufficiently just political arrangement.

Aristotle poses the prospect of an absolute king in Politics, book III. When discussing the practice of ostracism, he agrees that the presence of the outstanding man is detrimental not only to deviated regimes, but also to healthy political communities which fall short of the best regime.⁶⁵ The problem Aristotle outlines is that it would still be an injustice for such an individual to have to adhere to the justice of the common good of these political communities. Moreover, the virtue of the outstanding man would so exceed the proportionate equality of these regimes

⁶⁵Ibid, bk. III, ch.13, p.105-108

that he would be a constant source of envy and sedition for free and equal citizens. As Aristotle suggests, it would be unjust that such citizens of a political community should legislate equally for someone so unequal in virtue and political capacity. There is no law for the outstanding men, they themselves embody the law.⁶⁶

Only in the best political regime, where the virtues of ruling and being ruled are equally shared, can such a man take his proper place.⁶⁷ This would constitute the completion of political rule and the achievement of virtue in the master rule of the exceptional man. Where the common good of a political community can support the rule of virtue, it should defer its rule to the merit of complete virtue. What then is this master rule that the political community facilitates?

The absolute kingship is a form of rule which resembles the expertise of household management.⁶⁸ Such an individual, or family, should be given authority over all matters of the citizens' lives.⁶⁹ Aristotle compares the rule of the absolute king to a re-emergence of a household master. There is however an important difference. Only after political forms of rule legislate and achieve the common good, can the master-rule of complete virtue take its proper place. After situating

⁶⁶Ibid, 1284a5-15, p.106-107; also, op. cit., Ethics, bk. VII, ch.1, 1145a15-30, p.226, where Aristotle alludes to the apolitical nature of the exceptional man as "...virtue on the heroic or godlike scale."

⁶⁷Op. cit., Politics, bk. III, ch.17, p.115-116

⁶⁸Ibid, bk.III, ch.14, p.110, see esp. 1285b30-35; "But there is also a fifth kind of kingship, when one person has authority over all matters, just as each nation and each city has authority over common matters, with an arrangement that resembles household management. For just as rule of the household manager is a kind of kingship over the house, so this kind of kingship is household management for a city or a nation (or several nations)."

⁶⁹Ibid, bk.III, ch.17, 1288a15-20, p.116

the flourishing of human life in the political rule of the just regimes, Aristotle has no qualms about reminding us that the just rule of the household master is still the highest example of excellent ruling. The importance of the common good cannot be underestimated in this matter. The justice of virtuous rule comes to light only through the political advantages of the regime. Similarly, the justness of a master rule, together with its difference from political rule, is perceived by the legislator(s) only in the attainment of the common good. Interestingly, much like the efficient rule of the master, the rule of the absolute king is guided only by his excellence and not by the common advantage. The latter is therefore only incidental to this excellent rule. Like a master's rule over his slave, the common advantage of the exceptional man's rulership would now be incidental to the excellence of his ruling.⁷⁰ As the purpose of political forms of rule, the common good would give way to the aim of absolute kingship; namely, the direct exercise of the art of masterful ruling.

But household rule contains more than the master\slave relationship. Just as the common good allows us to see the justice of a masterly kind of rule, the other household rulerships enable the justice of the common good.

Aristotle distinguishes the rule of the household manager into three different kinds. Further, he distinguishes the aim of the master\slave relationship more specifically from the aims of husband\wife, parent\child ruling relationships. The

⁷⁰Ibid, bk.III, ch.6, 94-95; at 1278b30-40 Aristotle explains the master's rule as an advantage which belongs to him primarily; the advantage is only accidentally the slave's because his existence is required for the excellence of the master's rule.

distinguishing factor is the common advantage of those individuals defined by the forms of rule. Unlike a master's rule, the common advantage is essential, and not incidental, to the justice of rulerships over women and children. Much like the political forms of rule, the justness of these earliest ruling relationships belongs to the ruled.

As Aristotle tells us just before he distinguishes the justness of the regimes according to the common good: "Rule over children and wife and the household as a whole, which we call household management, is either for the sake of the ruled or for the sake of something common for both - in itself it is for the sake of the ruled..."⁷¹ Where the improvement of the ruled is the purpose, the common advantage will determine the justice of its rulership. It is from the realm of household management that an experience of the justice of the common good first emerges.

Importantly, this is not a political justice because its purpose is still restricted to the self-sufficiency of household life. Yet, the very posing of the question of a domestic kind of justice, presupposes a regime which capably distinguishes household from political life.⁷² It is in this sense that Aristotle's study of the regimes

⁷¹Ibid, 1278b37-40, p.95

⁷²In the Ethics (op. cit. bk.V, ch.6, p.187-189) Aristotle delimits domestic justice as the qualified, or conditional, sense of justice which we have towards our own (eg. children and/or slaves). In other words, justice exists primarily in the discretion of the master and father because an equal share in ruling and being ruled is not possible. As Aristotle suggests, the ruled are here still people whose existence depends on us - "...they are a part of us."

It is to the laws of the regime that falls the task of determining where an equal share in ruling and being ruled is justly possible. This means that the

and the political attainment of the common good relies on a capacity to know the separate justice of household rule. To put it simply, it is the political justice of the common good that allows the legislator(s) to perceive how our earliest ruling relationships contribute to the happiness of a virtuous life. Or, conversely, it is also the task of the legislator to see if and when the practices of our private lives are debilitating the capacities of our political forms of rule.

Aristotle was not just concerned with keeping the necessities of life at bay when he distinguished the forms of household rule. This would overlook the crucial role of a political science and, specifically, the art of legislation. Rather, Aristotle is distinctly concerned with how the justice of the regimes allows us to perceive and delimit what is necessary and unnecessary about our earliest forms of ruling experiences. The studies of the deviated regimes in Politics are as much demonstrations of a failure to fulfil the conditions of household rule, as they are depictions of unjust legislation. It is in the household that we first learn how to rule and be ruled. Oligarchs and tyrants legislate without knowing how to be ruled. Democrats legislate without knowing how to rule. In all three political

politically just and unjust emerge only under the rule of law. It is for this reason that Aristotle identifies husband and wife as a greater realization of justice; they are the only members of the household who at least share the experiences of both ruling and being ruled (see esp., ch.6, 1134b8-24, p.189). Consequently, where the laws of the specific regimes cannot justly attain the equalities and inequalities of political forms of rule (i.e. the proportionate equality of the common good), we dissolve our household rulerships into our political ones and lose the capacity to see not only what is just politically, but domestically as well. For Aristotle, this is more than just preventing the encroachment of one sphere of human life into the other. It is a question of the regime being able to legislate what is best under available circumstances.

arrangements, the loss of political justice belies a failure to perceive the limits of domestic justice.⁷³ In Aristotle's view, therefore, the central issue is how the political separation of the forms of rule will justly develop with the attainment of political justice in the regime. This is why Aristotle's criticisms of the best and actual regimes in Politics, book II, reveal as much about the distortions of household ruling as they do about the imprudence of their laws.

The two most significant criticisms in this respect address both a city reputed to be best in speech, and one receiving similar attention for being best in actual practice. These are Aristotle's appraisals of Socrates' best regime in both Republic and the Laws, and his critique of the rulership of the Spartan constitution.

The central problem with Socrates' community of wives, children and property is, in Aristotle's view, the omission and destruction of the potential for virtue which the rulership of the family provides. The natural hierarchies of family life, from which ruling relationships first emerge, are circumvented in favour of a legally constructed equality. Aristotle's interest is not simply to preserve the inequalities of private rulerships, but to preserve the natural diversity of human kinds that is needed in order to attain a just equality (a proportionate equality) in the fulfillment of our political lives. This is why his discussions of the individuals

⁷³In Politics, bk. I, Aristotle is already considering how political forms of rule can emerge out of our household rulerships. The clearest example is his discussion of the problem of establishing slavery under the law. Although the slave by nature is an instrument of household rule, it is a very difficult thing for the regime to legislate this practice according to political justice. Natural and conventional slavery is rarely commensurable under the law. Not surprisingly, the master/slave

belonging to the private realm, deal not only with the fulfillment of necessary functions, but also with the emerging virtues specific to the souls of those defined by these ruling functions.⁷⁴ As we suggested in our look at the conditioning role of constitutional practice, the facilitation of the virtues becomes essential to the political achievement of an equal share of the common good. We have seen that a proportionate equality which serves the over-all good of the regime functions according to the available capacities of human souls. If this equality is to become a political justice, members of the city must first learn how to rule and be ruled in turn.

It is the household's differentiation of a natural hierarchy of rulerships which first accomplishes this task. Only when citizens are capable of ruling and being ruled, do the particular differences of their private lives become irrelevant to their equal share in the common good. What we also see revealed in Aristotle's criticisms, therefore, is how the ruling regimes must first be capable of preserving the virtues of ruler and ruled in their earliest available forms; forms, that is, that always differ in kind and not degree.

relationship is the only household form of rule that Aristotle never makes analagous to political forms of rule (op. cit., esp. ch.6, p.41-43).

⁷⁴Ibid, bk.I, ch.13, p.52, at 1259b18-21: "It is evident, then, that household management gives more serious attention to human beings than to inanimate possessions, to the virtue of these than that of possessions (which we call wealth), and to the virtue of free persons rather than that of slaves." See further at p.53, 1260a20-25: "It is thus evident that there is a virtue of character that belongs to all these mentioned [master, slave, parent, woman and child], and that the moderation of a woman and a man is not the same, nor their courage or justice, as Socrates supposed, but that there is a ruling and a serving courage, and similarly with the other virtues."

For this same reason, Plato's Laws do not escape Aristotle's disapproval, particularly since the regime is supposed to be more practical. Missing from Plato's Laws is an explanation of those things which are provided by the forms of household rule: there is abstention from work, a failure to limit reproduction and the size of the territory, a disregard for how the distribution of possessions require a prior moderation of the soul, and, most importantly, Plato does not distinguish the virtue of rulers from that of the ruled.⁷⁵

The Spartan regime presents a concrete example of how the common good was actually lost because of the inability of the regime to preserve the necessary forms of household rule. In this case the injustice is a failure to provide the necessary rulership over women which enables them to share equally in the common good of the regime. The men were raised according to the virtue most suitable to the regime: military courage. The women, on the other hand, were simply set free and allowed to pursue a life of wealth and luxury. Aristotle's point is that the principles of the Spartan regime had not been directed towards women, and thus from its earliest rulerships the Spartan polis was divided within itself - on the one hand, the martial discipline of its males; on the other, the luxurious indifference of its females. Not surprisingly, Aristotle says, Spartan women fled and abandoned the regime to the Theban invasion.⁷⁶

Finally, Aristotle indicts Socrates and the Spartans on the same grounds: a failure to rule in accordance with what is necessary for the attainment of the best

⁷⁵Ibid, bk.II, ch.6,1264b25-1265b25, p.64-65

regime possible. In both cases the legislator(s)'s error was not their reducing of political rule to the regulation of private self-interest. Rather, their failure was to rule against the essentially different, but necessary, rulership of the household. As we have suggested throughout, the learning of these formative rulerships is only completed (or separable from political rule) and justly available if the regime is capable of legislating in favor of the common good.

⁷⁶Ibid, bk. II, ch.9, 1269a30-1269b40, p.73-75

Chapter Two:

Sovereign Unity, Security, and the Common Good of «Common-wealth»: Thomas Hobbes

It is with Aristotle that we first learn of the attainment of the common good as a distinctly political achievement. This achievement rested profoundly on the political form of the art of ruling, or more precisely, on the justness of the regime. It was Aristotle who first showed us that the common good served as the threshold between the rulership of just and unjust regimes. If the proportionate equality and justice of the common advantage were to exist, they would require either the rule of virtue or at least regimes whose moderate rule facilitated virtuous conduct (i.e. the polity). Aristotle's inaugural study of this central political concern establishes not only its dependence on the reigning excellences of human virtue, but also its reliance on antecedent rulerships such as the household, a monarchy, or especially a political community. Demanding as it may seem to some, Aristotle's common good emerges only with human beings who are first capable of forming just partnerships and associations.

In light of the above, it is not unreasonable to ask if this is not too lofty a depiction of the political pursuit of the common good? Indeed, a number of political philosophers subsequently sought the common bonds of political community in direct response to the feasibility of Aristotelian political science. More to the point, there is a time-honoured criticism that seriously questions whether the common interest can be founded on a human tendency to form just ruling relationships and

mutually beneficial associations. For some, it appeared too dangerous a step to seek the political determination of the common advantage in the natural impulse human beings are said to have for rulership and association.

Aristotle's seemingly lofty and impractical descriptions of political rulership have a long narrative in the western tradition of political philosophy, especially since Machiavelli.⁷⁷ Where the founding of political rulerships is concerned, however, nobody has taken Aristotelian thought to task more directly than Thomas Hobbes. It is not enough for us to consider only whether thinkers like Hobbes have given fair assessments of Aristotelian political science. Our task must also include an examination of how the treatment of Aristotle's political thought betrays an transformed vision of the common good which, we contend, cannot and should not be moulded to ancient thought.

Hobbes's clearest statement on the common advantage of Aristotle's Politics occurs in De Homine. His contention here is not with Aristotle's notion that there exist goods which all human beings desire (i.e., material well-being, happiness, wisdom). "Therefore Aristotle hath well defined good as that which all men desire."⁷⁸ Instead, Hobbes's objection is with the assumption that these goods are separable from the relative and self-interested passions of the multitudes which pursue them. Aristotle does distinguish the common interest from the particular

⁷⁷see esp. The Prince, translated by Alvarez (University of Dallas), ch. 6 for a paradigmatic modern assessment of the concreteness of classical political thought.

claims to rule which would lay claim to it -- especially those of wealth and free-born poverty. We have suggested that this was essentially a political achievement. By this Aristotle meant that political life emerged as a form of rule which built upon the variability of human interests by legislating the common advantage in proportions equal to one's political contribution to the regime. In this way, the common good was a flourishing of the rule of virtue, or at least its facilitation in the city at large.

For Hobbes what is common about shared political goods must have something more binding than a ruling appeal to virtuous conduct. What is common in our political lives is not the goods we seek, but the fact that we are all at times passionately compelled to seek them. There is a profound disagreement here with Aristotle over both the nature of a shared good, and the status and role political life has in procuring it. Hobbes rejects outright that the common good is achieved through the political facilitation of the virtues. In doing so, he seriously questions whether the common advantage has ever emerged from the ruling capacities of the particular regimes. Hobbes's disagreement amounts to the following: to make the attainment of the common advantage dependent on the moral excellence of political rulership, is to assume that ruling relationships can improve individual souls to the point that the good of the community emerges clear and distilled from the

⁷⁸"De Homine", translated by C.T. Wood, T.S.K. Scott-Craig and B. Gert, in Man and Citizen, edited by Bernard Gert (Anchor Books, 1972), ch. XI, #4, p.47. Subsequent references will be made to this edition.

passionate self-interests of rulers and ruled. In his view, this is tantamount to a political fable.⁷⁹

Further along in the same chapter of De Homine, Hobbes makes his objection to Aristotle clearer:

There can be a common good, and it can rightly be said of something, it is commonly a good, that is, useful to many, or good for the state. At times one can also talk of a good for everyone, like health: but this way of speaking is relative; therefore one cannot speak of something as being simply good; since whatsoever is good, is good for someone or other.⁸⁰

Hobbes's view of the common advantage will begin from a radically different view of what a good is in human associations. When he says that "...one cannot speak of something as being simply good...", he has in mind the proposition that good never exists without the mediation of a varying array of human appetites and aversions. Hobbes does not, as we shall see, dismiss the political significance of goods such

⁷⁹Hobbes's use of the term "fable" is not entirely a dismissal of ancient approaches to civil authority. In the preface to De Cive, he presents his foes as those who would subject the authority of civil government to the moral disputations of the multitudes. The ancients are indicted here as well for passing their doctrine on to posterity "...curiously adorned, or clouded with allegories,...lest by the disputations of private men it might be defiled." (p.95) But further along Hobbes equivocates when again considering the moral philosophy commonly received in his day; a philosophy which teaches that "...kings are not superiors to, but administrators for the multitude." (p.97) When faced with the dangerous prospect that obedience rested with the disputations of the multitudes, Hobbes reconsiders the ancients: "I suppose those ancients foresaw this, who rather chose to have the science of justice wrapped up in fables, than openly exposed to disputations." (p.97). These fables are still of interest to Hobbes only because their usefulness reveals what he takes to be a fundamental political task: the secure government of the multitudes; a task much less central to the aims of ancient political thought. (op. cit. "De Cive", translated by T. Hobbes, in Man and Citizen)

as virtuous conduct. He does, however, reject any notion that good, communal or other wise, can be brought to light undifferentiated by the appetites of our sensual existence. Already in the first chapter of Leviathan, Hobbes establishes the ground upon which the interests of all in common will be determined. It is sensual existence.

One never knows good itself, but only the image - or "fancy" as Hobbes calls it - impressed upon our senses. Good is no longer more than what it seems to be to our sense-impressions. For the sensual apprehension of good is never more than image, or seemingness.⁸¹ The greatest expression and consequence of this view of good is Hobbes's rejection of any notion of a greatest good, or summum bonum.⁸² Conditioned by the moving fancies of sense, human conduct is not even teleological with respect to its own security, much less guided by such a "final" vision of good. Instead, any commonly held good must derive from the happiness ("Felicity") of the continual successes we experience when we obtain those different things which from time to time we desire. This is why Hobbes's condition for the attainment of good is no longer the justness of rulerships, but, as we shall see, the motions of power pure and simple.⁸³

Aristotle, on the other hand, cannot evade absurd speech. According to Hobbes, good in Aristotle must presume that things themselves provide the species

⁸⁰Op. cit. "De Homine", p.47;

⁸¹Thomas Hobbes, Leviathan, edited by C.B. Macpherson, (Penguin, 1968), ch.1, p.86. Subsequent references will be made to this edition: "And this seeming, or fancy, is that which men call Sense;"

⁸²Ibid, ch. 11, p.160-161

of impressions which the senses receive. The absurdity lies in the assumption that one can speak of impressions such as good or evil beyond the images they effect upon our senses.⁸⁴ Hobbes's view of good, therefore, has certain repercussions that profoundly alter what the common good is, and how politics can attain it.

We will examine these repercussions by first drawing out what Hobbes understood as the common advantage. This is best accomplished by focusing on the meaning of "Commonwealth", and how it is politically attained only through a social contract, or covenant. We will pay special attention to how Hobbes conceives the common good in answer to a political problem he thought to be either new, or dangerously ignored in ancient political thought: how is one best to govern human beings as they exist in multitudes? When it came to the institution of commonwealths properly suited to the governing of the population at large, Hobbes reproached Aristotle and the ancients for confusing the principles of nature with their own customary practices and reputable opinions.⁸⁵ Not only did they misconstrue the conduct of our natures, but they did so out of a habitual and unquestioning bias for states whose right to govern was often based on popular rule; on the "... Practice of their own Common-wealths, which were Popular."⁸⁶

In light of this, we will also have to consider how Hobbes significantly alters the role the regimes play in bringing about the common advantage. For in this lies

⁸³Ibid, p.161

⁸⁴Ibid, p.86: "And though at some certain distance, the reall, and very object seem invested with the fancy it begets in us; Yet still the object is one thing, the image or fancy is another."

⁸⁵Ibid, ch. 21, p.267

his deep suspicion of an Aristotelian common good which rests upon improving citizens' conduct (i.e., souls) through the art of just and prudent rulership. Moreover, this will complete the traditional background from which Hobbes distances his new account of the functioning of the common advantage. In sharp contrast to Aristotle, we will see that the essence and full extent of his common good is said to already exist in our natures and compel us to the covenant, when political associations and rulerships are, by hypothesis, still non-existent. With the "tumults" of the multitudes in mind, Hobbes turns away from political rulership as a forming of the common interest in the ruled, to government as a securing of the "Common-wealth" by the ruler(s).

The question of rulership will bring us to the latter part of our study. We recall that Aristotle showed us through his classification of the regimes that the common good evolved according to the ruling capacities of the respective constitutions. The effect of this was to demonstrate that the civic virtues integral to the common advantage were conditioned by the just rulerships of both our household and political lives. In essence, Aristotle's common good is meaningful only in the context of the rule, or facilitation, of virtue. The common good had to emerge from the moral excellences formed out of the ruling relationships of the particular polis. We must examine how Hobbes reposes this question on entirely different grounds; grounds which begin from a fundamental rupture between moral life and the governing of the common good.

⁸⁶Ibid

According to Hobbes, the government of the multitudes can no longer be about attaining the common good out of the rule of moral excellence. We will see how moral excellence must instead derive its political efficacy from a common good pre-existing in our natural condition. We must consider therefore Hobbes's alternative view of moral life, for it can still serve the common advantage, but no longer as a natural claim to rule. As he makes clear in Leviathan, our natural impulse is to nothing more than the attainment of peace and self-defence, and the moral life gains no greater purpose than the service of these ends.⁸⁷ By being attentive to the criticisms of Aristotle, we should see how Hobbes develops a unique vision of the moral life of the common good which is purposely limited to the goal of civil peace.

Let us then begin with Hobbes and the common good as "Common-wealth".

Commonwealth is the artifice by which human beings can apprehend and secure what is best for them in common. Importantly, it begins from the principle that our nature is never sufficiently equipped to provide what is best for us as a species, much less as a people. Hobbes elucidates this very principle already in the "Introduction" to Leviathan:

For by Art is created that great LEVIATHAN called a COMMON-WEALTH, or STATE, (in latine CIVITAS) which is but an Artificial Man; though of greater stature and strength than the Naturall, for whose protection and defence it was intended; and in which, the

⁸⁷Ibid, ch. 15, p.216: "...and consequently all men agree on this, that Peace is Good, and therefore also the way, or means of Peace, which ... are Justice, Gratitude, Modesty, Equity, Mercy, & the rest of the Laws of Nature, are good; that is to say Morall Vertues; ..."

Sovereignty is an Artificiall Soul, as giving life and motion to the whole body,⁸⁸

This quotation makes clear that the artifice of commonwealth is an invention emanating not from the improvement of our natures, but from a passionate and dire need to protect and defend a good that is already present and compelling under the most minimal conditions of human living. This good is the continued endeavouring of life itself, and if left to the conduct of our natural condition its protection and defence could never be secured.

In the face of ancient thought (especially Aristotle's), this no doubt appears as a considerable lowering of the noble pursuits of human life; particularly those sought by our political association. But the lowering of human nobility is not Hobbes's main objective. By itself this would still not restrain the greatest threat to civil peace: the actions of proud and vainglorious men. It is they who, due to prior flattery or fortune, risk the peace for others by projecting their actions forward without a grounding in the true knowledge of themselves. The changing tides of fortune and flattery cause them to rashly engage the approach of danger, and not see the ways of safety.⁸⁹

⁸⁸Ibid, "The Introduction", p.81; also, op. cit. De Cive, ch. V, arts. 1 & 2, p. 165-166: "... that the natural laws, though well understood, do not instantly secure any man in their practice;" (p.166)

⁸⁹Vain-glory is Hobbes's greatest civic vice because its pretense to honour and sufficiency provokes danger without knowing how to act in favor our true nature; namely without knowing how to protect and defend: "... because not seeing the way of safety, they will rather hazard their honour, which may be salved with an excuse; than their lives, for which no salve is sufficient." (Ibid, ch. 11, p.164)

Instead, Hobbes's primary objective is to secure a commonly held good that the passions and changing forces of human life cannot dispute. What supports this objective is a heavy-handed hypothetical reasoning which by cause and effect sets about proving that the political artifice of "Commonwealth" must develop not in favor, but in spite of our natural condition. Firstly, however, Hobbes was well aware that he would have to contend with a prevailing moral view ("Schoole" philosophy) which saw a natural impulse to sociability and political association in human conduct. His concern here was not simply to address the nasty and pessimistic depiction of human nature upon which the artifice of his "Common-wealth" rested. This he understood was an expectedly disturbing depiction which could only be confirmed by experience: "... that Nature should thus dissociate, and render men apt to invade, and destroy one another..."⁹⁰ But for Hobbes the issue is here already a political one; his "natural condition" is already a politicized state, containing the good sought by the artifice of commonwealth, but holding it in only a dormant and ineffective state. Hobbes's concern, therefore, is far more with a common good of human association that is not left to depend on the quality of political rulerships which, as Aristotle contended, supposedly emerge as improvements and perfections of our natures.⁹¹ The debate over the sociability of human nature is for Hobbes already about where and how the common good is

⁹⁰Ibid, ch. 13, p.186

⁹¹Aside from Hobbes's above-mentioned view of good (that it could never exist unadulterated by the passionate self-interests of rulers and ruled), there is a more political reason for his originary separation between a common good and the

said to exist. Conversely, Aristotle's discussion of our sociability, or natural impulse for political association, is at most a consideration of the conditions necessary for the attainment of the common good in political life.⁹²

In the first chapter of De Cive, Hobbes directly addresses his Aristotelian opponents. He does not immediately dismiss the notion that humans are by nature sociable and/or political. He does, however, immediately insist that we are not born fit and intended for society. The distinction becomes clearer when we formulate it as follows: Hobbes does not wish to deny our sociability, but he is intent on elaborating for the good of political society, just what sociability entails.⁹³ He

political form of rule which supports it. Below, this reason should come most clearly to light as his central goal of articulating a government of the "multitudes".

⁹²In book III of Politics, Aristotle begins his first discussion of the relationship between the common good and the types of regimes. At chapter 6 he briefly returns to the natural human associations of book I, and shows how there is the commonly held good of maintaining life itself in the ruling relationships of households and villages. But he embarks on this discussion in order to demonstrate that the political associations to which we are naturally attracted over and above our material needs, complete the commonly held good of just living, by the political achievement of living a fine life. Unlike Hobbes, Aristotle's consideration of the common good cannot begin unless our most natural ruling relationships (i.e., the household) already tend toward our political association. This reiterates a point already made in book I on the completion of the political association: "It reaches a level of full self-sufficiency, so to speak; and while coming in to being for the sake of living, it exists for the sake of living well." (op. cit., Politics, book I, ch.2, 1252b28-30, p.36-37; and book III, ch.6, p.94-95)

⁹³Op. cit. De Cive, ch. I, p.109-113, esp. footnote, p.110; here Hobbes explains that being sociable is in fact natural for humans, but that society is not only about mutual need and affection for one another: "Therefore I must more plainly say, that it is true indeed, that to man by nature, or as man, that is, as soon as he is born, solitude is an enemy; for infants have need of others to help them to live, and those of riper years to help them to live well. Wherefore I deny not that men (even nature compelling) desire to come together. But civil societies are not mere meetings, but bonds, to the making whereof faith and compacts are necessary;..." Further along he makes clear that our natural sociability is not what makes us fit for

wishes to add that the part of our natural sociability which tends toward the compacts of society is not a mutual affection (as evident as it seems to our nature), but a mutual fear. In this sense, Hobbes is telling us that man is a creature more profoundly civilized by the fear of death, than by a love for others; specifically, in our natural condition, by the fear of death at the hands of another. Again, as he tells us in De Cive:

I hope no body will doubt, but that men would much more greedily be carried by nature, if all fear were removed, to obtain dominion, than to gain society. We must therefore resolve, that the original of all great and lasting societies consisted not in the mutual good will men had towards each other, but in the mutual fear they had of each other.⁹⁴

In Hobbes's state of nature, therefore, it is our mutual fear of one another which will lead to the good we commonly share. At this point we have only identified this good as the natural endeavouring of life itself. We now see that it comes most clearly to light in our natural condition due to our mutual fear of each other, and the personal and passionate fear of death that this entails. But we still do not know how this good is to be distinguished into a common good, for if this is to happen we must comply with the needs of our greatest passion: the fear of wounds and death. As a good, there is still nothing common about the

society: "Wherefore man is made fit for society not by nature, but by education. Furthermore, although man were born in such a condition as to desire it, it follows not, that he therefore were born fit to enter into it. For it is one thing to desire, another to be in capacity fit for what we desire; for even they, who through their pride, will not stoop to equal conditions, without which there can be no society, do yet desire it."

⁹⁴Ibid, p.113; see esp. footnote entitled, "The mutual fear."

endeavouring of life itself because its rootedness in the immediacy of sense-experience leaves it powerless to act against the individual anxiety and fear of death. Moreover, the immediacy of this fear makes it impossible to see how the good of endeavouring life can be projected into the future, beyond our present sensual existence.

Hobbes answers this natural predicament by continuing the hypothetical reasoning which, by induction, leads us out of the state of nature. After this first most important passion, he adds two others which compel us further to use our natural prudence in seeking a resolution to our natural condition: these are desire and hope; the desire of things necessary to commodious living, and the hope of obtaining them through our industry.⁹⁵ The secure enjoyment of the goods of the latter two passions -- what Hobbes calls "Felicity"⁹⁶ -- is possible only with the prudent apprehension of the first one, the fear of death. We begin the industrious discovery of the common good, therefore, relying solely on our most important natural attribute; on our prudence.

For Hobbes, prudence is the only wisdom we all naturally possess. It is memory ("decaying images") of past causes and consequences rooted in past

⁹⁵Op. cit. Leviathan, ch.13, p.188

⁹⁶Ibid, ch. 11, p.160-161; Hobbes here disputes that happiness is a greatest good such as Aristotle and the books of the "old Morall Philosophers" had expressed; instead he redefines it in accordance with his view of good, as felicity. In it we find the next two most important natural passions, desire and hope: "Felicity is a continuall progress of the desire, from one object to another; the attaining of the former, being still but the way to the later. The cause whereof is, That the object of mans desire, is not to enjoy once onely, and for one instant of time; but to assure for ever, the way of his future desire."

experience. Importantly, however, prudence is a natural wisdom whose certainty is at best presumptuous. We cannot hold to what we know beyond the circumstances of our immediate experiences. In other words, our nature is capable of knowing the things that were possible in the past, but not of securing these for the future, for their certainty is never grounded in anything more than immediate experience.⁹⁷

The mutual fear, the passion revealing a natural "Warre of all against all", is therefore grounded in the fear and insecurity of what is to come; particularly from others whom we always live amongst. From here, Hobbes's next objective is to demonstrate that the fear of death illuminates not only our prudence, but the profound insufficiency it contains in our natural condition. Indeed, prudence is not even what distinguishes us from the beasts.⁹⁸

⁹⁷Ibid, ch. 3, p.98: "Prudence is a Praesumption of the Future, contracted from the experience of time Past: ... But this conjecture [Praesumption of things past] has the same uncertainty almost with the conjecture of the Future; both being grounded onely upon Experience."

⁹⁸Ibid, ch. 3, p.98: Importantly, prudence for Hobbes has nothing to do with ruling and being ruled. It is barely an intellectual virtue, much less a moral one (although, as we shall see, it is integral to the political invention of both; specifically, those fundamental laws of nature which, unlike prudence, are derived from our natural condition by study and industry). Prudence is simply acting from the remembered "Signes" of past experience. Hobbes wants us to see how his prudence shows that there is no substitute for accumulated experience. The traditional substitute would have been Aristotelian phronesis. For Hobbes, a greater store of recollected experiences renders obsolete any advantage that a natural superiority of excellence (arete), or wit, may contain. We will see that this is no doubt due to the radical equality of Hobbes's natural condition, out of which prudence is said to arise. In a sharp rejection of Aristotle, Hobbes compares his prudence: "And so much more prudent than he that is new in that kind of business, as not to be equalled by any advantage of natural and extemporary wit: though perhaps many young men think the contrary." (p.98)

The contrast with Aristotelian prudence (phronesis) is here more than apparent. It is consciously implied. Hobbes's prudence is still central to the achievement of the common good, but it is far from the ruling excellence attained by those few who are naturally superior in virtue, and therefore best at ruling and being ruled. We will return to this issue in the latter part of this study, when we examine Hobbes's separation of the moral excellence of the common good from the practice of political rulership.

The insufficiency of our natural prudence lies in its inability to quell and avert our fear of what is to come. Prudence alone cannot identify, or name, the commonly held good that the endeavouring of life requires. Yet, though our natural wisdom may fail us where it counts most, it also contains our saving grace. Just as fear, desire and hope can illuminate prudence, they also bring to light the instruments of study and industry by which our prudence is improved.⁹⁹ These are the artifices, or inventions, through which we supplement the weaknesses of our nature. The importance of artifice cannot be overstated, for it is the acquired ability which alone distinguishes us from the rest of the animal world.¹⁰⁰ In Hobbes's view, therefore, it is by our artifice and inventiveness, and not by our nature that we become human.

⁹⁹Prudence becomes itself the first acquired intellectual virtue by ch. 8 of Leviathan, precisely because it is responsible for introducing method and design to human conduct. We find out in this chapter how our acquired wits derive from it: "When the thoughts of a man, that has a designe in hand, running over a multitude of things, observes how they conduce to that designe; or what designe they may conduce unto; if his observations be such as are not easie, or usuall, This wit of his is called Prudence;..." (Ibid, ch. 8, p.137-138)

No doubt the most important instrument that our artifice has provided is our reasoning capacity, which comes by way of our invention of speech. Reason becomes our most effective means for allaying the fear of what is to come. In a sense, for Hobbes, it is at once both natural and artificial; it comes from the prudence of recollected sense-experience, but it requires the artifice of human mental activity.¹⁰¹ It is as he says: "... nothing but Reckoning (that is, Adding and Subtracting) of the Consequences of generall names agreed upon, for the marking and signifying of our thoughts."¹⁰²

Reason (like science) seeks sapience, which is hypothetical conclusions, found out by our reckoning, about the causes and consequences of the names of sensations.¹⁰³ Reason allows us to project forward conclusively about causes and consequences. It addresses the fear and uncertainty of consequences without relying solely on the presumptuousness of past experience. Most importantly, however, reason affords us the opportunity to see the conduct of our natures in its actual and solitary existence; it gives us a view to the workings of our passions in isolation from the immediate and particular things and people that affect their pursuits. It does so by isolating and reckoning the causes and projected

¹⁰⁰Ibid, ch. 3, p.98-99

¹⁰¹Religion is the other, less effective, artificial means of addressing our fear of the unknown to come. It is less effective than reason for the simple reason that it shows an unwitting ignorance of its causes. But both reason and the religion of revelation, are treated by Hobbes as the artificial products of a mental activity always seeking to remedy the anxiety and fear of unknown causes and consequences. (On Religion, see esp. Ibid ch. 12, p.168-172, for the four causes showing that, "... but that the seed of Religion, is also onely in Man; ...")

¹⁰²Ibid, ch. 5, p.111

consequences of our passionate pursuits. In effect, Hobbes asks us to consider the solitary human as he/she applies the powers of reasoning to find out the fit means to attain the ends of his/her passionate nature. If he/she reasons properly regarding ends, he/she can come upon some general truths, or definitions, concerning the probable consequences of his/her actions. Hobbes calls this the added excellence that comes with the rational human being: "... that he can by words reduce the consequences he findes to generall Rules, called Theoremes, or Aphorismes;..."¹⁰⁴ From this point of view, therefore, it is the artifice of reason which first allows our natures to speak not just of the immediate goods and passions of the solitary individual, but of the common passions we all share.

It is the "general Rules" of causes and consequences that first bring Hobbes's vision of the common good into relief. These rules of reason allow us to read in others what we read in ourselves. They are the active side of human sensual existence; the mind's invention of rational rules to intervene in our natural condition and isolate not only individual interests, but the common interest. This common good, we find out at chapter 14 of Leviathan, is the first and second laws of nature: the endeavouring of peace and the defence of ourselves. The endeavouring of life becomes a secure future towards which we can project our actions, only when we can all identify in ourselves and others the commonly shared good of peace and self-defence.¹⁰⁵

¹⁰³Ibid, ch. 5, p.117

¹⁰⁴Ibid, ch. 5, p.113

¹⁰⁵Ibid, ch. 14, p.189-190; op. cit., De Cive, ch. II, arts. 1 and 2, p.121-123

The question remains, however, whether these fundamental laws are alone sufficient to remedy our natural condition, even after they are elucidated by our right reason? Considering our natural condition, Hobbes seriously questions this. Although our reason can provoke agreement on the fundamental laws of nature, such agreement can never survive the essential characteristics of our nature as they always exist in human association: "First, Competition; Secondly, Diffidence; Thirdly, Glory."¹⁰⁶ For Hobbes, these are essential to our nature precisely because one can never dispense with them as undesirable accidents of human history. His reason for this is quite simply the following: the enjoyment of felicity, be it in a natural or civil condition, exists only in comparison with others, and never as a final end.¹⁰⁷ Competition, diffidence and glory are in fact productive of our need for civil association and commonwealth.¹⁰⁸

This essential and anti-social part of our natural association with one another, is not transformed simply because our right reason brings agreement and

¹⁰⁶Op. cit., Leviathan, ch. 13, p.185

¹⁰⁷Ibid, ch. 8, p.134

¹⁰⁸Moreover, competition, diffidence and glory are essential, and not accidental, to the artificial attainment of the common good precisely because they are already implied (as our "Naturall Condition") in the solitary and natural fear of death and its unknown causes and consequences. Our predicament -- "a warre of all against all" -- results not simply from our natural constitution, but more so from the fact that our nature is always already conditioned by its existence amongst a multiplicity of others much like us. For Hobbes, it is others who refine and concretise the reality of our solitary fear. That is why it is never simply fear, but mutual fear that illuminates our common good; fear of those with whom we compete, of those who are threatening, or of those who seek our recognition of their worth. This is important because it already conveys Hobbes primary political objective: it is not just a matter of governing our nature, but of governing the fact that it always exists in multitudes.

consent on the content of the common good. In fact, its lurking presence is essential to the contracts and agreements of civil association. In Hobbes's view, these agreements would last no longer than the moment an individual passion could successfully run counter to the common good. This is why he maintains that the commonly shared laws of nature remain silent and ineffective (as they do in "warre") so long as the fear of a common power to enforce them is absent.¹⁰⁹ Hobbes explains why the consent to the common good must imply a common power:

that is to say, that the society proceeding from mutual help only, yields not that security which they seek for, who meet and agree in the exercise of the above-named laws of nature; but that somewhat else must be done, that those who have once consented for the common good to peace and mutual help, may by fear be restrained lest afterwards they again dissent, when their private interest shall appear discrepant from the common good.¹¹⁰

What "must be done" to secure this common good is answered only by the greater artifice of the social contract, or covenant, and its doctrine of undivided sovereignty.

Hobbes does in fact introduce the contractual creation of a common power, as a corollary of the commonly held "Fundamentall Lawes of Nature". The first and second laws of nature function together to necessitate a contract which secures our "Common-wealth": "That a man be willing, when others are so too, as farre-forth, as for Peace, and defence of himself he shall think it necessary, to lay down this

¹⁰⁹Op. cit., *De Cive*, ch. 5, art. 2, p.166

¹¹⁰Ibid, ch. 5, art. 4, p.167

right to all things; and be contented with so much liberty against other men, as he would allow other men against himself."¹¹¹

Already contained in this proposition is the failsafe rule of reasoning which justifies the contractual transferring of right to a common power: where there is a multitude of human beings (as is our "Natural Condition"), it is impossible to attain felicity unless each one of us lives and acts so as not to do to another what he would not have done to himself.¹¹² This rule is the basis for what Hobbes calls the "transferring of our natural right" needed for the creation of a common power. Initially, this transfer amounts to a calculated deliverance from our natural condition. It establishes a common will expressed only as a will not to will; it is an agreement to lay down a right ("to all things") in order that the purpose of the right (peace and security) shall not be undermined. But where the common interest is concerned, how the transfer is exercised is more important than what is transferred. Clearly,

¹¹¹Op. cit., Leviathan, ch. 14, p.190

¹¹²Ibid, ch. 14, p.190; ch. 15, p.214-215; ch. 26, p.318. Importantly, Hobbes appears to stay true to this Christian teaching in the Gospels when he first describes the common advantage of peace and self-defence; it is given in its full positive significance, as a moral law to be willed roughly as follows: do unto others as you would have others do unto you (ch. 14). But in his next two references Hobbes changes this moral rule significantly, making it specific to his vision of the common good. The moral rule is no longer derived from a free and original act of good will, but from the calculation of negative consequences resulting from the unrestrained passions of our natural liberty. Hence, the references to the rule following ch. 14 are stated only in the negative voice: do not do unto others as you would not have others do unto you. What has happened between its first appearance (ch. 14) and its negative restatement (chs. 15, 26) is the articulation of how the common advantage (and the "other Lawes of Nature" derived from it) is secured not through good will, but by the contractual creation of a common power. The latter is possible only if one reckons desire, and not the will-act of the original Christian rule, as the true and natural cause of human behavior.

the method of transfer will have to be more binding than an agreement on what needs to be transferred.

Hobbes's answer to this apparent insufficiency is to demonstrate how the notion of contract accomplishes the transfer through the creation of a sovereign authority. Firstly, the contract begins as a covenant; as a promise by each and every one to lay down their right before a common power who, not being subject to the contract, is then authorized to act on behalf of all. Only when these promises are performed by all parties concerned is the covenant said to become a contract. But what is transferred is not in fact a thing ("ready-money, goods or lands"), but a right. The performance of transferring a right is, by its very nature, never a fulfilled and completed promise; what is retained in the transfer of natural right is a calculated will to continue not doing to others what one would not want others to do to oneself. Hence, what is actually performed in this transfer (i.e., contract) is the perpetual maintenance of the covenant; of the promise to keep laying down one's right to all things in the future. This is why Hobbes's third law of nature is the ever important "generall Rule" stating: "... That men perform their Covenants made: without which, Covenants are in vain, and but Empty words; and the Right of all men to all things remaining, wee are still in the condition of Warre."¹¹³ Yet, although mutual fear and right reason may compell us to keep these promises and perform our covenants, they are still not a guarantee against a relapse into the

¹¹³Ibid, ch. 15, p.201-202; see also how justice and injustice are subsequently defined simply as the performance and non-performance of covenants.

natural reign of our passions. According to Hobbes, this guarantee can only exist in the character of the artificial Sovereign -- the common power to whom we lay down our natural right.

The covenant establishes the recipient of our natural right as an artificial person(s); namely, as a representative of each one of us as we naturally exist amongst the multitudes. Because it represents the natural interests we all share, the office of the sovereign remains distinct from the actual person(s) occupying it. By the transfer of right, the representative will of the sovereign office is not only created, but also authorized by our covenant to deliberate, will and act in place of each one of us separately.¹¹⁴ When the "Sovereign Authority" is so constituted, the common will of the common good is said to exist. But, most importantly, this common will exists not in the actions of an agreeable multitude, but only in the unified will of the sovereign representative.¹¹⁵ For Hobbes, there is never anything common about the actions of multitudes, be they in our natural state or under a common-wealth. What is common about governmental rule is not its blending of conflicting interests under the best available rulership; it is pure and simple the unity of its power and will behind the perpetual enforcement of its covenant.

In De Cive, Hobbes explains what he means by "union", and he does so by reminding us of Aristotle's explanation of the city as a harmony of different parts (i.e., «syntheton»). In the latter, a critique of Plato's "best" city (Politics, book II) leads to a rejection of unity as the basis for the common bonds of the political

¹¹⁴Ibid, ch. 16, p.217-222

association; excessive unity destroys the city, rendering it equal to nothing more than a village, or, even worse, the rule of an individual person. Not surprisingly, Hobbes comes to a different conclusion regarding the question of political union, but it is not simply a reversal of Aristotle's position. In the following quote, the Aristotelian context of the discussion is quite evident, but the unity Hobbes proposes is quite different from the Platonic one Aristotle identifies:

9. Now union thus made is called a city or civil society; and also a civil person. For when there is one will of all men, it is to be esteemed for one person; and by the word one, it is to be known and distinguished from all particular men, as having its own rights and properties. Insomuch as neither any one citizen, nor all of them together (if we except him, whose will stands for the will of all), is to be accounted the city. A city therefore (that we may define it), is one person, whose will, by the compact of many men, is to be received for the will of them all; so as he may use all the power and faculties of each particular person to the maintenance of peace, and for common defence.¹¹⁶

Clearly, for Hobbes unity exists only in the representation of the sovereign head; its undivided sovereignty is what maintains a common good distinguished as peace and common defence. The Platonic unity, which radically equalized human differences into a unified commitment to the regime, is not even a considered possibility. This is so not because Hobbes agrees with Aristotle that it would destroy the city, but because its possibility is at best a "curiously adorned fable". In his view, a self-sustaining common interest, much less a union, of the multitudes, is not only an absurdity but a dangerous presumption upon which to base the

¹¹⁵Ibid, p.220-221

¹¹⁶Op. cit., De Cive, ch. V, art. 9, p.170

authority of the sovereign. As the above quote suggests, sovereignty remains secure and unified not simply by the rights and obligations of its subjects, but more so by the rights and duties specific to the sovereign authority itself.

A brief look at the rights and duties of the sovereign will show us how Hobbes rationalizes the doctrine of undivided sovereignty. Importantly, the natural right that we transfer to the sovereign brings with it duties, but not obligations.¹¹⁷ Obligations pertain only to subjects, for in transferring their natural right they consent to the limits of the civil laws commanded by the state. The sovereign office, on the other hand, cannot be obligated by the laws it makes, much less by multitudes of individuals and groups. Rather, its duties are contained in the basic rights with which it was artificially invested. The sovereign duty emanates simply from its artificially received right to all things when securing the fundamental laws of nature we all share. The unity of Hobbes's sovereign rests, therefore, on a fundamental paradox essential to the origins of civil society: to the same extent that subjects' civil rights are determined by the artifice of commonwealth, so must the

¹¹⁷Op. cit., *Leviathan*, ch. 14, p.189-190, and esp. ch. 26, p.334-335, for how civil right differs from the limits of law in the same way as liberty differs from the bonds of obligation. Obligations arise only with the limiting of our natural right by the artifice of civil law. As the recipient of our natural right, the sovereign office cannot be obligated by the laws it makes; it has a duty to obey them after it chooses to make them, but it cannot be bound by them in the sense that there is no law that it cannot change or repeal. Just like any other natural person, the sovereign cannot be bound to himself (ibid ch. 21, p.271, and ch. 26, esp. p.313). The political importance of this lies in the fact that unlike the limits placed upon subjects' rights by the obligations of law, the sovereign's duty must flow freely from its right to govern. The sovereign's duty derives from its right to all things in the procurement of peace and common defence. It is in this sense that the sovereign's

rights of this artificial person -- named the "Sovereign" -- be determined by nature. Just as the natural right of every individual was to pursue all things needed for the attainment of felicity, so the artificial right of the sovereign is to use all people and things it sees fit for the securing of the one good all "Man-kind" shares: the benefit of peace and common defence.¹¹⁸

Of the rights from which the duties of the sovereign flow, the most important is the making of laws. The laws issued by the sovereign office create and command what is just and unjust. Although they are rationally applied for the maintenance of civil peace, their justification is not their reasonableness but the unity of the sovereign's will. This is so because the artifice of justice and injustice is what replaces the surrendered natural right of each individual to do what he/she wills. Justice and injustice exist, therefore, only because there is a will powerful enough to allow and forbid. But if sovereign will, and not the standards of reason, is the essential authority of law, then the right to interpret and administer it must also flow from such an undivided will. As a result, the right to judge and enforce by punishment is also a sovereign duty. The judging of the meaning of the law and the punishments to control and deter offences in the future, derive directly from the end for which the sovereign will was instituted; from the need for the most secure attainment of peace and defence amongst ourselves.¹¹⁹ A sovereignty divided

right to make and interpret law is not simply the exception to the rule of law, but the necessary exception which creates and maintains the law.

¹¹⁸Ibid, ch. 18, p.232-233

¹¹⁹Ibid, ch. 28, p.352-354; see where Hobbes explains that the right to judge and punish comes from the creation of a sovereign will, and not after the fact as

amongst ourselves is, for Hobbes, a sure sign of a sovereign whose "Artificiall soul" can no longer sustain the purpose for which it was created. In his view, such a sovereign is one who could not avert the war of the multitudes, of all against all.

Hobbes's interpretation of the rights of subjects is also designed to prove the doctrine of undivided sovereignty. Under the covenant, the rights of the subject will continue only in areas where the obligations of sovereign law have remained silent; for, in Hobbes's view, the liberty of rights and the obligations commanded by law, are always mutually exclusive.¹²⁰ Obligations are simply the laws determined only by the sovereign authority. The primary ones are a fidelity to the covenant and assumed contracts, and a requirement to act justly according to the sovereign's definition of justice. These obligations are what maintain peace, and only where there is peace is there liberty.

Furthermore, Hobbes rejects the contention that the obligations of law lead to a contracted freedom for citizens. He argues that the commands of law in fact presume freely acting individual subjects. The citizen is free to pursue all his/her means to felicity wherever and whenever the sovereign law has not deemed it necessary to intervene in order to preserve the civil peace. Where this end is not

some negotiated concession or gift from subjects to their state. As he shows us, this right is in fact at the core of our creation of an unbounded artificial will: "For the Subjects did not give the Sovereign that right; but onely in laying down theirs, strengthened him to use his own, as he should think fit, for the preservation of them all: so that it was not given, but left to him, and to him onely; and (excepting the limits set him by naturall Law) as entire, as in the condition of meer Nature, and of warre of every one against his neighbour." (p.354)

¹²⁰Ibid, ch. 21, p.264; "The Liberty of a Subject, lyeth therefore only in those things, which in regulating their actions, the Sovereign hath praetermitted: ..."

threatened, liberty consists simply in not being subject to unnecessary laws.¹²¹ Hobbes deems it unnecessary, for example, that law should ever regulate liberties such as buying and selling, the making of contracts amongst ourselves, the places where we live, our diets, professions, and the raising of our children.¹²²

The effect of such a characterization of civil rights and obligations is to render law nothing more, or less, than a necessary impediment to the freedoms we continue to exercise in civil society. It is essentially a protector of civil liberties. More importantly, however, as a protector the law is not designed to guard us against the power of the sovereign authority, but against the vicissitudes of our own freedoms. This is precisely the idea behind the sovereign's essential right to punish: the sovereign's looming capacity to kill me and/or fellow citizens, exists so that I am not put in a position where I have to kill myself and/or others in my way.¹²³ As a necessary impediment, therefore, the unified will of the sovereign law is never simply an expression, or purveyor, of the basic civil rights of its citizens; its primary role is not to nurture, and/or habituate the exercise of civil rights. Pure and simple,

¹²¹Ibid, ch. 30, p.387-388; see how law can only be said to be destructive of our civil liberties when it "unnecessarily" restricts our movements. Hobbes explains the difference between necessary (good) and unnecessary (bad) laws as commands that should only ensure that the progresses of our freedom do not undermine themselves: "For the use of Lawes, (which are but Rules Authorised) is not to bind the people from all Voluntary actions; but to direct and keep them in such a motion, as not to hurt themselves by their own impetuous desires, rashnesse, or indiscretion, as Hedges are set, not to stop Travellers, but to keep them in the way. And therefore a Law that is not Needfull, having not the true End of a Law, is not Good." (p.388)

¹²²Ibid, ch. 21, p.264

¹²³Ibid, ch. 21, p.269

sovereign law is instituted for the essential purpose of protecting and insuring the rights we retain under the artifice of civil society.

This is a crucial point for Hobbes's justification of undivided sovereignty. For if law is to maintain the external obligations for which it was devised, the rights of citizens can never be understood as claims upon the sovereignty of the authoritative office. Indeed, as Hobbes sees it, the past exiles and executions of innocent and just individuals have been improperly understood.¹²⁴ No doubt these have become the examples which make us most apprehensive about the exercise of undivided sovereignty. The occasional punishment of an innocent person is surely a curtailing of his/her civil liberties. Importantly, however, Hobbes insists that it is not a wrongful transgression of sovereign authority by its own offices. Liberty belongs to the sovereign and not to private individuals, for it is only the former that can guarantee civil rights. The curtailing of liberties, therefore, becomes an unlawful transgression of sovereign authority only if and when the sovereign office itself is withheld access to all people and things necessary for the procurement of the common good. Hobbes wants us to recall that we are the authors of the conditions of this procurement; our civil rights come only by our artificial transfer of our natural right to a common power. In other words, as was said above, the law must function as a "necessary impediment" if civil liberties are to be maintained, but in order to do so the sovereign's liberty must supersede the citizen's if it is to be free

¹²⁴Ibid, p.265-267, esp. how the ancient Greek and Roman texts have confirmed the error that civil liberty is founded by us and not the sovereign authority.

to impede whenever and wherever necessary. This is what Hobbes explains in the following:

..., that nothing the Sovereign Representative can doe to a Subject, on what pretence soever, can properly be called Injustice, or Injury; because every Subject is Author of every act the Sovereign doth; so that he never wanteth Right to any thing, otherwise, than as he himself is the Subject of God, and bound thereby to observe the laws of Nature.¹²⁵

This quotation establishes the practice of the common good as a unified sovereign will authorised by each one of us both separately (as the use of our right reason) and amongst each other (as the passion of mutual fear).¹²⁶ We now see more clearly how the logic and character of undivided sovereignty forms what Hobbes called the soul of the common advantage, or "Common-wealth". But if a unified sovereign is the essence of the political achievement of all common goods, then the differences between commonwealths can no longer be about ends, but only about means. We say "no longer" because the classical preoccupation with the classification of regimes did not seek the common good through sovereignty,

¹²⁵Ibid, p.264-265

¹²⁶It also, however, reveals the mortality of sovereign authority. Chapter 21 of Leviathan tells us how subjects can legally resist sovereign right whenever they are put in a position which jeopardizes the purpose of the covenant; namely, the preservation and defence of ourselves (i.e., we retain the right to defend ourselves even against lawful invaders, to avert commands causing us bodily harm, to avoid accusing ourselves, warfare, etc., *ibid*, p.268-270). But again, these are not liberties retained over and against the sovereignty of the common power. They are retained only because they are natural rights identical to the purpose for which sovereign authority was instituted; thus, though they imply resistance, these rights are never said to contradict the unity of sovereignty. At ch. 29, we learn further how

but through rulership. For a thinker like Aristotle, just rulership was essential to the attainment of the common good. Yet, this is not only inimical to Hobbes's definition of the common good and its means of attainment. It also ignores what he takes to be the fundamental political concern: the government of the multitudes. Thus, we must consider next not only the devaluation of the classification of the regimes, but, more importantly, how the "condition" of the multitudes obviates both virtue's natural claim to rule, and the rulerships which support and facilitate it. For we want to see how Hobbes's concern with governing multitudes -- with the associative condition of our nature -- leads to a radical transformation of rulership and the political priority given to the rule of virtue.

For Hobbes, the interests of those classifying is more significant than standards like the just and unjust traditionally used to differentiate regimes. As he laments, what one classifies as a monarchy, another calls a tyranny; what one classifies as aristocracy, another calls an oligarchy; what one classifies as democracy, another calls anarchy.¹²⁷ The designation of unjust regimes is therefore not about forms of rule, but about fancy and self-interest. In Hobbes's view, there are in fact only three types of government, even though dissatisfied subjects choose to name their degenerative kinds: "But they are not the names of other Formes of Government, but of the same Formes misliked."¹²⁸ Furthermore,

these rights are retained by law precisely because sovereign authority is susceptible to internal dissolution by its own "Infirmities". (ibid, p.363-376)

¹²⁷Ibid, ch. 19, p.239-240; op. cit. also De Cive, ch. VII, arts. 2 & 3, p.192-194

¹²⁸Ibid, p.240; op. cit. also De Cive, ch. VII, arts. 1, 2 & 3, p.191-194

unlike Aristotle and the ancients, all regimes are instituted for the same purpose: the achievement of the common good by the exercise of the sovereign will. Hence, their types consist not in ends pursued, or even quantities of power: "... but in the difference of Convenience, or aptitude to produce the Peace, and Security of the people; for which end they were instituted."¹²⁹

Hobbes's own classification, therefore, begins from a sovereign will, and differentiates regimes solely according to the means used to produce peace and security. The best regime in this respect is named monarchy. The reason for this has nothing to do with ruling excellence, or the custom of the devine right of kings. The monarch is best because, unlike aristocracies and democracies, the public and private interests are most efficiently located in a sovereign government by one person. The inferiority of the other two regimes rests simply in the fact that the unity of the sovereign interest is inconveniently located in a council, or assembly. Their greatest inconvenience is their vulnerability to sedition and faction; groups of people such as councils or assemblies (as in multitudes) are too easily divided by the passionate preference for private instead of common interests.¹³⁰ Aristocracy is second best only because its unity is a better imitation of monarchy: "... that that which is hereditary, and content with the election of magistrates; which transmits its deliberations to some few, and those most able; which simply imitates the

¹²⁹Ibid, p.241

¹³⁰Op. cit., De Cive, ch. 10, esp. arts. 12-14, p.231-232; op. cit. also, Leviathan, ch. 19, p.241

government of monarchs most, and the people least of all; is for the subjects both better and more lasting than the rest.”¹³¹

The inconvenience of democracy is the worst precisely because it suffers most from the "inconstancy" of its numerical size. A monarch cannot disagree with himself out of envy or interest. But a democratic assembly can do so quite easily, and to such an extent that it is the regime most susceptible to civil war.¹³² Unlike the unity of a monarchy or aristocracy, it is not the discretion of individuals but only the formal procedures of a sitting assembly which maintain the unified exercise of the sovereign will. In effect, Hobbes does interpret a democratic regime as the representative of the sovereign will, but the fragility of its procedures rests too close to the multitudes of our natural condition:

The people, therefore, retains the supreme power, no longer than there is a certain day and place publicly appointed and known, to which whosoever will may resort. For except that be known and determined, they may either meet at divers times and places, that is, in factions, or not at all; and then it is no longer, ..., the people, but a dissolute multitude, to whom we can neither attribute any action or right.¹³³

Importantly, Hobbes is still willing to accept the legitimacy of a democratic assembly ahead of any political arrangement resembling a mixed regime, or what Aristotle called a polity. This regime more than any other, reveals how Hobbes and Aristotle align their visions of the common good to radically different conceptions of

¹³¹Ibid, ch. X, art. 19, p.235

¹³²Op. cit., Leviathan, ch. 19, p.243

¹³³Op. cit., De Cive, ch. VII, art. 5, p.195

the nature of human association, and the political arrangements best suited to it. Aristotle saw the mixture of ruling offices in the polity as one of the first (to emerge out of deviated forms) and most practical political expressions of the forms of rulership which justly rule in favor of all its citizens in common. So fundamental is his mixed regime that its practice forms the core of his advice on how to preserve and stabilize all regimes, even extremely deviated ones such as tyranny.¹³⁴ Aristotle did not see the polity as a rule of virtue, but its moderating mixture of offices was, for him, a significant improvement upon democratic rule. Much like the relation of moderation to the other virtues, the stability of the polity facilitated the flourishing of the more excellent souls and regimes.

Hobbes, on the other hand, will not even classify a mixture of ruling offices as a regime. It is not even a deviated form of government, for its distribution of ruling offices, and its rendering of equality proportionate to political contribution, pose the greatest threat to the sovereignty upon which the three regimes rest. From Hobbes's perspective, any mixture of ruling offices places the sovereign office charged with maintaining the civil peace, under the obligation of another. Against Aristotle, he proclaims such a government to be not a moderating regime, but a divided one.¹³⁵ In fact, Hobbes faults the Aristotelian tradition for failing to see how

¹³⁴Op. cit., Aristotle's Politics, book 5, esp. chs. 8-12; for how mixed rule even preserves and improves tyrannies, see ch. 11, p.173-178.

¹³⁵Op. cit., De Cive, ch. VII, footnote, p.194-195; referring to those who think moderating limits do not result in a divided government, Hobbes responds: "But they who distinguish thus, they would have the chief power bounded and restrained by others: which, because it cannot be done but by those who set the limits must

moderate government is never attained by a division and mixture of governmental powers.

Aristotle, and the ancients in general, are said to be responsible for passing on the doctrine of divided liberty under democratic and aristocratic governments.¹³⁶ By relying on their own customs, and not on Hobbes's "Principles of Nature", the ancients have long deceived us into thinking that governmental authority is comprised of our own liberties, plus those conceded to the state. The deception comes from their traditional misunderstanding of popular government: "... for want of Judgement to distinguish, mistake that for their Private Inheritance, and Birth right, which is the right of the Publique only."¹³⁷ In DeCive, Hobbes in fact draws the implication that Aristotle's regimes rested on the dangerous presumption that the authority of government should be divided by the justness of its rulership; into governments that favor the ruled, and governments that favor the rulers.¹³⁸

needs have some part of the power, whereby they may be enabled to do it, the government is properly divided, not moderated."

¹³⁶Op. cit., Leviathan, ch. 21, p.267; Importantly, the reference to Aristotle's Politics ("lib. 6. cap. 2) is selectively interpreted, and made to fit with Hobbes's specific effort to show that democracy is not predicated on divided sovereignty. Thus it is implied that Aristotle supports the commonly held opinion about democracy, "... that no man is Free in any other Government." The fact that, unlike Hobbes, Aristotle saw democracy as a deviated regime, and that even the chapter observes how democracies reduce justice and equality to the resolutions of a free-born majority, is conveniently ignored by Hobbes.

¹³⁷Ibid, p.267

¹³⁸Op. cit., De Cive, ch. X, art. 2, p.222-223, and Elements of Law, edited by Sir William Molesworth, in The English Works..., v. 4 part II, ch. 5, p.162, (Scientia Aalen, 1962). Subsequent references will be made to this edition. See also Leviathan, ch. 29, p.372-373, for Hobbes's conclusive discussion of the danger of the mixed regime as one of the "Infirmities" causing the internal dissolution of "Common-wealth": "... the Power of conduct and command, (which is the Motive

The importance of rulership is so central to Aristotle's regimes that the common good only unfolds after justice and equality have been properly crafted in the *nomoi* of the regime. Hence, it was a just distribution of offices and an equality proportionate to that distribution, which comprised the political attainment of the common good under the just regimes. By contrast, Hobbes's common good has to exist prior as a contract before agreements on just distributions or equality are possible. His common good cannot be left to depend on a ruling relationship. A good illustration of this is his chastizing of Aristotle for favoring the practice of tyrannicide; its danger lies in the presumption that the authority of a king, or even a tyrant, is answerable to a justice determined by the appetites of the ruled.¹³⁹ In fact, Hobbes's criticism of Aristotle's description of distributive justice brings to light an even deeper rejection of rulership as a foundation for political order. He rejects the viewpoint that just distribution, and proportionate equality, could be determined according to the virtue of one's rule. Under God, all merit and justice commanded by men is artificial, and therefore can only be distinguished politically as the fulfilment of contracts. In other words, Hobbes contends that merit (virtue) and a

faculty,) on one man; and the Power of making Lawes, (which is the Rational faculty,) on the accidental consent, not onely of those two, but also of a third; This endangereth the Common-wealth, sometimes for want of consent to good Lawes; but most often for want of such Nourishment, as is necessary to Life and Motion... that such government, is not government, but the division of the Common-wealth into three Factions, ..." (p.372)

¹³⁹Ibid, ch. XII, art. 3, p.246; his point here is also that the tyrannical behavior of a king should not constitute a dissolution of the right to rule of his sovereign office. Furthermore, Hobbes's defence of the tyrant then becomes a political variation on the Christian moral rule, let he who has not sinned cast the first stone:

just equality can not have any meaning beyond the value ascribed to them by the appetites of the contractors.¹⁴⁰ Both the value of excellence and equality is determined by an artificial market of appetites secured by the contract and its sovereign.

But Hobbes's bourgeois logic is only the commodious surface of a deeper suspicion of the stability of nature's ruling hierarchies. If he does not entirely reject these hierarchies, he certainly cannot accept them as a ground upon which to secure a commonwealth. To Aristotle's rulerships that are integral to the conditioning of our political associations, Hobbes opposes the condition of rulerships, and all other individuals, as they exist in the multitudes.

Hobbes's fundamental concern with the political problem of the multitudes is not simply derived from his depiction of human nature as a life driven by the motions of desire and power. As we have already suggested, the political problem is more profoundly located in the fact that such a life is always already conditioned by a multiplicity of others living amongst us; by others who like us are moved by power and desire. If anything, the multitude is the natural antithesis of the democratic invention commonly called the "People".¹⁴¹ More so, however, Hobbes sees its anarchic condition, or "nasty and brutish" state, as the essential antithesis which produces not only the people, but civil society as well. It is what perpetuates

"Who hast told thee that he was a tyrant? Hast thou eaten of the tree, whereof I commanded thee that thou shouldst not eat?" (p.246)

¹⁴⁰Op. cit., Leviathan, ch. 29, p.372

the common bonds of civil association. In this respect, the central feature of his account of the "multitude" does not require a reduction to our natural existence in order to make its argument. Our "natural condition" exists as a structural feature of civil society; it is always nearby and experienced socially as our perpetual guard against faction, sedition, persecution, and the threat of the mob. This is the social presence of the multitude. Explaining this main feature, Hobbes just asks us to imagine a political community that chooses to leave "... all things that may be proposed...", to the wills and peculiar judgements of each of its citizen.¹⁴²

In an elaborate footnote to the sixth chapter of De Cive, he furthers this point by describing for us the social character of a multitude existing in such a situation. The first thing undermined is the stability of partnerships, political or otherwise: "Wherefore a multitude cannot promise, contract, acquire right, convey right, act, have, possess, and the like, unless it be every one apart, ...so as there must be as many promises, compacts, rights, and actions as men."¹⁴³ For Hobbes, this could never be a city. It may indeed maintain the formalities of subject and citizen, but their effectiveness would endure no longer than their mutual subjection to the inconstancy of each other's wills. In effect, Hobbes contends that the natural authority and submission needed for the ancient practice of rulership, would be perpetually short-lived if the artificial means for security were not available to limit

¹⁴¹Op. cit., De Cive, ch. VII, art. 7, p.196; "But the people is not in being before the constitution of government, as not being any person, but a multitude of single persons; ..."

¹⁴²Ibid, ch. VI, arts. 1 & 2, p.174-175

¹⁴³Ibid, footnote entitled, "Multitude, &c.", p.174

and channel human actions. As he explains: "But care may be had, there be no just cause of fear; for security is the end wherefore men submit themselves to others; which if it be not had, not man is supposed to have submitted himself to aught, or to have quitted his right to all things, before that there was a care had of his security."¹⁴⁴

Hobbes did understand that Aristotle's common good rested on the natural claim to rule of the moral and intellectual virtues. His comments on Aristotelian thought reveal an awareness of how the rule of virtue was seen by the ancients to emerge from the political cultivation of nature's ruling hierarchies. But such comments also betray an important effort on his part to distance himself from the political ineffectiveness he sees resulting from any reliance upon the rulerships of nature's hierarchies. His distancing does not outwardly display an attempt to refute the existence of these hierarchies. Rather, it conveys a different concern with their political efficacy as they exist amidst the multitudes.

Indeed, Hobbes writes that Aristotle's political thought was founded on the observation that in all areas of life, some develop the aptitude to command, while others will only cultivate the aptitude to serve.¹⁴⁵ Even where there is an equality of virtue, as in the best city, Aristotle still observes a natural difference guiding the selection of rulers; for example, in things such as age: "Nature has provided the distinction by making that which is the same by type have a younger and older

¹⁴⁴Ibid, art. 3, p.176

¹⁴⁵Op. cit., esp. Leviathan, ch. 15, p.211, on the ninth fundamental law of nature, "against Pride".

element, of which it is proper for the former to be ruled and the latter to rule."¹⁴⁶

The full scope of this observation is confirmed by Aristotle, early on in book I of his

Politics:

For whatever is constituted out of a number of things -- whether continuous or discrete -- and becomes a single common thing always displays a ruling and ruled element. This is something that animate things derive from all of nature, for even in things that do not share in life there is a sort of rule, for example in harmony.¹⁴⁷

Yet, as accurate a statement as this may be, Hobbes cannot accept it as a ground upon which to secure the common good. It goes against the ends of what he sees as the two most important attributes for the human endeavouring of peace: the validity of our natural sense-experience, and the fundamental pursuits of our artificial reasoning.

In effect, Hobbes asserts that the sense and reason of human experience living amidst the multitudes, constitutes a human condition that is politically counterfactual to a ruling based on natural hierarchies. Our condition is instead one of radical equality. At chapter fifteen of Leviathan, Hobbes reaffirms this view even while conceding that someone like Aristotle may be right about the rule of natural differences. Dealing with the ninth fundamental law of nature ("against Pride"), he admits that human beings may be by nature unequal, but for the sake of peace and the covenant, he insists that it not be acknowledged: "... or if Nature

¹⁴⁶Op. cit., Politics, book 7, ch. 14, 1332b35-40; in De Cive, as we have already noted, Hobbes in fact interprets distinctions such as these as a foundation for divided governments (op. cit., ch. 10, art. 2, p.223-224).

have made men unequall; yet because men that think themselves equall, will not enter into conditions of Peace, but on Equall termes, such equalitie must be admitted."¹⁴⁸ Consequently, in Hobbes's view, nature cannot sufficiently keep an individual from resisting the rule of another, even when that other is clearly superior in his task.¹⁴⁹ To re-state the above point, experience will dictate that the authority of rulership is always affected by our comparison with others. Similarly, our right reason will not submit to the authority of another, unless the goal of security is guaranteed in advance.

Importantly, for Hobbes, this holds true even for our earliest ruling relationships. Familial bonds are not determined by the generations of filial partnerships, but by power and the promise of protection and security of life afforded the new born by the mother. In the Elements of Law, Hobbes clarifies this even further:

The title to dominion over a child, proceedeth not from the generation, but from the preservation of it; and therefore in the estate of nature, the mother, in whose power it is to save or destroy it, hath right thereto by that power... And if the mother shall think fit to abandon, or expose her child to death, whatsoever man or woman shall find the child so exposed, shall have the same right which the mother had before.¹⁵⁰

Hobbes makes it imperative that the artifice guaranteeing peace and common defence ("Common-wealth") hold sway even over our earliest experience of being

¹⁴⁷Ibid, book I, ch. 5, 1254a27-33, p.40

¹⁴⁸Op. cit., Leviathan, ch. 15, p.211

¹⁴⁹Op. cit., De Cive, ch. III, art. 13, p.143

ruled by others. In other words, the political attainment of the common good must already be secured in order for our development as families and citizens to take place.

As a concluding observation, it has become clear that Hobbes's common good must be secured in advance by the artifice of politics. This is the primal and single condition for the political and moral life of the citizen. The common good can never be determined by the moral excellence of its rulers. Nor can it be divided simply by the moral misconduct of its ruler. In order to maintain the unity of a sovereign "Common-wealth", Hobbes accomplishes a division of his own: he strictly divides and keeps apart the ancient relationship between the rulership (now the "government") of the common good, and the moral excellences traditionally needed for its political attainment.

His own understanding of the role of the moral virtues is derived from the prior securing of the common good; namely, from the first two fundamental laws of nature. The moral virtues are in fact the derivatives of the pursuit of peace and common defence. Their effect on the regime is not one of shaping or legislating the just authority of its constitution. With the unity of the sovereign will deciding this question in advance, the moral virtues are instead relegated to keeping peace and civility amongst ourselves. Hobbes confirms this just by the order of his argument in Leviathan. The moral virtues are enumerated (ch. 15) and rendered effective only after the terms of the covenant have been established (ch. 13 & 14). These

¹⁵⁰Op. cit., Elements of Law, part II, ch. IV, p.155

virtues are nothing more than the "other Lawes of Nature", but they are specifically the laws of right reason only: for rulers and ruled equally, "... they are but Conclusions, or Theoremes concerning what conduceth to the conservation and defence of themselves; whereas Law, properly is the word of him, that by right hath command over others."¹⁵¹ The commands of the latter must be made secure, in order for the conclusions and theoremes of the former to hold true.

Thus, Hobbes initiates a politics of "Common-wealth" whose justification is no longer sought in the moral conduct of the human being. As has been argued, this rejection begins with the conviction that such a justification could never survive the tumults of the multitudes. Hobbes therefore contends that traditional thought on the political role of the moral virtues incorrectly presumed that what was best in moral action (namely, a just rulership), could be determined independently of the diverse appetites of human relations. We will end this chapter with Hobbes making this very point through a juxtaposition of his moral life to Aristotle's rule of virtue:

But the writers of Morall Philosophie, though they acknowledge the same Vertues and Vices; Yet not seeing wherein consisted their Goodnesse; nor that they come to be praised, as the meanes of peaceable, sociable, and comfortable living; place them in a mediocrity of passions: as if not the Cause, but the Degree of daring, made Fortitude; or not the Cause, but the Quantity of a gift, made Liberality.¹⁵²

¹⁵¹Op. cit., Leviathan, ch. 15, p.216-217

¹⁵²Ibid, p.216

The irony of Hobbes's "comfortable living" is that from this he was led to interpret Aristotle's virtues -- and not his own "morall vertues" -- as a "mediocrity of passions".

PART TWO:
GOVERNMENTALITY AND THE DISPLACEMENT OF THE COMMON GOOD

So many great authors have treated the maxims of government and the rules of civil right, that there is nothing useful to say on this subject that has not already been said. But perhaps there would be better agreement, perhaps the best relations of the social body would be clearly established, if they had begun with a better determination of its nature. This is what I have attempted to do in these writings. It is here not a question of the administration of this body but of its constitution. *I make it live and not just act.*¹⁵³

Jean-Jacques Rousseau

Du Contrat Social (first version)

¹⁵³ Op. cit. Rousseau, Oeuvres Complètes, volume III, p. 281 (italics mine).

Introduction to Part Two

In the first part of our study (chapters one and two) we examined two different accounts of the role of the art of ruling in the political achievement of the common good. In the political thought of Thomas Hobbes, we saw a profound rejection of the central place traditionally accorded this art in the politics of the common good. In this sense Hobbes was expressive of a newly emerging distinction between ancient and modern political science. To Aristotle's relation between ruling regimes and *politike koinonia* (political community), Hobbes opposed the unity of "Sovereign Office" and the artifice of "Common-wealth". Our argument was that the modern language of sovereignty did not simply replace the art of ruling in the politics of the common good, but that it effectively displaced and transformed the positive role it previously played. Sovereign authority is founded on the usefulness of obedience, not the practical and philosophical experience of the virtues.

Importantly, this is what led us to end this section of the discussion with a point that is very significant for our argument: although Hobbes effectively undermines the centrality of ancient and medieval rulership, his account of sovereign unity still retains, albeit in a nominal form, the negative and juridical function of its practice. Hobbes's sovereign stands over and above its subjects, as an awe-inspiring other that periodically reminds the latter of how the covenant

transforms "multitudes" into an aggregate of citizens. Its external force is felt directly through the experience of law as "obligation". And its paternalistic authority is calculated to remind us of a secured common good ("peace" and "common defence") that civilizes our natural right through the promise of punishment and protection. No doubt it is hard to ignore the heavy-handed statism of Hobbes's account of the common good.

Indeed, the absolutist and potentially authoritarian character of Hobbes's theory of sovereignty seems almost obvious to the common sense of today's liberal-democratic societies. Roughly one hundred years after the publication of Leviathan, Jean-Jacques Rousseau contributed some of the most effective critiques of what he saw as despotic justifications of sovereignty, such as Hobbes's. Addressing two of the same fundamental issues inherited from previous jurists and political philosophers, Rousseau advanced solutions to what he perceived as the identifiable problems of his predecessors.

Firstly, in order to avoid despotism, he sought to found the legitimacy of sovereign power on the freely, and popularly, expressed will of an assembled people. Secondly, thinking particularly of Hobbes,¹⁵⁴ Rousseau justified his view of sovereignty by appealing not only to a more authentic constitution of the human

¹⁵⁴For an indepth account of both the negative and positive influences that Hobbes's political philosophy had on the political science of Rousseau's time, see Robert Derathé, Jean-Jacques Rousseau et la Science Politique de son Temps, (Paris: Librairie Philosophique J. Vrin, 1974). Derathé sees the negative impact on Rousseau in the absolutism of Hobbes's sovereign, and in the condition of war found in the latter's account of the state of nature. But Derathé rightly points out the

character (as in Émile), but also to the true nature of human associations (as in the Discours sur l'Origine et les Fondemens de l'Inégalité Parmi les Hommes, and especially Du Contrat Social). How sovereignty is founded on the will of a people, and how a people must "come together" as a population before it can give itself to a sovereign, are now specifically available to Rousseau as possible answers to the questions dealing with principles of political right. We must inquire into how this is possible, for Rousseau does not claim to invent what he observes. To put it directly at this mid-point of the argument, our inquiry will continue as follows: we will pay closer attention to how the identifications of certain political and moral problems (i.e., the legitimacy of sovereign power, the role of government, the formation of citizenship and national communities, etc.) undergo specific transformations and re-modifications, in the latter part of the eighteenth century, such that Rousseau is able to conceive his political philosophy as their solutions.

For now, let us simply proceed with the following methodological precaution: any approach guided by a historical understanding of such solutions should not evade a critical history of the re-constitutions of their problems. Explanations and clarifications of these specific problems needing the new attention of government, will be provided in chapter four. Until then, we must busy ourselves with specifying how the concept, and problem, of the common good is said to exist in Rousseau's works and those of other authors he deploys.

positive influences as well, stressing Rousseau's admiration for pursuing the unity of sovereign power in Hobbes's work. See especially ch. 2, p. 100-113.

Our task, then, is not mainly one of determining the validity of Rousseau's claims against those of his contemporaries and predecessors. It is sufficient, for our purposes, to know that Rousseau believed himself to have (by extending the work of other contemporaries such as the Marquis d'Argenson and l'Abbé Saint-Pierre) found the answers to the questions of "principles of political right" in a popular form of sovereignty expressed through what he called the "general will" ("la volonté générale").¹⁵⁵ What is more important, with respect to our argument, is to determine how it is that Rousseau can identify, and appeal to, political realities that affect the common good but exist independently of the nature of both ruler/ruled experiences (Aristotle), and representative institutions which were seen to be the sole guarantors of civil peace and "common-wealth" (Hobbes)? Namely, he calls our attention to the following phenomena: that "... a people is a people before it gives itself to a sovereign"; that "populations" will bear the marks of good or bad government on their bodies; and that political communities are formed from aggregations ("... former par aggrégation") of individual forces, into assembled associations. We must examine how the historical possibility of an expressed general will presupposes the availability of these phenomena for the legislator.

In the next two chapters (3 and 4), therefore, we will look closely at how Rousseau makes these realities the problematical subjects of his solutions to such political questions as the nature of sovereignty, government and the citizenship of

¹⁵⁵"Tel se croit le maître des autres, qui ne laisse pas d'être plus esclave qu'eux. Comment ce changement s'est-il fait? Je l'ignore. Qu'est-ce qui peut le

political community. We will examine these in two central themes of his political thought: the legitimacy of sovereign power and its new relation with modern government (ch.3), and the new art and objects of government that now plays a fundamentally constitutive role in the formation of this Sovereignty, its citizens, and its political community (ch.4). Moreover, our objective in these sections of the argument will be twofold: we shall show a more complete exclusion, displacement and reconstitution of the political experience of the art of ruling (in both its domestic and political forms), and, more importantly, how this betrays a newly effective displacement of the common good. This is a displacement that, we hope to show, may be more radically different from Hobbes's conception of the common good, than the latter's is from Aristotle's.

Importantly, the role that this «displacement» plays does not simply imply modifications of the content of what Rousseau claimed to see; namely, that he may have seen more, less and/or different political realities than his predecessors with respect to the conditions under which the common good may emerge. One must not ignore how the conceptions of political foresight and observation - so essential to the conduct of those officials that subject and govern others - have also undergone definitive historical modifications. And one should not be quick to assume that such modifications only unfold with, or are originally conditioned by, the Sovereign representations of public life. For now, let us just remark that the prudence (phronesis) of Aristotle's political ruler, or the foresight of Hobbes's

rendre légitime? Je crois pouvoir résoudre cette question." Du Contrat Social, op.

unifying sovereign, are certainly not political powers of observation experienced and exercised in the same way as the prudent foresight («la prévoyance») of Rousseau's god-like legislator. As chapter three should make clear, Rousseau's vision of the common good is one that, as of the latter part of the eighteenth century, can only be expressed in what we will call (following the later work of Michel Foucault) "governmentalized" ("... de la governmentalité") states and societies.

In the following chapter (3), however, we will begin with Rousseau's critique of sovereignty, focusing on two key issues that animate the latter's account. We will first examine how the dissemination of the unity of a truly legitimate sovereign power is made possible through the very first convention: that first coming together of "le peuple". This should lead us into an even deeper, but different, rejection of the centrality of rulership than in Hobbes's political thought. When we say «rejection» we do not mean a refutation as such but a displacement and transformation of the problem as it existed for Hobbes and the entire natural rights tradition. Indeed, we will show that Rousseau's rejection identifies ruling relationships with social diseases, and abnormal deviations from the norm. We define these relationships as the «bio-power» of an emerging «bio-politics».

Next, we will inquire as to how the founding of popular sovereignty relies upon a governed separation and re-combination of will with whatever interest is deemed to conform or not to the general will. The examination of these two issues

cit. Jean-Jacques Rousseau, Oeuvres Complètes, vol. III, p. 351.

should enable us to conclude with a significant question that is taken up in chapter four: namely, how does the sovereign expression of a people's will make its interests transparent to itself? And, more to the point, who (or what) identifies and/or intervenes into the "corps social" (social body) so that the people's will sees, maintains, and/or restores an unobstructed view of its interests and identity as a population, community and nation?

The response to this latter question should, in turn, extend our analyses into chapter four, where the common goods of "communauté" and "la nation" now find their efficacy situated - almost entirely - in the tactical constitution of governable individuals and communities. This is what Rousseau is referring to already in the opening lines of the first manuscript of du Contrat Social (the "Geneva Manuscript"), when he distinguishes, according to usefulness, the constitution of social bodies from the mere administration of their actions: «C'est ce que j'ai tenté de faire dans cet écrit. Il n'est donc point ici question de l'administration de ce corps mais de sa constitution. Je le fais vivre et non pas agir.»¹⁵⁶

¹⁵⁶Ibid, p. 281. This straightforward problematising for government of the inherent vitality of the conventionally formed social body ("I make it live and not just act." -- translation my own), disappears in the opening lines of the officially published version of the 1762 edition. But it returns more decisively in the third book (on "Gouvernement") of this published version; see especially chapters IX through XII. Just the titles of these chapters on government (i.e., "... sa Pente a Dégénérer"; "De La Mort Du Corps Politique", etc.) are enough to suggest that the sociality of Rousseau's "corps social" now requires administering to the conduct and vitality of bodies. In the same vein, see also the Discours sur L'Économie Politique (ibid, V. 3, p. 251) for Rousseau's injunction to all governments («les

Chapter Three:

"le peuple", a new concept of Government, and the problem of Sovereign Right.

At chapter five of Du Contrat Social Rousseau opens his deliberations with a chapter heading that is quite distinct from the headings of the eight other chapters of book one. Unlike these other headings, the title of chapter five is not simply denotative. It is also prescriptive. It does not only signify the object under consideration (i.e., "... une premiere convention"). It also tells the reader of the first four chapters what one should do in order to truly define the legitimacy of sovereign authority: "Qu'il faut toujours remonter à une premiere convention."¹⁵⁷ As referred to in our introduction to Part Two, to dispel any doubts regarding the normative intent of such a prescriptive title, Rousseau uses the French verb "remonter", and not "retourner": we are not simply returning to the first convention, we are climbing back up to it. There are definite obstacles to overcome. The historical, theological and so-called natural realities that had, up until Rousseau's time, served as justifications for sovereign political rule are, therefore, products of an historical and natural decline from this first convention. If not the intentions, then at least the conceptualizations of Rousseau's scholarly predecessors are not to be trusted.

Princes»): «Make men, then, if you wish to command men: ...»(translation my own). We return to this issue in chapter four.

¹⁵⁷Ibid, V. 3, p.359

From the ancient Aristotle to the modern natural rights theories of Grotius, Hobbes, Pufendorf¹⁵⁸, and Locke, the question of public right, so Rousseau argues, was rightly raised but ill-conceived. So much so, that Aristotle and Hobbes even mistook unjust historical effects for the natural causes of public and political right.¹⁵⁹ As we stated in the introduction to Part Two of this study, it is these predecessors Rousseau charges with not seeing that a people first comes together, it assembles, before it gives itself to a ruler. It seems their attitudes to scholarship had a bad effect on their conclusions. In a footnote that singles out Grotius' conditional support for slavery as an example, Rousseau quotes one of his more interesting friends in support of his critique of the pitfalls of learnedness. René Louis de Voyer, the Marquis d'Argenson (1694-1757), had this to say about the learnedness of certain men who had written of public right in the past: "Les savantes recherches sur le droit public ne sont souvent que l'histoire des anciens abus, et on s'est entêté mal-à-propos quand on s'est donné la peine de les trop étudier."¹⁶⁰

What is interesting about the Marquis d'Argenson is not only this apparent ambivalence toward the fruits of scholarship. This ambivalence appears in the fact that he was, after all, much like his friend J.J. Rousseau, also a learned man. What

¹⁵⁸Including his and Grotius' great eighteenth century French translator, Barbeyrac; *ibid*, p.370.

¹⁵⁹On Aristotle's natural slavery, *ibid*, p.353; on Hobbes' warlike natural condition, see esp. *Discours sur l'Origine et les Fondemens de l'Inégalité parmi les Hommes*: *ibid*, v. 3, pp. 152-155 and also the phrase at p. 132, "Ils parloient de l'Homme Sauvage et ils peignoient l'homme Civil." («They speak of the savage man, and then portray civilized man.»-- translation my own).

¹⁶⁰*Ibid*, v. 3, p. 353. Quoted from the Marquis' "Traité manuscrit des intérêt de la France avec ses voisins".

stands out is a different and new type of learnedness the Marquis displayed so well; well enough, no doubt, to impress his friend Jean-Jacques. The Marquis d'Argenson mixed his literary and political pursuits very effectively. He was an admiring reviewer of British novels, a patron (along with his good friend Voltaire) of the literary Club de l'Entresol, and a scholar of the work of the seventeenth-century British regicide Algernon Sidney. But he also followed his father (a great minister in "la police" of the monarchical administration of Louis XIV) into a career in the civil and diplomatic service of France's monarchical government. He was the "intendant" of Hainaut and Cambrésis, and then served as minister of foreign affairs (1744-1747) during the war of the Austrian Succession under the reign of Louis XV. The Marquis also fancied himself a political progressive and a tactical innovator in the arts of modern warfare; he advocated a French air force aloft in hot-air balloons. Politically, he presented himself as a radical reformer.

His Considérations sur le gouvernement de la France were seen to be so radical, the book was held back thirty years before its publication in 1764. It seems the ideas contained in the Marquis d'Argenson's book needed a time ripe for their deployment and dissemination. Unfortunately for him, this time came seven years after his death, but only two years after the publication of Rousseau's own du Contrat Social (1762). And as it became widely known both before and after the publication of the Marquis' book, he approached his ideas as tactically as he did his governmental duties.

In one of the more massive, superbly written and chronicled histories of the French Revolution in the English language, Simon Schama¹⁶¹ gives us a fascinating glimpse of the ideas of this politically committed public servant, scholar and diplomat. As a descendent of one of the most ancient "Parlementaire" families in the French aristocracy, the Marquis grew increasingly convinced that the hereditary nobility of his time was the source of self-interest, corruption and degeneracy in French government and society. As an "intendant", he saw first hand the deterioration of the provinces. He saw how his fellow nobles would often treat public offices, much like his own, as merely particular interests and/or casually acquired private property.¹⁶² The Marquis d'Argenson's ideas would therefore be molded to target and strike at the intermediary bodies of the French monarchy; namely, its' official aristocracy. These ideas, we will see, make no pretence to a final elimination of the French aristocracy's corruption. But they certainly display innovative ways of governing the very possibility of its appearance.

Schama comments on how the Marquis' book on French government was perceived, curiously, both as utopian and historically precise in its intentions. It seems his utopian ideal was not thought as the beyond of history, or as an historical epoch yet to come. Much like Rousseau, we hope to show, d'Argenson's

¹⁶¹Simon Schama, Citizens; A Chronicle of the French Revolution, (New York: Alfred A. Knopf, Inc., 1989). For the discussion of d'Argenson, see especially pp. 112-115. Subsequent references will be made to this edition. For a more contextual discussion of the references to d'Argenson in Rousseau's commentaries on political works of his time (for example, "écrits sur l'Abbé de Saint-Pierre"), see also Sven Stelling-Michaud's informative introductory essay in volume III of the Oeuvre Complètes; *ibid*, pp. cxx - clviii.

ideal government is thought to reside in the interiors of history. The ideal is there inside the formation of the bodies, souls and nations of history. He was a progressive who thought the politics of government was really only a matter of accessing this ideal. It was just a matter of destroying its obstacles and impediments. Schama confirms the Marquis' progressiveness by pointing out the latter's distaste for the nobility's hypocrisy; as early as 1739, shortly after his apparent completion of the manuscript for the book on government, he made himself known as a critical observer of French nobles (even "des intendants" much like himself) who displayed public and private lifestyles that contravened their political utterances. The Marquis was well aware of the popular distaste for apparent moral hypocrisy. Schama even wonders, quite justifiably, why the French monarchy did not see how it might profit from such a popular sentiment against its opponents in the official aristocracy. As he tells us, this was in fact exactly what the monarchy's most "far-sighted minister" recommended as far back as 1739. Already at this time, the Marquis was reputed to be, as Schama recounts, "... the most visionary and forceful of all Louis XV's public servants."¹⁶³ The gist of the Marquis' recommendations to his monarchy bears repeating. Especially since the original publication of the book on government in 1764, appeared with the publisher-bookseller's notice ("Avis Libraire") announcing a prominent endorsement of the

¹⁶²Ibid, p. 113.

¹⁶³Ibid, p. 112. Schama even documents how amongst the "judicial nobility", the Marquis d'Argenson was already (1739) referred to as "la bête" (the beast).

text: "M. Rousseau qui en parle dans diverses notes du Contrat Social, paroît en faire beaucoup de cas."¹⁶⁴

Schama correctly notes that there is one central idea that animates the entire series of recommendations the Marquis d'Argenson made to his monarchy:

The only way to overcome their [the nobility's] obstruction, in his view, was for the monarchy to embrace democracy, for «democracy is as much a friend to monarchy as aristocracy is an enemy.» If the Parlements purport to represent «the people», he argued, their bluff should be called by instituting elected provincial assemblies. ... Upon this base the King ... would preside over a true republic of citizens, rather than a subdued body of subjects. «What a beautiful idea,» d'Argenson exclaimed, «... a republic protected by a King.»¹⁶⁵

No doubt this kingly protector of citizens is not quite the "Protector of the Realm" that still defined traditional European monarchies at that time. But neither is he merely an utopian and/or romantic political proposition, as Schama seems to accept. For it appears, through a reading of the text itself, that d'Argenson's political romanticism (a monarchy that would agree to enhance the legitimacy of its

¹⁶⁴For the text(s) itself, and the ambiguous context surrounding the differing manuscripts circulating in and around the publications of the only two editions (1764/65 and 1784), see Joseph M. Gallanar's account of the book on the internet website dealing with the Marquis D'Argenson's life and works; "WWW. Microserve. Net/~Gallanar/D'Argenson/argenson. HTM". The original edition of 1764 was published under the slightly different title: Considérations Sur le Gouvernement Ancien et Present de la France. The notice announcing Rousseau's emphatic endorsement of the ideas in the book, appears on p. 26 of Gallanar's presentation of the original edition. In his introduction, Gallanar also points out how the "anonymous Parisian publisher" (the book, like du Contrat Social in 1762, was purposely disguised as an Amsterdam publication) waited until 1764 to publish the book along with the "Avis" about Rousseau, due to the condemnation of the latter by the "Parlement de Paris" in 1762 for ideas contained in his du Contrat Social (ibid, pp. 11-12). Subsequent references will be made to the edition on this website.

sovereignty and the strength of its state, by vesting its authority in the service and protection of its citizen body) is combined with, and sharply tempered by, a keen and experienced knowledge of the procedural and administrative functioning of modern government. It is also apparent that this latter type of knowledge is what lends solid support in the text to the applicability of the Marquis' idea. For evidence of this, one need look no further than the National Convention's enactment, in October of 1789, of legislation changing the overlapping jurisdictions of France's regional administrations («généralités») into more efficient and uniformly governed «départements». This was the revolutionaries' application of an original concept offered by the Marquis d'Argenson to the Monarchy of Louis XV, and first developed in his writings of 1737.¹⁶⁶ In his view, these «départements» could be a principal means of effecting this otherwise strangely combined Kingly-Republic.¹⁶⁷

Indeed, in the few manuscript copies circulating before and after the first publication of Considérations sur le Gouvernement Ancien et Present de la France in 1764, five of them bear a different title (with corrections and alterations in the Marquis' handwriting) than the published version. It is a title that definitely conveys, more directly, the Marquis' basic idea of effectively combining a democratized population with a monarchical regime: "Jusques où la Démocratie peut être admise

¹⁶⁵Op. cit., Schama, p. 113.

¹⁶⁶Ibid, p. 474-477. Schama not only documents this fact, but also points out its most appealing feature at the time: one could combine a strict and continuous uniformity of local administrations, with a decentralizing devolution of constitutional powers.

¹⁶⁷For the Marquis' use of the concept, op. cit. d'Argenson, ch. 7, article 27, p. 295.

dans le Gouvernement Monarchique;"¹⁶⁸ The specific objective of the book is stated and unavoidable in this earlier title. It is not a question of seeking comparable benefits in the juxtaposition of monarchical with democratic souls and/or principles. The specific problem the text delimits and seeks to solve is, as the earlier title attests, far more singular and identifiable: how and up to what point - - "jusques où" -- can the democratically procured consent of the governed, be inserted in the functioning of a monarchical government, such that its effects enhance and increase the over-all strength and well-being of the state and its people.¹⁶⁹ When combined, as d'Argenson contends, the separate interests of each regime should cancel into the general interest of both. Most importantly, however, this «general interest» will function as an individualizing exposure of the particular wills of «false nobles». As the writing of a «true noble», d'Argenson's text shows clearly that the problem for government does not reside in the defense and maintenance of its sovereignty, but in the formation of populations as peoples.

What is even clearer, despite the variations in the extant manuscripts, is that d'Argenson came to this innovative conclusion quite apart from his appraisals of theories of sovereignty and their consequences for modern government. There is nothing comparable to books one and two of du Contrat Social (critiques of theories

¹⁶⁸Op. cit. Gallanar's introductory essay, pp. 1-2, in the Marquis d'Argenson's, Considérations sur le Gouvernement Ancien et Present de la France.

¹⁶⁹Ibid, p. 1; see the Marquis' own notice ("Avertissement") to the reader, as published in the 1764/65 edition: "... on examinera a cet effet les différens Gouvernemens des souverainetés de l'Europe, et on montrera par cet examen que l'administration populaire sous l'autorité du Souverain, ne diminue point la

of natural rights and sovereign legitimacy) anywhere in this text on the evolution of effective government. In fact, even a cursory interpretation of the text itself can not avoid what appears to be an inversion of the centrality traditionally accorded sovereign right when deciding upon the governmental administration of the law. From the Marquis d'Argenson's vantage point it is governmental efficacy that will condition the possible existence of legitimate sovereign power, and not vice versa. And what does this "governmental efficacy" entail? On this point, the Marquis d'Argenson's text could not be more specific as to its objective.

The 1764 edition of Considérations sur le Gouvernement Ancien et Present de la France, opens with definitions of the three most traditional forms of government that were reputed to serve the common good in his time: Monarchy, Aristocracy and Democracy. The Marquis defines them strictly according to their functions. He lists their faults in the same way, pointing out what renders each regime corrupt and ineffective. A Monarchy, as rule by one man, can enhance the strength and happiness of its state and people. But its government does so without deference in its decisions to the expressed concerns of municipal councils and/or provincial assemblies that organize its body of citizens. Similarly, an aristocracy (the most «pusillanimous» when defective, according to the Marquis) fails in its tasks when it no longer distinguishes the true aristocrats from the false ones («l'Oligarchie ou fausse Aristocratie»). These false aristocrats, or oligarchs, are then also held responsible for impeding the rise of effective democratic

puissance publique, qu'elle l'augmente meme et qu'elle seroit la source du bonheur

governments. As the Marquis contends, it is they who substitute their particular interests for the common interest that should normally emerge from the popular councils and assemblies that unite a people. This divides and corrupts the citizen body; rather than a united citizen body for whom it should govern, these aristocrats create "multitudes" that they will need to subdue.¹⁷⁰ Not surprisingly, then, given his background and concrete experience in the government of Louis XV, the Marquis d'Argenson was even more specific on what needs to be done about the aristocratic problem. Indeed, in his view, the problem of their rule was so fundamental that its vices could be seen cutting across all specific governmental regimes and/or their typologies. The great vice of despotic self-interest is here a problem specific to the execution of governmental tasks in general. From the Marquis d'Argenson's perspective, effective government will only be possible, therefore, if and when one subjects this fundamental problem to functional solutions. What, then, are these solutions?

Of the eight chapters that comprise the Marquis' book on government, three of them (chapters two, five and seven) stand out as both diagnoses of the problem and points for remedying interventions. Chapter two deals with what should be the fundamental principle that defines the modern concept of government, and the

des Peuples."

¹⁷⁰Ibid, pp. 32-34. The distinction between aristocrats is defined as follows: the «true» are of noble birth and display a prudence in their perpetual favoring of the common good above their own. The «false» may be noble by birth, but inevitably show themselves as the very desecration of the valor and honour of their origins. This shows itself through enslavement to personal and venal interests

inherent objective that legitimates it. Chapter five examines the progressive, but still unfulfilled, evolution of democracy in the history of France and its people. Lastly, chapter seven, easily the most involved and important part of the book, sets out the governmental «plan» offered to the monarchy of Louis XV («Plan du Gouvernement proposé pour la France»). It is subdivided into fifty-three short «articles» designed to survey and pre-empt, in every area of French social and political life, the possible appearance of venal and falsely aristocratic interests. Chapters two and five form complementary discussions, for the Marquis d'Argenson shows here that a truly effective government will function in a way that pre-supposes the availability of democratized populations (and what these latter are still remains to be seen).

Unlike the impotence to effect real government in the ancient regimes, modern government must be conceived as a constantly present remedy for the inevitable appearances of venal and despotic interests. It is all about creating and maintaining a consistency and continuity in the execution of tasks imparted to councils and bodies enacted by the popularly elected regional and municipal assemblies of France's people. Consistency comes with maintaining functionaries accountable to their councils through a strict adherence to regular meetings and regulated disclosures of tasks performed. Continuity will follow only if the membership of these councils is separated out (partitioned, one might say), and supervised as to the performance of its tasks by the appropriately designated police

against the common good, duplicity toward other citizens, and a feigning of the

of the popular magistrates. In fact this would be the new role of «les Intendants», to display their true nobility in the acts of supervising and overseeing the tasks and relations of those under their charge. Here is the way one can then re-combine such tasks and relations with other designated councils and bodies such that jurisdictions are never transgressed, and continuity of execution is never arbitrarily broken in a government's movements from one domain of popular life to another.

Some of the procedures specified in the «Plan du Gouvernement» of Chapter Seven (article seven) illustrate the intended application of this governmental reasoning very well: popular magistrates are to be excluded from all contentious issues arising in other jurisdictions («les jurisdiction contentieuses»), such as tax collection. These magistrates are even separated out from other judicial bodies charged with the administration of the laws, such as the judicial nobility of feudal and royal magistracies. This is accomplished, the Marquis contends, by seeking out and re-combining the right types of character with the needs of the offices of the respective magistrates. So, the popular magistrates should not (like the royal and feudal ones) be educated in the laws, even though they must love them. Hence, this love emerges not from the learnedness of scholarship, but from the dedication and force of their application. The magistrates will require characters that are only sufficient for their required duties: namely, a simple and natural enlightenment («lumière naturelle») that is supported by a sincere, and politically accessible, zeal for the well being of their nation («...leurs

intelligence they do not possess.

patrie»).¹⁷¹ Chapter Seven is therefore essential in rendering possible, and even identifying, the fundamental principle of government defined in Chapter Two (entitled «Principes»). Believing he is describing the new objective reality of legitimate government for the first time, d'Argenson defines the principle as follows (in the second chapter): «This is hence the real object of the science we call Politics, the perfecting of the interior of a State in all the degrees of perfection to which it is susceptible.»¹⁷² These «degrees of perfection» internal to the state, especially the perfectibility of the conduct of its citizens, establishes this singular and individualizing attention to dispositions as a legitimate principle of government's activities. Chapter Two elaborates this further.

Here, the Marquis d'Argenson specifies the nature of both the problem, and the solutions that define the legitimate functioning of modern government. Not surprisingly, we find out that the appearance of venal interests and despotic effects, are only possible if and when the consistency and continuity of these popular bodies is interrupted and/or evaded. Clearly then the true despot, i.e. the false noble, is now a problem existing for the power of assembly, and identified by an assessment of the actual conditions that may render possible, at any moment or

¹⁷¹ Ibid, p.281. The reader should be aware that after p. 38 of the 1764 text the pagination on the web-site copy no longer corresponds to the original table of contents. This is because the editor includes on the right hand side of the web page comparable text from the second edition of 1784; this enlarges the length of the text considerably. To facilitate the reader's consulting of the reference we will refer to this web-site pagination.

¹⁷² Ibid, p. 38; in the original French: «Tel est cependant le véritable objet de la science qu'on appelle Politique, perfectionner le dedans de tous les degrés de perfection dont il est susceptible.» (translation my own).

place, the appearance of these degenerate despots. And the term «degenerate» is not used here in an arbitrary manner, or only as a sign of moral revulsion. Very much like Rousseau's use of the first convention, the Marquis d'Argenson understands that the aggregation and assemblage of otherwise contiguously connected human beings, is the generative principle for the development of truly republican citizens. And he does not conceive a citizen's conformity to this principle of assembly as just a repressive technique that pre-empts vice. Such conformity by those within the assemblies and councils of the state is now synonymous with the perfecting of virtue itself. This is exactly Rousseau's conception of civic virtue in political life.¹⁷³ Likewise, d'Argenson sees that this power to assemble can make citizens who show in the conduct of their particular lives, a regular and selfless preference for the general welfare of the nation (here synonymous with the common good).

In both the physical and literal sense, then, these despots impede, evade and therefore corrupt the actual and physical generation of a population and people. And as we will see in the following chapter (ch. 4) on government, the quasi-biological language (venality and corruption now as degeneration) that defines the tasks of these governing assemblies, is not merely analogous, or only metaphorical, in its intent (recall that the modern science and term «biologie» is

¹⁷³ Op. cit., *Oeuvres*, v. III, p. 252, the phrase: «and as virtue is but the conformity of the particular will to the general, ... make virtue reign.» (translation my own).

established only around the year 1800-02).¹⁷⁴ This is an actual historical will to govern the movements and conduct of the bodies of citizens. By this historical will, however, we do not wish to impute anything sinister, or even necessarily conspiratorial, to the intentions of political actors in the aristocracy and/or clergy of pre revolutionary France. Nor do we even want to suggest an emerging consciousness of how the problem of governmental corruption reflected divisions amongst certain social forces, or classes, within eighteenth century French and European societies. We mean only to convey the historical establishment of a definite and very important, though apparently slight, modification of the problem for which the modern concept of government is now said to exist. We will phrase it as follows: How does one govern the very conditions of people's lives such that one simultaneously generates the appearances of certain modes of living that maintain assemblies (i.e., the selfless republican), and prepares the disappearances of those that apparently do not (i.e., the so-called «venal» interests of the false aristocrat and other degenerates)? We have already alluded to the solution in the figure of

¹⁷⁴ For confirmation of this fact, see Georges Canguilhem's seminal work on the question of normality in the history of medical and biological thought, in Ideology and Rationality in the History of the Life Sciences; op. cit. especially pp. 126-127 for the identification of texts by Lamarck and Treviranus that coin the term «biology» in reference to a science that seeks to identify in its constitutive concepts (i.e., the self-preservation, self-regulation, and/or adaptability of living organisms) a positivistic definition of the normality of living organisms; and to do so precisely in spite of the anomalies and historical discontinuities that constitute its past. As Canguilhem puts it, this new science tried to constitute the normal, or normalized organism, as a problem of long historical interest (dating back to Aristotle) when in fact it was conceptualized only recently, in the latter eighteenth and early nineteenth centuries.

d'Argenson's democratized king, or kingly protector of republics. Let us now delineate further the historical constitution of the problem.

The delimitation of this precise problem in chapter five comes into relief in spite of the Marquis d'Argenson's use of a fanciful history that promotes the progressive evolution of democratic manners and morals (les mœurs) in France's people. It is readily apparent, here, that the accuracy of this history is secondary to the task of defining these democratic «mœurs» as a constancy intrinsic to the French nation since its earliest origins. How can the French Monarchy (along with its true aristocrats), d'Argenson asks, not recognize the tremendous advantage of mobilizing reserves of populations that have been exercising the power of assembly - already for reasons of self-preservation and enhancement of strength - from the time the Franks crossed the Rhine to the death of Louis XIV in the early eighteenth century?¹⁷⁵ But when democratic «mœurs», these manners and morals that constitute the French nation, are defined by their powers of assembly, are we describing the same concept that the Baron de Montesquieu was careful to include in the subtitle of his celebrated, but controversial, De L'Esprit des Lois? A closer look suggests otherwise.

¹⁷⁵ Ibid, pp. 36-37 of ch. 2; and especially pp. 181-192 of ch. 5, for the explanation of these «nouveau François» as an assembled people («le troisième ordre») whose accessibility is said to be truly responsible for the strengthening and enrichment of «la patrie» throughout the history of the French nation.

At chapter sixteen, book nineteen of his master work, Montesquieu defines his concept of a nation's mores¹⁷⁶ by addressing a problem encountered by legislators when discerning the principles that govern the different nations. They often confuse, and/or conflate, the laws they make with the mores and manners of the nation in question.¹⁷⁷ As a result of this problem, Montesquieu opens the chapter by enjoining his readers to see how mores and manners are useful practices that laws have not established, or that they could not and/or have not wanted to establish. It is worth quoting him in the original French, for Montesquieu is quite definite in his conception of what truly distinguishes mores (and manners) from the laws: «Il y a cette difference entre les lois et les moeurs, que les lois règlent plus les action du citoyen, et que les moeurs règlent plus les actions de l'homme.»¹⁷⁸

It is clear from the quote, mores (and the manners they spring into outward appearance) rule over the diversity of human actions in the way that law rules over the constitutionally defined persona of the actions of the citizen. Outside of militarized peoples such as the Spartans, or despotic ones such as the Chinese, le Baron tells us, there is no need and/or just reason to impose laws upon the

¹⁷⁶ From here on we translate the French «moeurs» into the less used but closer English equivalent, «mores».

¹⁷⁷ See Charles-Louis de Secondat, le Baron de Montesquieu, De l'Esprit des Lois in Oeuvres Complètes, Édition Intégrale (Éditions des Seuil, 1964), p. 644. Subsequent references will be made to this edition.

¹⁷⁸ Ibid; «There is this difference between laws and mores, that laws rule more the actions of the citizen, and that mores rule more the actions of the man.» (translation my own).

customary (as opposed to juridical) actions of nations.¹⁷⁹ But before we move to ascribe this view to Montesquieu's known preference for constitutions springing from the great tradition of republican virtues, we should not overlook a stark difference from d'Argenson (and especially Rousseau) in how the experience of human action is identified. Actions, be they customary («les mœurs») or juridical («les lois des citoyens»), are constituted by how we rule («règlent») them. It seems that the problem of how to govern the appearance and disappearance of action(s) itself, so prevalent in the political texts of contemporaries like d'Argenson and Rousseau, is simply non-existent in Montesquieu's treatments of the relations between actions, mores and laws. Historically, Montesquieu is experiencing a political problem whose truth resides in how to rule, and not in how one engenders and/or regulates the very possibility of action itself. Let us elaborate further, for this historical rupture in how the truth of these terms (actions, mores and laws) is conceived, is, if our argument is correct, precisely what renders possible Rousseau's effective repudiation of Montesquieu's as well previous traditions of political science.

In the passage in question, Montesquieu uses the noun «règle» (rule, ruler) in its verb form («... ils règlent plus les actions.»). He does not use the more modern verb «régler» (to regulate, to order, as in the conduct of a life or body). Laws, constitutions, legislators and authoritative mores rule the actions of citizens and humans; they do not, and can not, regulate them. There is simply no historical

¹⁷⁹ Ibid

delimitation of the problem of «régulation» in Montesquieu's principal political work.¹⁸⁰ This is not therefore merely a question of translation, or the historical evolution of a definition. Montesquieu does not, and can not, even conceive the idea of regulated life forms in the diversity of political life described in De L'Esprit des Lois. As the reader has noticed by now, we have been trying to show the

¹⁸⁰ Op. cit. Georges Canguilhem's, «The Development of the Concept of Biological Regulation in the Eighteenth and Nineteenth Centuries», in Ideology and Rationality in the History of the Life Sciences, for a critical history of this concept, régulation, in the historical emergence of problems that serve to constitute the science of biology at the turn of the eighteenth century. See especially pp. 83-94 where Canguilhem shows, in a critical history of the concept of régulation, how this concept emerges, initially, only as the theological problem of God's Providence in the eighteenth century, although (with figures such as Newton, Leibniz and Clarke) theological problems were already linking with, and residing within, the founding problems of eighteenth century astronomy and physics. But Canguilhem goes on to show that this concept is then modified and displaced, especially in the nineteenth century, into the level of scientific objects with fields of reality residing both inside and outside the living organism. The detours of this critical history take us, therefore, from the theological problems of Leibniz to the physics of social bodies in Comte, to the clinical pathology of Doctor Claude Bernard at the end of the nineteenth century. The key point we stress here is that Canguilhem shows that a concept revealing the experience of bodies with internal properties of régulation (i.e., biological ones, the «régulateurs» such as the function and organization of organs) and its efficient linkage with an external regulation of the social forces and lifestyles affecting them (i.e., the emerging politics of public hygiene) is only possible at this historical point where these problems and scientific fields or reality are being constituted. In other words, it is impossible that Hobbes or Montesquieu could be speaking to realities that reveal a regulated vitality in the conduct of bodies. This is why we must reject the use of the English «regulation», by the eminent translators of the Cambridge edition of de L'Esprit des Lois, when translating Montesquieu's conjugations of the French verb «regler». This is not a dispute about the rigors of translation, but a critical history of a type of experience (regulated and regulating bodies) that is non-existent in Montesquieu's political problems and is therefore unable to serve as a ground for such a translation. We are arguing of course that in Rousseau's texts, on the other hand, one can see a conceptual break and displacement of the concept in his sovereign foundations of modern government, such that the biological, social and medical constitutions of this concept are then rendered possible in the nineteenth century.

contrary in similar concepts utilized by Rousseau and d'Argenson, when they critically defined their understanding of the true relationship between sovereignty, government and the common good. They show a decisive attention in their work to the historical emergence of this different, and one might say new, problem existing for the government of political life in the eighteenth century. One does not rule actions, one governs them. But before we elaborate too far here, there is a slight textual difficulty we must address. Like Montesquieu, Rousseau and d'Argenson also use the term «règle» in the sense of the ruling of a rule or ruler. They do use it however more interchangeably with the commonly rooted French term «règlement»¹⁸¹ (i.e., as in by-laws, or municipal regulations, like those contained in the common expression of the civil codes, «... les règlements de police»). Montesquieu seems only able to employ the sense of the first term; to rule as in to

¹⁸¹ In Rousseau one sees this in his explanations of voting regulations («... peuvent servir à régler ces rapports.») and proper procedures for the conduct of truly democratic elections; see chapters two and three of the last book of Du Contrat Social (op. cit., Rousseau, Oeuvres, vol. III, p. 439-443). In d'Argenson's text these terms are more directed at the uniformity of policing administrations to be instituted in the, in his view, more democratic «départemens» of chapter seven, the proposed governmental plan. And these are departmental regulations that are to be found in both the general existence of the national population, and in the particularities of regional administration. See article 22 of chapter seven aptly entitled, «Règlements Généraux et Particuliers pour la Police» (op. cit., d'Argenson, p. 291-292). Here the Marquis even addresses his King directly, imploring him to recognize that observing the uniformity of these policing interventions should be the new defining task of the regional intendants (ibid, p.292); after all, he says to his Majesty, the problem is not really the laws of France (ancient and present), but the lack of a sufficient observation overseeing their continual and unaltered application. It is therefore a problem for French democracy, yet located not in the voices of the people but in the tactical maintenance of a sufficient surveillance over the public activities of their lives: «la surveillance suffisante» (ibid, p.291).

straighten (with a ruler) something, or someone, out; to set something or someone straight or right.

If this is the case why not conclude, as Rousseau often does, that like his other predecessors Montesquieu misconceived the true nature of human experiences such as action, mores and law. If the greatness of Socrates is ultimately defined by the particulars of his time, why should the great author of De L'Esprit Des Lois be any less prone to the vicissitudes of historical time and place? Can not the bases of his principles of public right also be due to a history of past abuses? Did he not fail to recognize the self-governing autonomy of assembled multitudes?¹⁸² We believe this to be a hasty conclusion. Let us specify why.

No doubt Rousseau's solutions to the problems of political right have the advantage of historical retrospection when questioning the reasonableness of Montesquieu's insights into the political principles of the different constitutions. But are contemporaries like Rousseau, d'Argenson and Montesquieu necessarily describing, even in retrospect (as in the case of the younger Rousseau), historical realities that exist in the same way and in the same places when deploying the same terms? Where Montesquieu looks to find laws and mores ruling over actions, Rousseau and d'Argenson observe regulated and regulating tendencies inherent,

¹⁸² In this respect Montesquieu is included in a tradition of public right going as far back as Plato (op. cit. «Discours sur L'Economie de Politique», in Oeuvres Complètes, vol. III, p. 273). For Rousseau's depiction of Socrates, see the contrast with Cato (ibid, p. 255) who, unlike Socrates, sought virtue not only in his and other particular souls, but in the general well-being («bonheur») of his country («patrie»), and all its assembled people: «La vertu du premier (Socrates) feroit son bonheur, le second (Cato) chercheroit son bonheur dans celui de tous.»

or intrinsic to, the diversity of all human actions. In a word, to perceive regulative tendencies in human action is to perceive its inherent perfectibility. It is almost as if the bodies of human actions, when observed under the conditions and power of assembly could now deliver up to the twin authorities of public law and communal mores a dense and constantly available experience of regulation enveloped within them. This is certainly not the problem for which De l'Esprit des Lois was written; i.e., the relations between the actions of mores and manners and those of constitutional law.

When one reads, for example, Montesquieu's treatment of how democratic laws can contribute to forming the mores and manners of the nation, his praise for these nations is not only cautiously measured, but at times ambivalent. He knows that the liberty of democratic actions requires a close relation («rapport») of their mores and manners to the laws of republican constitutions. For the virtue of this liberty is intimately related and often re-combined with the unruly price it must pay: it must also free passions such as hatred, envy, jealousy, an ardor for enrichment and the distinguishing of oneself to immoderate proportions.¹⁸³ This is why Montesquieu puts a special emphasis on the elected representatives of these republican assemblies. He does so especially when maintaining the antagonistic but healthy separation and balance of their executive and legislative powers. The ruling art of political leadership is still fundamental here. They must know how to use their laws to divide, quell and calm (in essence, to rule) the unruly passions that

the liberty of their own mores springs into action. It is in this way that democratic governments may have an ennobling effect on the different actions of their leaders and people, even though they in principle reject the ruling hierarchies of traditional aristocracies.¹⁸⁴

But what may be most significant here is that the actions of republican liberty require, when infraction and danger is clear and present, an adversarial response from its government. If this is the case, it is because actions, by their very appearance and often without any necessary political intention and/or provocation, can tend to resist, challenge and even de-value the legitimacy of laws, norms, manners and mores. They often upset and complicate a general and moral adherence to the constitutional law that defines the common good. With Rousseau we find a political attention to such actions that is now articulated with a deep need to know their inner sources. One need only witness his accentuated pre-occupation with just the presence of foreigners, immigrants and loose women (especially those who do not or will not reproduce) amidst those large urban spaces where a national population should be governed for the expression of a general will.¹⁸⁵

¹⁸³ Op. cit. Montesquieu, Oeuvres, De l'Esprit des Lois, book 19, ch. 26, p. 644-45.

¹⁸⁴ Ibid, p. 645.

¹⁸⁵ Op. cit., Rousseau, «Sur l'Économie Politique», Oeuvres, vol. III, p. 245. The clearest expression of this concern, however, is in the last book of the Émile (ibid, book V, p. 850). At the end of book four, the Author must oversee Émile's search for the places where he will find the woman who will complete his education and general well-being (bonheur général); for the woman who is to be his Sophie. She is certainly not to be found in the corrupt «admixtures» of big cities like Paris. In book V Émile knows where his inspections of the conduct of available women will bear fruit: «One must go to the remote provinces -- where there is less movement

And yet Montesquieu's problem seems to be of a wholly different order: it is not the veritable presence or existence of these people that needs juridical attention, but the actions they may or may not take. This is the existing problem he responds to, and, in a small but precise way, it takes up the same battle represented in the sword of Hobbes's absolute sovereign.¹⁸⁶ It will simply be unable to reside with Rousseau's problem: a sort of, we will say at this point, political hygiene that can pre-empt, eliminate or productively modify and control those inevitable afflictions of the body of the population, the «corps social». Rousseau's problem necessarily displaces the political conditions that rendered possible the political philosophies of prominent thinkers such as Hobbes and Montesquieu. Recall how both recognize that what makes passionate action such a formidable political adversary is one can only know, pre-empt and counter its effects when it appears. This is why the recourse to representations and representatives of the law is so important to both. In contrast, just note the ease with which Rousseau repudiates political representation in chapter fifteen of the

and commerce, where foreigners travel less, where the inhabitants move around less and change fortune less -- in order to study the genius and mores of a nation.» English translation is from A. Bloom, *Émile*, (Basic Books, Inc., 1979), p. 468. Subsequent English translations of this specific work will be taken from Bloom's excellent translation.

¹⁸⁶ Of course it should be pointed out that Montesquieu rejected the solutions of Hobbes's contractually created, absolute Sovereign. As he told the religious authorities in his *Defense de l'Esprit des Lois* (op. cit., *Oeuvres*, p. 808-809), his relations («rapports») are in fact intended to counter the capricious human will upon which Hobbes's Sovereign is based (and also to dispute Spinoza's deistic materialism). Yet such a disagreement is itself based on an attention to the same problem: how to combat the powerful effects of certain passionate actions.

third book of du Contrat Social.¹⁸⁷ Modes of human action are not represented here, but governed into and out of existence at their source. Conversely, human action has, in the political sciences of Hobbes and Montesquieu, the often frightful power of a pre-formation that is its own; of an opening of events and effects that cannot be pre-figured in advance. Thus the liberty and/or constraints of an action may appear to be relating mores to the law or vice versa, and then suddenly ambush the latter's legitimacy with the free wielding weapons of republican vice, or virtue. Is it any wonder, then, why both Hobbes and Montesquieu continued to keep, in their respective ways, the war relation so close to their study of politics? It had to be kept at bay.

Now, we know quite well Rousseau's response to these depictions of the natural human being and conventional citizen. It is much the same as his admired friend's, the Marquis d'Argenson. To accept the presence of envy, jealousy, venal conspiracies and warring hatreds as even minor regularities in the social body is to already accept that one is not governing a unified citizenry, but subduing multitudes.¹⁸⁸ Rousseau's gentle repudiation of Montesquieu's political science is familiarly precise on this point, but the facility with which he carries it out can strike the reader as strange. Sure, there are the reverent references («le illustre») that set up the repudiations. But there is also the peculiar sense that the confidence of his arguments is rooted in safe places where he can observe and target particular

¹⁸⁷ Op. Cit. Rousseau, Oeuvres, volume III, pp. 428-431. As he explains, «... the instant a people gives itself representatives, it is no longer free; it is no more (p. 431).» (translation my own)

dangers that others, like Montesquieu or Hobbes, can only prepare for, confront and combat. Rousseau can now claim to perceive wherein lay, in the general population, the particular interests that will, or may, become interested in corrupt and dangerous actions. Let us illustrate this with two separate instances where Montesquieu's political science is judged ineffective by Rousseau: the first deals with the nature of democratic peoples and governments, and its electoral procedures. The second, and far more fundamental, with how a properly educated young man (Émile) should choose a woman and study politics; or, how he will enter public life as a citizen and subject of such republican duties as electing governors.

At chapter three, book four, of Du Contrat Social, Montesquieu is shown to understand poorly why elections by lot are naturally democratic. He seems to think the lot is good because its mode of selection ensures that nobody is selected or rejected unfairly; all citizens can, in principle therefore, equally serve their country under these basic electoral procedures. But Rousseau does not consider these real reasons. Real reasons have to emanate from how the national population ought to live. As he sees it, Montesquieu assumes that real democracies do exist, whereas they really only exist as an ideal in the human soul despite the deceptively corrupt accidents of history (i.e., private property)¹⁸⁹. The advantage of the lot is based on the assumption equality reigns everywhere in the social body: in its morals, talents, principles and fortunes.¹⁹⁰ Only in this ideal setting is the general

¹⁸⁸ Op. cit., d'Argenson, p. 33, and Rousseau, Oeuvres, volume III, p. 359

¹⁸⁹ Ibid, pp. 365-367

¹⁹⁰ Ibid, p. 443

indifference, and hence equality, of choosing by lot even imaginable. In reality therefore lots must be combined with preferential voting for offices requiring unequally distributed talents, such as military service. And, at Rousseau's urging, let us not be shortsighted here, for what he sees as democratic in this combination of lots with preferential voting is just as much the ability to keep the talented under supervision. Why?

Because maintaining the existence of the ideal of democracy in the particular lives comprising the social body is here a paramount duty of sovereign government. The talented therefore need governed supervision because their superior difference can always appear, at different times and places, as truly the results of degenerated particular wills prying their dependencies within the social body of the nation. After all, reasons Rousseau, their distinction amongst other citizens is already a symptom of actual afflictions on the democratic ideal, the heart, of the social body. Otherwise such talent would be equally disseminated throughout the nation; «parce que dans un etat bien constitué ces qualités sont communes à tous les citoyens.»¹⁹¹ Though he died five years before (1757) the publication of Du Contrat Social, the Marquis d'Argenson would no doubt have especially approved of this latter field of democratic application when seeking out false aristocrats.

So, like d'Argenson's Republican King, the projected inaccessibility of an ideal does not preclude generating the conditions of its pursuit. After all, are not

ideals themselves, Rousseau would say, found in actual human problems in need of rectification? Unlike Machiavelli's disdain for ancient utopias, Rousseau and d'Argenson can now find a use for those imaginary republics.

True, one can never generate the original and uncorrupted institution of an ideal in time. Nor by consequence can one expect, therefore, the true and complete realization of its end. Yet, by watching over the beginnings of an ideal such as true public right, and constantly judging its course against the unattainable purity of its end (i.e., the general will), one forces into the light of public reason those intrinsic interests, deviations and «depravities» that are identified as excesses and deficiencies in the generated movements of the ideal. To put it more directly, the health of the ideal can always be imaginatively expressed in and through those parts of the social body, those particular wills, that do not, or refuse to, exist with this basic question that is to be definitive of the common good: Is this, who I am and how I live, in conformity with the general will? And as Rousseau makes abundantly clear, concrete answers to this question are far less fundamental than the perpetual interrogation of the citizen body instituted by the power of assembly: «Ainsi la loi de l'ordre public dans les assemblées n'est pas tant d'y maintenir la volonté générale, que de faire qu'elle soit toujours interrogé et qu'elle réponde toujours.»¹⁹² Without exaggeration, one can see how the very constitution and identification of whole national communities (underlying the particulars of

¹⁹¹ Ibid, p. 443; «because in a well constituted state these qualities are common to all the citizens.» (translation my own).

¹⁹² Ibid, p. 438.

ethnicity and/or religion) may here reside in such a powerful tactic as perpetual interrogation. Assemble them under close supervision, those that are to be an indivisible part of the citizen body, and they will feel incited to ask the impersonal question of the human being in general: «pourquoi il existe?»¹⁹³

Let us admit that as far as Rousseau's intentions are concerned, such a question may simply reflect his dream of revitalizing that great Republican virtue of civic participation under conditions of modern government. But what would this same Republican dream entail under the different historical conditions of modern government we have been delineating? Those that, as suggested in the opening quote of Part Two, make their citizens live and not just act. Surely we need not overlook a very different element and effect operating in the political expression of this question. It is nothing short of an elementary condition of possibility for the new constitutive role Rousseau wishes to institute in the practice of government: To demand, in the name of the Sovereign legitimacy of government, *why I and/or certain others exist?* is to presuppose that the actual life of the living is now a fundamental domain of the politically responsible authorities. As Michel Foucault intimates in our opening quote to Part One, never before in our histories have we westerners placed such enormous confidence in the multi-form tactics and political strategies of our governments! Have we not wagered our lives on them, as the tragedies and near tragedies of our contemporary political history show? And yet, speaking inversely and by implication, can one not also say that never before have

¹⁹³ Ibid, vol. IV, «Lettre A Voltaire», p. 1061.

the citizens of western governments been displayed as lacking in the confidence¹⁹⁴ and ability to bear and govern the very continuation, or discontinuation, of their own lives. At this point, we only mean to convey the fact that Rousseau's break with his predecessors constitutes the threshold of this new and modern political paradox.

So, to recap, although true democratic government may never have existed, its procedures of assembly have the real effect of monitoring and maintaining the expression of the ideal (the General Will) in the immanent living of the life of the

¹⁹⁴ Historically, one can substantiate this «lack of confidence» by charting the emergence of civic virtues that privilege the docile (not gentle, for gentle souls are never necessarily docile) and sentimental citizen. *Émile* is a classical eighteenth century example. Just witness the Author's admiring descriptions (book V, «On Travel») of *Émile*'s emotional state as he separates himself from his loving Sophie to embark on his trip. This is certainly not an unforeseen expression of the sentiments. One can certainly pardon readers who sense that this authentic expression of the natural sentiments seems rather organized. How else can the Author, watching more intently as *Émile* becomes more pitiful in his gestures, anticipate and describe it in the vivid detail that he does? Such an organized display of sentiment will be useful in directing the passing and duration of time back to Sophie and the duties of public life.

Foucault fleshes this point out even more concretely with archival illustrations of technical texts and manuals from penal, military, pedagogical, medical and economical practices and sciences of the late eighteenth-early nineteenth century period. See Michel Foucault's, *Discipline and Punish; The Birth of the Prison*, translated by Alan Sheridan (Penguin, 1977), pp. 136-169. He refers to the object constituted by these technical types of knowledge as «docile bodies»: «... docility ... joins the analysable body to the manipulable body. A body is docile that may be subjected, used, transformed and improved.» (ibid, p. 136) Foucault calls the supporting and constraining ensemble of these techniques «discipline», and effectively defines what we meant above by its intersection with the government of «the life of the living»: «Discipline is the political anatomy of detail (ibid, p. 139, italics my own).» Further along he explicates this «political anatomy of detail» (by analyzing the daily functioning of schools, military barracks, etc.) under the wonderfully paradoxical title, «The Organization of Geneses». The latter is clearly explained as the taking charge of («regulating») the time of an individual's existence; of controlling, for use or profit or both, of the duration or movements of «passing time» (ibid, pp. 156-157).

general population. But this deals with regulating the lives of the citizens and subjects of the state through the electoral activities of a general population in a democratic government and state. What does one do about particular lives before they come to, or are ready for, such republican duties? For example, what do you do about the education of the young when they are still in the family? Emile's superintendent, the Author, is there to target this problem with advance notice, for the education of both Émile and Sophie.

When Émile is ready to combine his education with womanhood and the duties of political life, he is at the beginning of what Rousseau hopes is the new citizenship. The special attention he has received from the author since his earliest years has prepared him in advance for insertion into the world of both womanhood and public life. But why do we say «womanhood» and not simply woman? Because Émile is not to be misdirected by the opaque and agitating appearances of diverse females; by what is particular to, as Rousseau knew quite well, the interests of the typically degenerate male and female. Rather he must learn to watch for the generating principle of this diversity. This is the selfless reproductive function that literally opens up a conduit linking domestic life with public duty, and vice versa. As the author intends at book five, Émile will see a general interest in the female body and its dispositions, if he can find in it particular deviations that have the effect of simultaneously threatening and rendering transparent its fundamental public duty; namely, the condition for the very biological regeneration of the national population itself. This is why he must stay away from the strange

women of big cities like Paris, and seek the more transparent womanhood and motherhood of rural, rustic women.¹⁹⁵

This is what constitutes, for Émile, seeing womanhood in the otherwise disorienting plurality of women. It is not however the plurality but this deceiving and agitating disorientation that a new citizen must be prepared to regulate. As the author has not governed the upbringing of a child but his childhood, so citizen Émile will not govern merely the domesticity of Sophie but her womanhood at home and in public. And one should be careful not to attribute this view simply to Rousseau's continued adherence to the patriarchy of the bourgeois family. Or even to his related failure to fully realize the egalitarian consequences of his principles of political right. For the workings of this concept of the democratic governing of education, do not in any way prevent the reversal of direction in this conduit between domestic and public life. Is not the way to the public assembly the same as the way back to the intimacy of the home? In the name of maintaining a general interest in the healthy generation of a national population, there is no reason why the Sophies of this world could not one day regulate and govern the manhood and manliness¹⁹⁶ of their Émiles. Of course, however, with respect to this specific governmental activity, it changes nothing. Is it not plausible that the concern for the inclusiveness of gender in these governors and/or governess' is already only an

¹⁹⁵ Op. cit. Rousseau, Oeuvres, volume IV, p. 770

¹⁹⁶ For an excellent assessment of a contemporary crisis in the attempts to socially construct manliness, see W.R. Newell's What is a Man? Three Thousand Years of Writing on the Art of Manliness, (Penguin, 2000); see especially the discussion in his introductory essay to the compilation of selections.

effect of this governmental activity? As such it may even entrench the latter further, once the historical emergence of biology gives to the political, but problematical, ideal that is Sophie the scientific fields and objects inside her body. Those organic objects that, with the advent of modern biology (in 1802), will contain this ideal of selfless reproduction in the now interior and fleshly density of bodies. Those that will tell all the Sophies and Émiles of the social body the truth and errors of our fecund physiology. And those that will therefore help to herald the arrival of Rousseau's dream: a science of government that is truly a science of man in general.

Yet let us stop and just note here for a moment how this new kind of government, with its new need for knowledge and techniques of implementation (the new political economy and statistics being paramount examples)¹⁹⁷, does not

¹⁹⁷ See «Discours sur l'Économie Politique» (op. cit. Rousseau, Oeuvres, vol. III, esp. pp. 247-252) for this new knowledge of political economy that no longer exists as instruments for calculating a Sovereign's wealth, or as the patrimony a father lorded over his family. Rather, economy is here modified into a fundamental part of a concrete field of reality that now extends beyond, but envelops both, political Sovereignty and the family. Rousseau calls this concrete field in which economy resides, the social body («corps social») of the population. Moreover, these pages of the «Discours» clearly define and insert this new concept of economy, with its residence in the field of population, into the functioning of a modern concept of government. We will elaborate upon this insight shortly, with our study of «governmentality» in chapter four.

And see book three, ch. IX, of du Contrat Social, (ibid, pp. 419-420) for the elevation of statistics to technical indicators of a government's execution of those «ends of political association» that fulfill the common good. We learn that the primary end is nothing more than the «conservation» and prosperity of its members, understood as the basic increase of population numbers. Hence Rousseau's call: «Calculators, it is now your concern; count, measure, compare.» (Translation my own). We must point out to the reader why we preferred to translate the French concept of «conservation» in this passage, into the English

find its place, i.e., its field of reality, in the actions, events and therefore politics of citizenship. Rather, it seems to emerge in a neighboring practice¹⁹⁸ and place (no doubt still hollow but, as we will see shortly, emerging as a science of public hygiene in the latter part of the eighteenth century) which has the very different need to know the constitution and regulation intrinsic to the conduct of living bodies.

Now, once we face up to this conceptual transformation in the mode of governance, certain curiosities in Rousseau's texts start to emerge. One curiosity in particular interests us greatly. For example, why then is Montesquieu's political science even part of this discussion in the Émile about the relations of a citizen's public life to womanhood, population growths and a government of the living, to name a few key items? Of course, one could say it is intended to effect a repudiation which contrasts nicely with the way Émile's study of politics will be governed. But there is something else going on here in this linking-style study of womanhood, population and government.

equivalent «conservation», and not only as preservation (as G.D.H. Cole translates it in his The Social Contract and Discourses, op. cit., p.231). Both the French of le Littré and the English of the Oxford confirm «conservation» as a more accurate description of how this kind of government actually functions: it conserves populations by keeping them from harm, decay or loss, but especially with a view to later uses. The key here is that they are not forcibly used by governments, but made to exist in useful, accessible and knowable modes of living; simply put, they are not treated as instruments by their governments, but should conserve themselves so as to lead instrumented lives for their own supposed self-government.

¹⁹⁸ For the use of this concept see Paul Veyne's essay, «Foucault Revolutionizes History», in Foucault and his Interlocutors, edited and introduced by A. I. Davidson (The University of Chicago Press, 1997), pp. 160-162. The English translation of this article was provided by Wesleyan University Press, 1984.

To govern, for Rousseau and d'Argenson, clearly requires a need to know how to pinpoint the so-called degenerative tendencies in the general health of the national population. And what is «general» in the government of this health is clearly no longer restricted to classes of diseases (whether social or physiological) that afflict human bodies. As will become the normal of our present, the health of populations (this new political concern of government in the eighteenth century) will now require a constant attention to particular conducts and dispositions that dispose certain citizens to the diseases affecting the social life of a population. It is in this respect that Rousseau's «gouvernement», even more forcefully than d'Argenson's, displays an interest in any modes of conduct that may impede this newly conceived end of government: namely, an end no longer residing in the dictates of Sovereign law (i.e., in its discernment of the common good, as was still the case with Hobbes) but in adjacent (and therefore extra-legal) activities wholly concerned with perfecting the interiors of the state and its population.¹⁹⁹ It is now a question of perfecting norms and behaviors that can be upwardly linked with the sovereignty of the law. Inversely, such perfected legal subjects can then be downwardly linked, and even substituted for, the sovereignty of living bodies. The key example of the latter of course is the family's new role as a source and

¹⁹⁹ For the historical support for this insight see Michel Foucault's «La politique de la santé au XVIII^e siècle» in *Dits et Écrits*, volume II, 1976-1988, edited by D. Defert, F. Ewald, with the collaboration of J. Lagrange (Éditions Gallimard, 2001), pp. 725-742; see especially pp. 729-730. Here Foucault shows us, in another of his genealogies, the historical constitution of the dream of a fully transparent public hygiene under the constraints of an emerging politics of health in the eighteenth century.

instrument in the management of populations. Or to say the same thing, public law itself becomes a means for perfecting norms and behaviors.

Moreover, as Rousseau's texts clearly show, this perfecting can never be imposed from above, but must be freely willed by the perfectible subjects themselves. In other words, this perfecting is not to operate merely as an instrument wielded by the governing institutions of the state. Rather, it is a will that is instrumented in the very conduct of these assembled subjects of the governing state. What is that central theme of the second discourse on the origins of inequality, that faculty of «perfectibilité»,²⁰⁰ if not the inner and infinitely expressible (thus also available and malleable) free will said to be residing deeply in the nature of the human subject itself? What need is there for the Sovereign's reliance on the coercion of the sword (as in Hobbes), if this new intrinsic truth of our nature displays a source of the free will whose expression only needs management²⁰¹, regulation and, ultimately, a perpetual perfecting of its conduct on both the interiors and surfaces of life. And let us remind the reader that this «perpetual perfecting» was commonly understood as a policing initiative in the eighteenth century usage of the latter term. This is readily apparent in d'Argenson's and Rousseau's (amongst many others of this period) need to conceive of this new perfecting role for a modern concept of sovereign government. In Rousseau especially, so we contend,

²⁰⁰ Op. cit. Rousseau, Oeuvres, vol. III, p. 142.

²⁰¹ For this insight on perfectibility as a managerial technique (especially in the management of the passions) that displaces the relevance of the formation of character in the education of virtue, we are indebted to P.C. Emberley's «Rousseau

this policing initiative is a neighboring and different, but fundamentally supportive, practice that renders possible the first convention of true Sovereign legitimacy. In a word, if an assembled people becomes itself before it gives itself to a sovereign, it does so by giving itself, i.e., the governing of its conduct, to *la police*.

This does not lead, however, to the hasty conclusion that we have overturned the priority of Sovereign right, that what we long thought was the freely expressed sovereignty of an assembled people has turned out to be the prurient product of governmental policing. It is not enough to simply reverse the chronological order, and disturb Sovereign legitimacy with the image of a prior and therefore renegade governmental act. The full power of these insights into the functioning of modern government requires that we be far more accurate (and moderate) in our descriptions. Instead (and this is the key point) of presuming to recover, once again, the true origins of Sovereignty, let us consider the real possibility that Sovereignty has transformed into a weapon for the subjection of populations by the new technologies of modern government. Or, rather than fixate on the legitimacy of origins (a free act of sovereign will, or an act of governmental force?), can we not envisage these two different domains of human life (the legitimacy of its highest Law, and the regulation of the life of its living bodies) linked in a relation that simultaneously re-articulates, and therefore re-orders, the historical constraints of each domain with that of the other? Can one not see in this historical linkage, especially since Rousseau, the very tension that renders possible, as an

and the Management of the Passions», in Interpretation, vol. 13, # 2, May 1985, pp.

effect, the pressing historical need to seek the truly legitimate origins of Sovereign Law in the immanent but always extra-legal life of populations? Does not our present bare witness to an intensification of this problem of sovereignty, in the name of identifiable populations in need of self-government? The problem, then, is not simply Sovereignty but the mode of governance that wields its laws. It wields them as tactics and strategies in the formation and support of new fields and objects of reality that serve to specify the domains of the political technologies of government.

Let us list a few of these problematical domains that became the «normal» of our present realities, and are already emerging in the works of Rousseau (and others): i.e., the problems of publicly securing physical and mental health, of the fecundity of women, of the family's competence in the raising of children, of the productivity and availability of labour, of the delinquency of the young, of the penitential reform of criminals, of the management of environmental and human resources, of linguistic competence, of the useful integration of immigrants, etc.

So, if Sovereignty is in crisis it is not due to its usurpation by rogue governments, but to its modification into governmental techniques. And when one considers the new domains of this governed sovereignty, how can one not admit its radical discontinuity with its majestic past? We are not saying that therefore it has no history. We merely point out that this discontinuity *is* its history. It disrespectfully breaks with its past so as to travesty it, so as to actively constitute it as a lapsed

history. But neither is this the ex nihilo emergence of a pure historical singularity. It simply did not emerge out of the classical battles of traditional Sovereignty, although the latter was subjected to its violence, as we well know. Rather, these discontinuous modifications of history emerge in far more remote and disparate places. They emerge into their linkages from out of places in the family, the workplace, the hospital, the schoolhouse, the military, etc. When one thinks of how «normal» the activities of these places are today, la Perriere's odd sixteenth century definition of government (quoted in our opening introduction) becomes strangely familiar to the history of our present: «Government is the right disposition of things so as to lead to a convenient end.»²⁰² What la Perriere means by «things» will be elaborated shortly in chapter four.

In order to illustrate this re-posing of the problem of sovereignty on governmental grounds, a commonplace definition of the practice of «la police» in the eighteenth century is now in order. Note how key elements of its definition bear a striking resemblance to the contemporary practices of the modern welfare state. One can almost sense in the quote how the Sovereign warfare-state of the

²⁰² For the source of this quote see the original French text of the sixteenth century: «Gouuernmēt est, droicte dispositio des choses, dequel les on prent charge pour les conduire iusques à fin conuenable.» Guillaume de la Perriere, Le Miroir Politique, Contenant Diverses Manières de Gouverner & policer les Republiques, qui sont, & ont esté par cy deuant: (Paris: V. Normand et J. Bruneau, 1567), p. 23. La Perriere's short summary beneath the title on the front page is worth translating, «A text, not less useful than necessary to all Monarchs, Kings, Princes, Lords, Magistrates and others who have charge of governments and administrations.» Translation my own.

mercantilist era is dividing and linking with its functional opposite, the welfare-state of modern government.²⁰³ Here is von Justi's classical account of *la police* in 1768:

The purpose of policing is to ensure the good fortune of the state through the wisdom of its regulations, and to augment its forces and its power to the limits of its capability. The science of policing consists, therefore, in regulating everything that relates to the present condition of society, in strengthening and improving it, in seeing that all things contribute to the welfare of the members that compose it. The aim of policing is to make everything that composes the state serve to strengthen and increase its power, and likewise serve the public welfare.²⁰⁴

²⁰³ For the basis of this insight see James Tully's examination of the governing of conduct in Locke, in An Approach to Political Philosophy: Locke in Contexts, (Cambridge: Cambridge University Press, 1992 ??), p. 181.

²⁰⁴ From Éléments généraux de police (1768), quoted in Jacques Donzelot's The Policing of Families, translated from the French by Robert Hurley, (N.Y.: Random House, Inc., 1979), p. 7. See also his discussion of how the growth of la police in the eighteenth century depended heavily upon an appropriation of the power of the family by justifying its existence as a service to the family over and above security (ibid, pp. 24-25). This is shown to occur by a transformation that re-articulates the family onto the level of a science of populations, such that the truth of the latter can re-emerge with the bio-medical variables of longevity and health. With even greater precision, Foucault explains this bio-medical emergence of the new concept of population «... as the organization of the narrowly parental family as a relay in a process of medicalisation for which it acts both as the permanent source and the ultimate instrument ...». What is important, for our purposes, is how this medicalisation of populations (and hence de-centering, or disordering, of families) is now necessarily «interlaced» with administrative instances in organizing the control of collective hygiene. Should one be surprised, Foucault wonders aloud, that the doctor as a social and political reformer is a frequent figure in the second half of the eighteenth century. Indeed, his expertise is now challenged to exist in this reforming way. One can say that the specific norms of medical practice are challenged to extend themselves to the collectivity and culture as a whole. Governments will even use the law to demand it. Just recall the prominence of Quesnay, physician to the monarchy and author of the Tableaux économique (1758). See the English translation of Foucault's «La politique de la santé au XIII^e siècle» (by C. Gordon, L. Marshall, J. Mepham and K. Soper) in Power/Knowledge: Selected Interviews and Other Writings, 1972-1977 by Michel Foucault, edited by C. Gordon, (N.Y.: Pantheon Books, 1980), pp. 176-177.

Thus this perfecting («strengthening and improving») government will now require a constant attention to particular conducts and dispositions that dispose certain citizens (and hence threaten the collectivity) to social diseases deemed dysfunctional of the life of a population. Indeed it is the essence of sovereignty and no longer merely the institutional result of supposed consensus' reflected and recognized in Constitutional Law. When we say modern government is the «essence», we mean it is the support and/or mode of existence of modern sovereignty. We will conclude this discussion by returning to some insights in the work of the two principal figures that opened this chapter: Rousseau and the Marquis d'Argenson. Here, we wish only to point out some places, some textual events, where these authors say exactly how governing can create the very foundation of its sovereignty: that is, a population assembled for the expression of its unified will.

With Rousseau one need look no further than that «god-like» maker of peoples, the legislator (le Législateur). We know that though his talent founds the constitution, it cannot have a place in it. For his «prudence» is not a human prudence, but a divine one.²⁰⁵ Clearly then it cannot be the prudence of Aristotle's ruler («phronesis») or even Hobbes's Sovereign («foresight»). It cannot be predicated and cultivated, in other words, on the particulars of human experience. Its practice cannot therefore be built up from the actual risks and messiness of life. This virtue of the legislator is one that is kept safe from such potential corruption.

Not that corruption ceases to occur, but that his type of prudence is always already there to intervene and rectify the problem. How so? Because the legislator's prudence, as Rousseau carefully describes it, has in fact been modified into a «prévoyance». In the tenth chapter of book two of du Contrat Social, it is clear that this «foresight» is not founded on experienced judgement. Rather the legislator's instituted gaze is actually what founds political experience. This is exactly what Rousseau says of the legislator: «... he should not found his judgement on what he sees, but on what he foresees (prévoit), nor stop as much at the actual state of the population as at that which it ought to achieve.»²⁰⁶ This inspection of the inner «ought», that resident ideal of purity of the will, in fact founds the sovereignty of «le peuple.»

The Marquis d'Argenson is even less subtle when describing the productive nature of legislation conceived as techniques and tactics of inspection. He literally refers to modern government as nothing other than perpetual innovation («innovation perpétuelle»). Further along he elaborates upon this concept, explaining it as a continual critique and revision of the laws according to what is or may be needed.²⁰⁷

Lastly, an interesting and favorable review appears appended to the opening of d'Argenson's book. One that is quite revealing of how Rousseau and d'Argenson's concepts of government no longer fit within the framework of

²⁰⁵ Op. cit., Rousseau, Oeuvres, volume III, p.384

²⁰⁶ Ibid, p. 38 (translation my own)

²⁰⁷ Op. cit. d'Argenson, pp. 37-38

traditional sovereignty. It is a review by none other than the great Abbé St. Pierre. A man so admired by both Rousseau and d'Argenson, and whose works are frequently referred to in the texts of the former authors. But their noted friendship is not what concerns us here. What interests us is a note in the written commentary of the Abbé (#2) that appears as the only seriously critical remark in the review of the book. Saint-Pierre is concerned that d'Argenson's text does not specify that the Sovereign authority is vested in the voice of the people. If this Republican-King, he tells d'Argenson, can continue to direct this new government in his own interest, then the sovereignty of the people is usurped. Without this sovereignty, it is not therefore a «true democracy.»²⁰⁸ This reading of d'Argenson's concept of government is simply an error. But, as an error, it is important precisely because it is a lapsed understanding that is being actively constituted as such. The Abbé's error is therefore not merely logical. It is, so we contend, the product of a displacement by a newly emerging reality that is receiving greater and greater sanction. This reality is the domains of government that now exist as a field of reality *in* the living activities of an assembled population. Because of it, descriptions of sovereignty such as the Abbé's can be actively constituted as erroneous. This means, essentially, that the grounds for seeing the reality of governmental power as the instrument of sovereign authority are dissolving in the Abbé Saint-Pierre's time.

²⁰⁸ Ibid, comment #2, p. 28

Unlike the Abbé, d'Argenson (much like Rousseau) understood that the effective creation of popular sovereignty was now a governmental act. The people's voice, the Sovereign, speaks only when the government executes its first principle: assembling and perfecting the people in all the interiors of the state.²⁰⁹

Rousseau addresses the same issue directly and even sees how the solution is already contained in the problem of that first «Institution of Government» (chapter 17, book three, du Contrat Social). He simply admits that there has to be a «governmental act» in the first sovereign assembly before an actual juridical government can exist. He recognizes what is only an apparent contradiction. The Sovereign seems to be involved in a particular and not general action. The solution is so simple and ingenious, Rousseau tells us, that it is «astonishing».²¹⁰ The Sovereign, the people in assembly, simply changes its disposition and assumes the role of executive force needed for the selection of governing functionaries. Why is it able to do this? Because, as the first assembly is inherently democratic, so Rousseau argues, its sovereignty already contains the essence of democratic government.²¹¹ That is how sovereignty actually comes to life. It does so by a non-juridical governmental act.

There we have it, in straightforward fashion. Modern government is not simply the representative, or functional instrument, of sovereign will. It constitutes

²⁰⁹ Ibid, p. 37-38

²¹⁰ Op. Cit. Rousseau, Oeuvres, volume III, pp. 433-434

²¹¹ Ibid

it. It is, if our argument is valid, the very condition of possibility for the historical constitution of popular sovereignty.

Showing, however, the displacement of Sovereign Authority by the historical mutation of government into popular life does not complete the story. We still have to examine some of these newly emerging domains of modern government. Again, concepts and fragments from Rousseau's texts will prove useful. More importantly, we need to show how this displacement extends more profoundly to the common good. This displacement, it seems to us, is best apprehended if we critically re-state and explain the problem not as that of modern government, but of governmentality. Not as that of a problem centered on juridical power, but of one (inclusive of the latter) deployed as a «bio-power». This we take up in the next chapter (4).

Chapter Four:

Governing and Governmentality; the formation of new objects of Government and the displacement of the Common Good

Let us remember, as Rousseau no doubt did, that Montesquieu also paid careful attention to the plural ways in which women and children's actions shaped the relations of the different constitutions. We will quote some fragments of the discussion in which the reference to Montesquieu's political science appears. They are important, for in their replay of certain arguments contained in book one of Du Contrat Social, these sections of the discussion also open and display a whole new field of problematised objects (in the sense of the problem-objects that constitute a science) for which government must now exist. This is especially the case if it is to receive approval (via elections and the surveying of public opinion) for truly exercising the legitimate sovereignty of public right.

We will list them before we quote the fragments: the fecundity of womanhood as an indicator of the conservation and prosperity of a people; its link to the dependence of produce and productivity on the administration and regulation of human labor, and only secondarily on jurisdictions over territory and fertile land; how to properly institute a governing attitude that observes the standard ideal of political right in the movements, relations and convulsions of the national population; how, thereafter, to perceive the general and indestructible will of a population in the brute historical facts of its power to assemble, separate out and recombine its associations (or how the ought, the ideal, that is the former should

generate the is, the fact, that is the latter); and how to incite and mobilize the inner tendencies of the population to increase or decrease its living numbers. Let us now look up and listen to the Author who no doubt finds pleasure in just having this young boy's boyhood, and future citizenship, under his projected watch:

On womanhood and the reproduction of the common good, he says to Émile: "Yes, my friend, a woman and a field that belong to him are enough for the wise man's happiness. But although these treasures are modest, they are not as common as you think. You have found the rarer one. Let us now speak of the other."²¹²

Émile has found Sophie, a fecund young woman whose rarity exists not simply in her capacity to bear children. She is also conveniently adapted to the pastoral life of the rural areas outside the opaque and dreaded Paris. Yet this pristine image is not only a romantic affirmation of the pastoral. Its effect is to link reproductive and productive activities in an unobstructed display. Sophie shows her strong legs running through the fields, and she even goes down to the river to wash her own clothes! And what pleasure she displays in her labour!²¹³ Recall Émile's sentimental reaction when he first encounters the domestic setting of Sophie's home. The author of course is fully prepared for it in advance, so that he can direct its conduct after the fact. Almost on cue, the young citizen exclaims his reverence for the proper relations to domestic things: «What! Émile says with great surprise, one must say we have been attended to! Oh how the peasant was right!

²¹² Op. cit., Bloom's translation, p. 457.

What attention! What goodness («bonté»)! What foresight («prévoyance»)! I believe we are in the time of Homer.»²¹⁴ Émile is supposed to be pleasantly surprised to see how a domestic order can be so well prepared to receive those that come from the strangeness of the outside world. He here *feels* no obstacle, no difference, between the two. Rural people so rarely disturbed by strangers, and yet (precisely for that reason) better able to govern the basic needs of outsiders. No doubt this is a valuable lesson in the uses of domestic government for citizen Émile. One even senses an awareness here of how effective such a use of family life can be for the integration of foreigners and immigrants into the community.

But though less rare than the disinterested goodness in the fecundity of womanhood and motherhood, the cultivation of a piece of land presents its own inherent problems for the government of one's conduct:

I agree that if there is any legitimate and sure means of subsisting without intrigue, without involvements, and without dependence, it is by cultivating one's own land with the labor of one's own hands. But where is the state where a man can say to himself 'the land I tread is mine'? Before choosing this happy land, be well assured that you will find there the peace you seek.²¹⁵

There is nothing surprising in the view that achieving this peace is an ideal for Émile's self-government and citizenship. But this is not the precise problem that must draw Émile's attention to the general and selfless advice of his superintendent. Here war is not the limiting experience of this peace. It is the task

²¹³ Op. cit., Rousseau, Oeuvres, volume IV, p. 790

²¹⁴ Ibid, p. 774 (translation my own)

of freely, and hence legitimately, securing the means of subsistence «... without intrigue, without involvements, and without dependence,». The target here is therefore not the injustices at the limits of war, aggression or usurpation. It is the challenge to institute the ideal of a well supervised, disciplined and selflessly attentive laboring activity; the work of the peaceful but especially available, attentive, governing and governable laborer. Moreover, it is not the product, or productive relation, of this labor that is decisive for this constitution of citizens and governors. Rather, it is the peaceful, calculable and regularized activities of these laboring bodies that, as dispositions, are best disposed to a constitutive power of assembly. It would not be unlike that seen in the preparatory war and peace operations of the military. For is it not Rousseau who, paraphrasing the esteemed Abbé Saint-Pierre, wonders aloud why governments are still not able to make citizens in the same way that the military makes soldiers: «... or is a good order less necessary in political economy than in military discipline.»²¹⁶

Émile must learn how to look for the availability of this type of disposition in the fellow inhabitants who may neighbor and very well share the bounty of his chosen piece of land. He must learn not what to see in the mores of these fellow inhabitants, but how to perceive what they ought to be (selfless and peaceful laborers) in the diverse mores and manners of what they are. This is now the greatest but most arduous task of citizenship and government. This is how the revitalization of that great republican virtue of civic participation can finally facilitate

²¹⁵Op. Cit. Bloom's translation, p. 457

an equal capacity, in the wills of all its citizens, to govern oneself and others in conformity with how one feels all ought to be governed in general. Émile must learn how to watch so that, as a citizen, he is capable of watching what he will learn to like; namely, the will to equally distribute the true principles of political right. He is to watch in the same way that his educator watched him. This is why this constitutes the Author's most difficult project, for he must instill and incite nothing short of a disposition and/or comportment in his young citizen to be. Like selfless womanhood and the cultivation of a field, this has not been a commonly achieved good of governments past and present. So that Émile is not charmed by the «past abuses» of philosophy and/or literary texts, characters and events, the Author realizes that his time for instituting such a disposition in Émile is now or never:

There remains a third difficulty which is more specious than solid and which I want neither to resolve nor to pose. It is enough for me that it does not daunt my zeal, since I am certain that in researches of this kind great talents are less necessary than a sincere love of justice and a true respect for the truth. If matters of government can be equitably treated, then I believe that the occasion for it is now or never.

Before observing, one must make some rules («régles») for one's observations. One must construct a standard to which measurements one makes can be related. Our principles of political right are that standard. Our measurements are the political laws of each country.²¹⁷

Let us pause over certain statements in these two paragraphs for a moment. This difficulty, rules for one's observation, is specious and not quite solid; it is not to

²¹⁶ Op. Cit., Rousseau, Oeuvres, v. III, p. 623 (translation my own).

be resolved nor really initiated by the posing of a particular problem or reality; the talented need not apply since what is needed is a disposition and/or comporting attitude, a «sincere love» of justice and a «true respect» for the truth; and lastly, political right must be a standard existing *in* the measured, the measurable manners and mores, that found the laws of each country. The speciousness of observation suggests a vulnerability to deceptions intrinsic to encounters with the agitating diversity of human life; we will see shortly why Émile is first to travel and see the world before he is ready for Sophie and marriage.

As in Du Contrat Social (book two), such a will to see the world in general is always upright, indivisible and therefore incorruptible. The problem is to keep Émile's will from being deceived and alienated from itself.²¹⁸ Here again the state of his sentiments, especially their transparency, amongst women and foreigners is a problem for his own self-government before he is ready to enter public life. Émile must learn how to come home knowing he is the same authentic young man who first left to go abroad; to go and return with an accumulated but uncorrupted experience of life. Hence, the Author needs to show Émile that his disposition towards observation must never be «posed» nor «resolved», never fully initiated nor decided, by the particular mores of definite and settled conventions and constitutions. Émile must learn to see the truth within the degenerative origins of error and deception, not against them. This is why what is just or true about what he sees, both in his travels and when he returns home, will come from his

²¹⁷ Ibid, p. 458-459.

dispositions to them. He must look for justice not in the concrete limits of public life or the order of nature, but in the visibly expressed sincerity (i.e., the general will) of those wills that ought to be pursuing it. Similarly, what is true about the truths he sees must always be instrumentally effected by how his will displays a «true respect» for the truth. Émile's conduct in these matters, both at home and abroad, must display these rules of observation. And as we learn just after this fragment, these rules are in fact the procedures for instituting in individual action the disposition of the general will: «Each of us puts his goods, his person, his life and all his power in common under the supreme direction of the general will, and we as a body accept each member as a part indivisible from the whole.»²¹⁹

But what and where exactly is this «supreme direction» that should regulate Émile's observation of others? It is in populations themselves. It is the «standard ideal» (the ought) existing in the actual assembling of groups of human beings (especially in those most reproductive segments, the family) as parts of a living whole. It is a whole that can always display, with proper inspection, a popular will to preserve, enhance and distribute healthy bodies, and increase the quantity of life. This is the people as, and in, the governed movements and associations that a population ought to be: a people founded on actual assemblages and groupings, combinations and re-combinations, separations and re-attachments, intrinsic to the generation of whole populations. These rules of observation find their place in the measurements of the last two problem-objects for the new field of legitimate

²¹⁸ Op. cit., Rousseau, Oeuvres, p. 369-372.

government. With this fourth fragment we see a need, in a governing activity like the Author's, to separate out this ideally disposed will from one of its most particular interests and site of deviant dependencies. This is nothing other than the family and traditions of blood relations. From out of the sweet sentiment to preserve and enhance the living, the family also displays, under close examination, a free, disinterested and standardized will to assemble:

Assuming that peoples were formed by choice, we shall then distinguish right from fact; since men have thus subjected themselves to their brothers, uncles, or parents not because they were obliged to but because they wanted to, we shall ask whether this sort of society is not always a case of free and voluntary association.²²⁰

If, then, these assemblages and associations are actual and indestructibly voluntary, this ideal of a disinterested and generalized will can always be seen in those degenerating deviations that impede its expression. Again, as our last fragment and object of government reveals, 'deviating' interests are now measurements for discerning the state of an ideal in the actual health of bodies, and the living numbers of the population. In those, at least, that conform to the power of assembly that renders possible the expressed general will. Here is also the last reference to the greatness of Montesquieu, and a final repudiation almost pitying in its implicit restraint:

The necessary relations between morals and government have been so well expounded in the book The Spirit of the Laws that one can do

²¹⁹ Op. cit., Bloom, p.460.

²²⁰ Ibid, p. 459.

no better than have recourse to this work to study these relations. But in general, there are two easy and simple rules for judging the relative goodness of governments. One is population. In every country which is becoming depopulated the state is tending toward its ruin; and the country which has the highest rate of population growth, even if it is the poorest, is infallibly the best governed.

But for this to be the case, it is necessary that the size of a country's population be a natural effect of its government and morals. For if population growth is accomplished by bringing in colonists or by other accidental and temporary means, they would prove the disease by the need for a remedy.²²¹ When Augustus proclaimed laws against celibacy, these laws already showed the decline of the Roman Empire. ... One should not examine what is done by force; ... Instead, one should examine what is accomplished by the influence of morals («moeurs») and by the natural bent of the government, for these alone have a constant effect. It was the policy of the good Abbé Saint-Pierre always to seek a small remedy for each individual ill instead of going back to a common source and seeing that all the ills can only be cured together. It is a matter not of treating separately each ulcer that appears on a sick man's body but of purging the bulk of the blood that produces all the ulcers. ...

The second sign of the relative goodness of government and laws is also drawn from the population, but in another way; namely, from its distribution, and not from its quantity.²²²

²²¹ Bloom's translation captures very well the literal meaning of this passage, but one can also discern in part of the original phrase, «car si elle se faisoit par des colonies ou par d'autres voyes accidentelles et passagères, ...», a small but different dimension to the posing of this governmental problem of population growth. It is useful to point out that the problem is not who the colonist is, usually a foreigner or immigrant with different mores, but how they come and live amongst the national population; i.e., by other routes and conduits («d'autres voyes») that are accidental and temporary (like passengers using means of transportation). As they can always leave, or live, by the accidental conduits in which they came, their lives and numbers are now measurements for the quantity and distributions of the conditions of life binding the national population. They are here the interior indices of excesses and/or deficiencies of the norm; of the normal health of the population. Their connection with medical references betrays this explicitly: disease, remedy, ills, ulcers, purging of bad blood, etc. (Op. cit., *Oeuvres*, p. 851).

²²² Op. cit., Bloom, p. 468-469; for the original French section containing all five quotations, op. cit., Rousseau, *Oeuvres*, p. 835-852.

Such simple things available to the eye, if only one's observation is properly disposed. Montesquieu is a victim, as d'Argenson would put it, of the inherent abuses in his own learnedness. If one recognizes the constitutional need to ensure the propagation of human beings, why turn to the study of ancient Republics who could only legally proscribe, as in the Julian Laws of Augustus, the required number of inhabitants?²²³ Why, to paraphrase an emerging bio-political language in Rousseau, seek coercive remedies that only prove the existence of social diseases still being propagated and in need of cures? One has only to examine two measurable realities to judge if the existing standard (i.e., the generalized will in actual populations) of political laws is being legitimately applied by government: the increase of the quantity of life in the social body, and the general, and therefore equal, distribution of all the things that comprise the life of this living population. If one governs by these two fundamental marks on the objects of government (i.e., «le corps social»), one will finally and truly exercise a scientific rigor over the study of political things. For one will then minister not to the mere symptoms of actual mores and manners, but to the inner source that is both the indicator of afflictions, and the curative instrument for the appearance of social diseases themselves. This inner source is no doubt this generalized will, now residing in the full-bodied existence of assembled populations.

²²³ Op. cit., Bloom's note, number 72 at p. 468; for the original reference, op. cit., Montesquieu, Oeuvres, p. 692-695.

The failure, or uselessness,²²⁴ of a political science such as Montesquieu's, therefore, is not simply the apparently misguided attempt to seek scientific rigor in the mores and positive laws of the different nations. Rather it resides in a misconceiving, now replete with its deceptions, of the objects and actualities of the problem; in a deceived and lapsed disposition blinded to the need for national populations that are shaped to fit the constitutive activities of government.²²⁵ The level and objects of its science, therefore, should never have been the actual mores and positive laws of nations, according to works on government such as Rousseau's.²²⁶ They reside, rather, in the types of conduct judged supportive or threatening (especially when left unsupervised) to the very existence of whole populations. It is in this way that one defines a true science of government, as opposed to a «useless» science of political relations. This is a real science, according to these texts, because it deciphers its objects, from the family to the national community and back again, in a voluntary assembling of popular life that always is the source of what a people ought to be. By consequence and simply put, a government will now discern in the actual lives of those who do not conform to assemblages, how the ought is naught.

²²⁴ Op. cit., Bloom, p. 458.

²²⁵ See the opening arguments («Avant-Propos») of the constitutional project for Corsica (op. cit., Rousseau, Oeuvres, vol. III, p. 901-902). The real problem requiring the rigors of scientific measures could not be stated more explicitly here: «Il y a pourtant beaucoup mieux a faire, c'est de former la nation pour le gouvernement.»

²²⁶ Ibid, vol. IV, p. 836.

Now, when the quantity, reproduction and hence distribution of the national population itself defines the true legitimacy of this governmental activity, it should also be no surprise that the specific education of Sophie becomes as generally useful as that of Émile's.²²⁷ As the sentient and selfless subject of reproduction, her maternal support and sharing of the fruits of Émile's education is even better positioned to display the general humanity of the human race. Her body will contain it, if her regular conduct is not corrupted within the mixtures of the larger social body. By juxtaposition, women in Montesquieu's writings could not be further from the realities of such an educational and political (and newly governmental) project. The discontinuity with Rousseau is illuminating. Two examples will suffice to illustrate this:

1- In two different texts, dealing with two specific but related problems, Montesquieu encounters the limits to the assembling of women. At first sight, this seems no different than Rousseau's attention to levels of population. But interestingly, both illustrations take place under conditions of despotic subjugation. Here the problem of how to assemble female subjects of mores and law, is even indistinguishable from how to confine them. In another example of an insightful, but qualified, tolerance for certain particulars of despotic constitutions, Montesquieu finds himself, in De l'Esprit des Lois, admiring the indestructible manners and mores of the Chinese. They go as far as instructing their children in the nation's

²²⁷ Recall that Rousseau opens the «Preface» of Émile proclaiming it a work born from the solicitations of a woman and mother of rare education and

manners and mores at the earliest years of their schooling. But in an almost casual insight, Montesquieu prefaces this admiration for such well-mannered constitutions with a remark that he knows is fundamental to the possible emergence of such obedient nations: «In addition to the women being absolutely separated from the men, they teach manners and mores in the schools.»²²⁸

Here is the example of a nation founded on the principle of despotic fear. Yet, at the limit of its exclusions and inclusions of the two sexes, such a constitution in return itself betrays a deep fear of the powerful actions and effects of its childbearing members. Tactics of separation and confinement must be absolute if such resilient and obedient manners and mores are to arise. No doubt Montesquieu also read these tactics as China's way of ensuring the propagation of its inhabitants, especially its male ones. But it is very evident here that the problem targeted is not a reproductive capacity generally available, and intrinsic to the womanhood that reproduces national populations. The separation and confinement in the Chinese example confirms that any constitutional interest in ensuring the propagation of its numbers, will begin and involve an encounter, and/or confrontation, with the actions and lifestyles of women; childbearing women in particular. This experience is simply not possible as the level or object(s) of the science of government we just delineated. If this science signifies any term (such

intelligence («... une bonne mere qui sait penser»; *ibid*, vol. IV, p. 241): Mme de Chenonceaux (*ibid*, note #1, p. 1288).

²²⁸ *Op. cit.*, Montesquieu, De l'Esprit des Lois, book XIX, ch. 13, Oeuvres, p. 643: «Outre que les femmes y sont absolument séparées des hommes, on enseigne dans les école les manières comme les moeurs.» (translation my own)

as motherhood) common to this Chinese example, it now does so under an entirely different conception of its existence: i.e., as the inner bodily regularities governing the conduct of the life of the living. And this is a conduct that has to be scientifically discernible in the observable health and increase of whole populations. In this latter world of the emerging science of reproduction, confinement (even self or chosen confinement) is increasingly nothing more, or less, than preparations for a freeing release of individuals disposed to the assembling of popular life. Is this not how Émile experiences the confinements of his own education?

2- In the earlier salon years of the youthful period of his writing career, Montesquieu still had not mastered an erotic, but nervous, attraction to the fearful power of these confined, non-Western women; such as the Chinese and Persians. He no doubt sensed that the severe measures and actions of confinement upon these women presupposed it. One only needs to witness a second example from an earlier work, his Lettres Persanes.

While still travelling in France, the Persian Prince, Usbek, receives disturbing news about the activities of his wives left confined, and under strict guard, in his seraglio back home in Ispahan. There is word of deceptions, disobedience, treachery and, worst of all, infidelity! His most trusted eunuch, Solim, is given strict orders (lettre 153) on how to deal with this crisis: «Exterminate the guilty, and make tremble those that would propose to become so.»²²⁹ But when Solim writes back (lettre 159), the most unfathomable image invades Usbek's thoughts. His most

devoted eunuch has been deceived and corrupted by his most favoured wife, Roxane. From out of confinement with corporal punishment, Solim could still not prevent the unfolding deceptions and infidelities Roxane was cultivating. His life is now worthless in this world. «Roxane, the superb Roxane! Oh heaven! Who to trust from now on? ... But her ferocious virtue was but a cruel impostor: it was the veil of her treachery.»²³⁰ The apparent virtuousness of the actions of this woman can also deploy a dangerous veil of treachery, if need be! And then comes the defiant letter from Roxane herself (lettre 161) to Usbek in Paris. She has been in waiting, ready to face the lethal risk that delimits her transgressing actions: «Oui, je t'ai trompé: j'ai séduit tes eunuques, je me suis jouée de ta jalousie, et j'ai su, de ton affreux sérail, faire un lieu de délices et de plaisirs.»²³¹ She knew how to make a place of great delights and pleasures from out of both the confinement of her seraglio, and the severe postures of its disciplinarian eunuchs. Usbek can no longer return to the same place and family he left behind; he can no longer count on the first duty he gave to the loyal Solim, «... render me my seraglio as I left it.»²³² Unlike Émile, Usbek cannot control the duration of his time away from home. He will return to the same place a profoundly different man.

²²⁹ Ibid, p. 146: «Extermine les coupables, et fait trembler ceux qui proposaient le devenir.» (translation my own)

²³⁰ Ibid, p. 148: «Roxane, la superbe Roxane! O ciel! a qui se fier désormais? ... Mais sa vertu farouche était une cruelle imposture: c'était le voile de sa perfidie.» (translation my own)

²³¹ Ibid

²³² Ibid, p. 146:«... rends-moi mon seraglio comme je l'ai laissé.» (translation my own)

It is tempting to see in this story an example of, as we might say today, women's self-empowerment and emancipation in the context of early eighteenth century European literature. Of course, we would then also lament the unfortunate and tragic end that befalls Roxane. If only these Persian men had seen in the rebellious context of Roxane's actions and life conditions, the unjust figures they need not have been: despotic men who confine and oppress the women of their nation. No doubt. Moreover, the narrative of the text seems to support this reasonable sentiment. Just before her suicide, Montesquieu even has Roxane express her defiance in the mechanistic language of eighteenth century natural right: «Non! I could no longer live in servitude, and I have always been free: I reformed your laws on those of nature, and my spirit has always held itself in independence.»²³³ She can proclaim that her transgressing actions against despotic mores and laws, are in fact reformations founded on the laws of nature. Yes, but what actions does Roxane actually take against the despotism of Usbek's Persian law, and in the hallowed name of natural law?

Well, let us just say she takes some quite unnatural, or anti-natural, actions (justifiably, we may agree!) in the name of restoring to Persian law the justice of the natural. The literary figures of Roxane and Sophie may seem to share the emerging ideals of equality and emancipation, but they could not do so in more strikingly different modes of conduct. Roxane's actions, as we will see below, can

²³³ Ibid, p. 148: «Non! J'ai pu vivre dans la servitude, mais j'ai toujours été libre: j'as réformé tes lois sur celles de la nature. Et mon esprit s'est toujours tenu dans l'indépendance.» (translation my own)

not simply be relegated to a conscious emancipation and empowerment of women. Or, at least, its emancipation is certainly not one continuous with Sophie's. Not one connected, for better or worse, with a conception of the inner and spontaneous goodness (i.e., the selfless «bonté») of the female reproductive capacity.

Firstly, there is of course the infidelity with the beloved young man who pays the ultimate price. But more striking is the attack on Usbek's domestic mores and laws through a polarizing invention of new seductions, pleasures and delights. Roxane is able to seduce eunuchs; men who had long ago parted with manhood out of service to masters and nations. She profaned her natural virtue by concealing beneath it, as the veil conceals a face, nothing but violence and hatred for Usbek's oppressive authority.²³⁴ Lastly, and perhaps most importantly, Roxane commits suicide; the ultimate act against nature. And although she takes her own life out of despair for the death of her young man, she does so also to thwart and spite the customary punishment she was to receive at the hands of Usbek and Solim. In this text of Montesquieu, then, the image of a woman like Roxane can only appear as transgressions (or deviations), however unfortunate, against the laws and justice of nature.

But before we pity the very possibility of her existence in this condition, let us recall and underscore the fact that, as transgressions, her actions also had the powerful effect of an active resistance that revealed the truth of nature as she conceived it. As Roxane said of the errors of her ways, they are in fact corrections

²³⁴ Ibid

in favour of the natural: «... I reformed your laws on those of nature.» Of most importance, then, is how her transgressing errors could invert these customary norms of Persian life, and devalue them as injustices.

By contrast, for Sophie, as for Émile for that matter, it is not just Roxane's wrongdoing that will be pitied, but the very possibility of her existence as such. For as the Author intends, Émile's return to Sophie from his voyage will not merely be an exercise in the broadening of a young citizen's horizons. The voyage, like the undecieving selflessness of women like Sophie, is primarily functional in value. Travel and conjugal love are here effective means for preparing young citizens for that largest of assemblies, the general society of human kind («De la Société Générale du Genre Humain»)²³⁵ And they are so in two specific ways, one targeting Émile's disposition and the other Sophie's.

Firstly, with regard to Émile and his voyage, the primary function of his travels abroad is not the encounter with foreign peoples and places, but the return home with an eye properly disposed to the particular prejudices of his own national population. The Author, repeating d'Argenson's warning quoted in the footnote to du Contrat Social (book one, chapter two), warns Émile that book learning can be abusive and is never a substitute for the worldliness of travel experience (that true book of the world that must be seen and not read)²³⁶. Then, in the only reference to the Lettres Persanes contained in the Émile, he prepares his young student for his return home by illustrating for him, in Lettres Persanes, a particular national

²³⁵ Op. Cit. Rousseau, Oeuvres, v. 3, p. 281.

prejudice that his special education will enable him to challenge and expose. The well-traveled Émile will now show disgust for even the possibility of fellow nationals who pose particular questions such as the following: «How can one be Persian?»²³⁷ Make no mistake, however, his disgust will not be merely with prejudiced Parisians still lacking a cosmopolitan spirit. Émile's disdain for prejudice, like his Author's, will not be consonant with Montesquieu's or Voltaire's. It is not the unreasonableness of the question that the Author finds ridiculous and upsetting. Rather it is how their astonishment at this vibrant but shadowy figure deceives their feelings. These Parisians became so attached to the particular images of a foreigner, that they obstructed their full view of that general humanity that is supposed to reside within his appearances. But one should notice that the stakes are high in this little illustration. For this sentence for a foreigner's inner and general humanity, will also bring with it a virulent demand (no doubt expressed with sentimentality) for transparency. A properly educated national, like Émile, must not seek to know the strange appearances of this individual, but the decipherable will which governs the conduct of the exterior appearances that envelop it. Otherwise, he is as susceptible to the erroneous astonishment (errors that are now synonymous with the «stupidity» of corruption) of these gathered Parisiens: They think they know human beings but know only the prejudices of the French.²³⁸

²³⁶ Ibid, p. 827.

²³⁷ Op. Cit. Montesquieu, Oeuvres, lettre 30, p. ?; for the reference in Émile, op. cit. Rousseau, Oeuvres, p. 826 (translation my own).

²³⁸ Ibid, p.826.

Hence it is not so much the content of such a question that will upset Émile, but the form of its expression and the particular conducts, and individuals, that express it. It shows French nationals coming together in wonder and seduced attachment to the particular appearance (in full customary dress) of a Persian individual in the streets of Paris. This is a way of questioning that betrays such a dependence on the particularity of this foreigner's appearance that it risks losing the disposition of the questioner in the pursuits of the question itself. Might not these Parisians also be led to ask at some point, «How then can one be French?». In the Author's view, this would simply amount to the same way of posing the question. Again, like the Persian foreigner, this would be nothing more than another fixation on a particular identity such that neither nationality would serve the function of revealing the underlying will of our general humanity. To seek to know Persians or the French in this way is here to obstruct the optics of a science of our humanity as such («la science de l'homme»).²³⁹ Importantly, this illustration will also show Émile that this true and fundamental science of public life (i.e., this science of the humanity of the human) is still known the least, and therefore the most easily misunderstood. And he will heed this warning especially when studying the methods, instruments and objects of this science that is most demanding of

²³⁹ Ibid, v. III, Discours sur l'Origine et les Fondemens de L'Inégalité parmi les Hommes», p. 122; see also the editors', Wirz and Burgelin's, explanatory footnote (Ibid #3, pp. 1680-1681) to this section of Émile. Quoting from this same section of the second discourse, they present the literal (i.e., physical) sense in which Rousseau thinks this science of man: to set out on voyages to know our humanity, is to set out to «know how humans are made», «... tels qu'ils se sont faits» (ibid, v. III, p. 125).

attention. This science will require such attention because it is the one most actively involved with our general humanity: This science is, as we indicated earlier, «Government in General».²⁴⁰

Now the singularized attention of Émile's education is intended to protect him from the errors to which the sentimental understanding is prone. He must find nothing extraordinary (be it attractive or repulsive) about foreign customs and lifestyles in his midst or abroad. For astonishment at the extraordinary, as the Author cautions, is often nothing more than an unwitting confrontation with our own unacknowledged prejudices. Instead Émile will know how to assume the disposition that asks of all particular modes of life: How is being Persian, or French for that matter, human in general? This is precisely what the Author means when he proudly exclaims to his pupil, «See how much the solution to a difficult question sometimes depends on the manner in which we pose it!»²⁴¹ To be clear, let us once again specify the intended effect of this lesson by the Author. Émile will learn that it is the disposition, the manner («la manière»), of the questioner that will extract and decide the human reality of the questioned and not vice versa. To paraphrase a part of our earlier fragments on the new objects of government (p. 134): as the disposition, the will, of the generality of the human kind, it necessarily becomes the standard of judgement that, unlike its particular questions or answers,

²⁴⁰ For the reference to the underdevelopment of this science, see again the «Preface», *ibid*, p. 122; for the warning about «gouvernement en général», see the opening notice to book III, and the first paragraph of book III, chapter one of du Contrat Social, *ibid*, p. 395.

is not to be actually resolved nor posed. And here we can explain why this is the case with even more precision. As pure disposition, as a particular will unattached and dispossessed at the moment of the question's expression, it functions to produce general assemblies by exposing those prone to particular and not general gatherings (i.e., the «stupidity» of those wide-eyed Parisians). The problem at work here is therefore not the discernment of an individualist and/or collectivist ethic, but the governing constitution of an individuality perpetually disposed to the techniques of assembling and reproducing the collectivities of the general. Thus Émile will be educated as an individual citizen who can know, in advance and at all times, how to question the individuality of others in the same way as his own. In the inevitable deceptions of particular behaviors, he can always ask and therefore judge the inner state of his and their general society with human kind.

But a question, a gap, still remains in Émile's education. This is a concern that must be addressed in advance of his departure, if the function of his voyage is to be fulfilled. For how will Émile know to decipher when and if he is in the presence of societies, or individuals, that do or do not will our general humanity? The answer lies in the use of the experience of conjugal love as a conduit to this general humanity. He will see in its warm natural sentiment a tendency to reproduce into multiple families, and therefore to dissolve into many of its' kind. This «many of its' kind» is nothing other than the general population at large; than the family re-constituted as a segment of the population. And though population

²⁴¹ Ibid, p. 827, «Voyez combien la solution d'une question difficile dépend

cannot depend, for its assembling, on a love like the natural sentiment of the family, for this reason it now becomes the principal object for the artifices of that «great family» («la population»), the governing state. Government can maintain a continuity with this love but only by conventional artifices/techniques, by instilling a love for the general will of our humanity as expressed in the nations' laws (i.e., its' Patrie). But the key factor here is that a government's applications of these laws, is now charged with the tactical and technical maintenance of this conventional continuity with the conjugal love of the family. The selfless love of the latter inevitably dissolves with the passing of its progenitors. But its will to assemble need not dissolve, provided there are properly disposed individuals who demand the general humanity of multitudes, of «populations at large». Granted, as the Discours Sur L'Économie Politique intends us to learn, the humanity of these populations will not and can not come together on the basis of natural sentiment any longer. But is it not in the instilling of this artificial love where the true talent of reigning governments resides, Rousseau asks his readers? «Although government is not master of the law, it is much to be its guarantor and to have *a thousand means to make it loved* (italics my own).»²⁴²

But Émile must first know how to observe the absence of this love in the multitudes of the human kind. This is why the Author requires Émile to first experience the love of a woman so that he is properly disposed to travel, and then

quelquefois de la manières de la poser.» (translation my own).

to enter political life.²⁴³ It is at this point that the specific education and particular disposition of Sophie becomes convenient and useful in the most crucial sense. Government that re-centers its legitimacy, its sovereignty, at the level of reproduction of populations and not obedience and/or duty to the law, must necessarily become *interested in* the dispositions of its women and children. As government that «governmentalizes», it must effectively unfold as a «bio-power». It is time to draw out the nature of these two terms. But before we do so, we should clearly address some implications these insights might have for the still young history of women's struggles for juridical rights. Has it all been a ruse? A cruel and faceless misogynist trap hidden in the vicissitudes of history? Not quite, at least in our estimation.

Do we need to conceptualize women's struggles for juridical rights as, finally, a recovery of their original liberty? Has it primarily been a matter, at its core, of a politics of recognition? Is this what has actually been happening in the last two hundred odd years of western history over this issue? Has it been, essentially, a question of finally adjusting the rational and/or material conditions of subjective consciousness with newly emerging objective ones (the rights of woman!)? If our argument is right, such struggles have indeed been occurring but not in the way «progressivist» histories continue to describe them.

²⁴² Ibid, v. III, in Discours sur L'Économie Politique, pp. 242-250: «Mais quoique le gouvernement ne soit pas le maître de la loi, c'est beaucoup d'en être le garant et d'avoir mille moyens de la faire aimer (p. 250).» (Translation my own)

²⁴³ Ibid, v. IV, p. 853.

If government has indeed mutated into fields of reality staked upon domains comprising the life of living populations, then women's histories are in fact struggles for juridical rights. But they would be so, decisively, as historically recent defenses against these incursions of a non-juridical power, and not primarily a final recovery of their original liberty. These juridical rights would then be tactics and instruments of struggle, and not some final, constitutional, resting place of their relations of power. From this perspective one can in fact envisage these struggles as women's defense of the social. What effects have those extended rights of the nineteenth and twentieth centuries been if not an active appropriation of the instruments of juridical power, against their uses in the incursions and subjection of a non-juridical power: a modern governmental bio-power. And as a defense, let us just comment for now (we will return to this theme in our conclusion) that the «social» here is not conceptualized as a given, as a unity, one that will require protection and/or development both before and after the fact of its presence. The social *is* defense, which no doubt requires offensive strikes. It may in fact (we believe!) be constituted by it, by multiple positioning, ambush, attacks, responses and, ultimately, relations of combat by means other than war.²⁴⁴ In this very nominal sense, the rights of Liberalism *are fought for*. It is historically undeniable that they emerged as resistance. Why should they not have? From at least the seventeenth century, the justifications of juridical government have tirelessly sought to link and exchange the

²⁴⁴ This insight was developed by Foucault as a series of course lectures at the Collège de France entitled, «One must defend society» («Il faut défendre la société»), in 1975-1976. Op. Cit. Dit et Écrits, volume II, pp. 124-130.

security of juridical rights for an increasing power over life. As a concluding point and illustration for this discussion, just consider that great Englishman with a conscience, John Locke, the prominent natural rights advocate and early liberal:

Let us recall that when Locke extended his civil government of natural rights to women and children (to the family as such), he did so on the basis of the discipline of their laboring bodies. As he writes of the limits of paternal power: «... (it) reaches no farther than by such a discipline as he finds most effectual to give such strength and health to their bodies, ... to make them work when they are able for their own subsistence; but in this power the mother, too, has her share with the father.»²⁴⁵ Here, the laws founding civil government are inscribed in (and as) the norms of the family. More bluntly stated, they are themselves norms, tactical ones, for this new re-ordering of the family. Just note how the limits of law are to function no longer as a power of allowance and disallowance, but as a calculated direction of conduct in general: «For law, in its true notion, is not so much the limitation as the direction of a free and intelligent agent to his proper interest, and prescribes no farther than is for the general good of those under that law.»²⁴⁶ No need for the sword, no repressive force, and therefore no resistance. What is needed is just a governed direction of a «free» and «intelligent» agent in and through the law, for the convenience of the social body and the law. What then of the common good in this age of governmentality? First let us explicate the latter term.

²⁴⁵ John Locke, Two Treatises of Government, (London: Everyman's Library, 1984), p. 147.

²⁴⁶ *Ibid*, p. 143

The texts where Michel Foucault deals with questions of bio-politics and bio-power almost always situate the question within notions of government, governmentality and modern liberalism. In fact, Foucault pursues his critical reflections on power by inflecting the problem towards forms of modern government and their essential governmentality. With this latter term, he sought out the specific mode by which governmental power is exercised, without referring it immediately, or after the fact, to its juridical status. By 1982, he specifies this governmental power as the effecting of actions upon other actions so as to modify conduct.²⁴⁷ The diversity of these active forms of power is precisely expressed in the following enumeration: «It is an ensemble of actions on other possible actions... it incites, it induces, it diverts, it facilitates or renders more difficult, it enlarges or it limits, it renders more or less probable; at the limit, it constrains or impedes absolutely.»²⁴⁸ The term «conduct» («conduite»)²⁴⁹ expresses very well what links the diversity of these practices. It signifies both the mode of leading others, and of disposing oneself to being led as well. «The exercise of power consists of conducting conducts and developing probability.»²⁵⁰ A key feature here is that this power is

²⁴⁷ Op. cit. Foucault, «le sujet et le pouvoir» in Dits et Écrits, volume II, pp. 1041-1062. All subsequent translations from these original French texts are my own.

²⁴⁸ Ibid, p. 1056

²⁴⁹ See especially his genealogical history of this term in the 1981 text, «Omnes et singulatim: vers une critique de la raison politique». Ibid, especially, pp. 978-980.

²⁵⁰ Ibid

less of the order of a confrontation, than of a governing of conduct. The following quote could not be more precise:

One must allow this word («de gouvernement») the very broad signification it had in the sixteenth century. It did not refer only to political structures and the management of states; but it designated the modes of directing the conduct of individuals or groups: the government of children, of souls, of communities, of families, of the sick. It did not simply recover the instituted forms and legitimate subjection of politics and economics; but modes of action more or less reflected upon and calculated, but all destined to act on the possible actions of other individuals. To govern in this sense, is to structure the eventual field of action of others.²⁵¹

Further along in this same text, Foucault explains that this mode of acting upon action is neither warlike nor juridical in its deployments (though at its limit it may make use of either if necessary). It has for its essential support, to take stock of the liberty of individuals and the sovereignty of national groups. In fact, one should say that such governmental power is exercised only, and rather paradoxically, on free subjects. Indeed, one must say that modern government (in this sense) is possible only with the historical re-emergence of that specific problem of the government of one's self, or self-government, in the sixteenth century.²⁵²

²⁵¹ Ibid. For a fine elaboration of these later studies by Foucault, see also Yves Michaud's «Des modes de subjectivation aux techniques de soi: Foucault et les identités de notre temps». In *Cités* (Paris: PUF, 2000), #2, 2000, pp. 11-39.

²⁵² Ibid, La «governmentalité», p. 656. Here, Foucault situates the historical re-constitution of this problem in the sixteenth century, at the crossroads of two processes during the religious wars. On the one hand, the dissolution of feudal structures and the establishment of powerful territorial, administrative and colonial nation-states. On the other, a very different movement which, with the Reformation and Counter-Reformation, deposits the problem of how individual souls are to be ruled and led while here on earth for salvation in the afterlife.

More precisely, the problem is how to govern the liberty of the self so that the multiple ways in which it governs itself are linked in consistent and convenient networks of relations. «The forms and places of the government of human beings by each other are multiple in a society; they superimpose each other, intersect, limit and annul themselves at times, and strengthen themselves in other cases.»²⁵³ The linking and spreading of these multiples renders the problem «general» and central for the juridical institutions of the state: How to govern the liberty of the liberties residing in the subjects of the state? This is not therefore another in the long line of usurpation of liberty. As if the dominance of the modern state now transforms into gentle, but of course more deeply repressive, governmentalizing mechanisms. Rather than a modern state that now governmentalizes, is it not plausible that this new governmental power in fact «statizes» («étatisation» of gouvernement)²⁵⁴. Is this not the history of our present? More and more the question has centered, and continues to do so today, on ways of governing the self.

Now, it is in relation to these pressing considerations of the conduct or government of the self, that the notion of «governmentalité» emerges. Foucault introduces it (circa 1978) in the framework of an analysis of the historical multiplication of texts and manuals on the arts of government from the mid-sixteenth century to the nineteenth. Most of these studies are linked by an attempt to replace and/or transform traditional texts based upon the art of political ruling and

²⁵³ Ibid, «Space, Knowledge and Power», (originally an English interview with Paul Rabinow, translated into French for these volumes as «Espace, savoir et pouvoir»), p. 1060.

carefully composed as advice to princes. Of course, Machiavelli's devilish little book, Il Principe, proved a constant source of both repulsion and nervous attraction for this enduring constellation of studies.²⁵⁵ In a word, most of the latter texts on government (such as Guillaume de la Perriere's) saw their problem in his, but either rejected the solutions outright or grappled to modify its moral ambivalence. But the feature that groups these texts together, both those for and against Il Principe, is the fact that nearly all call attention to many forms of government already existing in the interiors of the state. No doubt texts that seek to advise Monarchs continue to appear, but they increasingly have little to do with arts of ruling and much more to do with providing information on the interiors of the state and how to better manage them. The Marquis d'Argenson's text on government imploring his Majesty, Louis XV, to take an interest in the «innovations» of his population, is a case in point.

The question then of the art of government becomes, above all, the following: How can one manage most effectively individuals, their goods, their wealth, etc. This slight modification is very significant for two reasons:

1- It retains that element of Machiavelli's political reasoning that establishes the problem as one of how to link the Prince's political regime with his principality. But the modification retains the element of the link precisely in order to alter the nature of the things linked. We must briefly recall how Machiavelli's Prince rules (by knowing how to «acquire» and «maintain» power) only over both his subjects, and, especially, the territory they inhabit. To the *vulgare* and the other nobles,

²⁵⁴ Ibid

therefore, his must be a relationship of singularity and transcendence.²⁵⁶

Machiavelli's radical break with, and transformation of, such classical notions (Greco-Roman and Christian) as «virtu» and «fortuna» bears this out. The use of the former is not to be limited by the changing contexts of the latter, even though it must eventually perish from the force of its torrents.²⁵⁷ This disturbing and morally unjustifiable use of «virtu» is exactly what the new literature on government cannot handle, and seeks to circumvent with solutions that modify the problem.

2-The modification of the problem in fact constitutes, so we argue, a displacement of Machiavelli's central concern for his new art of ruling (i.e., the «linkages» between a prince's virtu and his principality). In the texts on government spanning the time of de la Perriere to that of d'Argenson, Rousseau and even beyond, the problem ceases to reside in the ruling capacities of princes and their regimes, but in the management of the life of the living in all its relations. This is exactly what de la Perriere meant by a convenient disposing of «things». The objects linked to political power and its tactics are now the living relations of human beings. As Foucault elaborates it, one must understand how it is that «one governs things»:

²⁵⁵ Ibid, pp. 637-639

²⁵⁶ Ibid, pp. 638-640

²⁵⁷ For a different approach that comes to similar conclusions on Machiavelli's break with classical traditions of political philosophy (and on how it resists contextual histories), see W. R. Newell's insightful, «How Original is Machiavelli? A Consideration of Skinner's Interpretation of Virtue and Fortuna» in Political Theory, (Sage Publications, Inc.), volume 15, No. 4, 1987, pp. 612-634.

But what does this mean? I do not think this is a matter of opposing things to human beings, but rather of showing to what government relates, not territory but a sort of complex constituted by human beings and things. That is to say that these things government must take charge of, are human beings but in their relations, their bonds, their imbrication with other things which are wealth, resources, subsistence, the territory for sure, at its borders, with its qualities, its climate, its dryness, its fertility; it is human beings in their relations with those other things that are customs, habits, ways of doing and thinking; and, lastly, it is human beings in their relations with those other things that can be accidents and misfortunes, like famine, epidemics, death.²⁵⁸

The articulation of the rationality of modern government onto these «things» is clearly the difference that indelibly marks Rousseau's (and others') political texts. The clearest illustration of government now taking charge of those last «things», the relations of «accidents and misfortunes», occurs in another of Rousseau's disputes with his nemesis of the French Enlightenment, Voltaire. It deals with Voltaire's poem on the tragic implications of the Lisbon earthquake (November 1, 1755). The conjuncture of the event with their philosophical exchange is important, for how is the enlightenment belief in the progress of the human spirit to come to terms with a natural misfortune that wiped out a near third of an entire population in a matter of days? Voltaire's problem and answer to this horrible event is metaphysical and theological. His short-term rational and political optimism is limited by a long-term pessimism rooted in such senseless natural events, and an unfathomable Providence.

²⁵⁸ Op. cit. Foucault, La «gouvernementalité», in Dits et Écrits, volume II, pp. 643-644.

By contrast, Rousseau's answer is emphatically governmental. He disagrees not with Voltaire's reasoning, but with how its pessimism makes him «feel».²⁵⁹ These sad feelings for the general humanity of the human kind then inspired him, so the letter goes, to ask a very different question than the metaphysical one linking the disagreement between Voltaire, and Leibniz and Pope («Why is man not perfectly happy?»). Rousseau's modified question seems to signify a theological concern, but, as we will see, its expression relays the problem to different domains that are decidedly governmental.

The problem with the Portuguese nation is that they do not ask the question of every human being, «Why does he exist?» Yet it turns out the point of this question is not directed at a theological consideration of the beyond, but at how the Portuguese people govern those relations intrinsic to populations. As a question of government, it is intended to put the existence of this population, as living beings, in question. Rousseau's subsequent explanations confirm this. He sees himself restoring optimism in our natural mortality and its Providence, by simply pointing out how the earthquake revealed the corrupt relations afflicting the Portuguese population. Just think, he tells Voltaire, how many unnatural deaths befell those who would not flee without their clothes, or their documents or their money chests. And to confirm that such modes of existence are domains for governmental action, Rousseau raises the problem of the morphology of the city of Lisbon and its obvious lack of urban planning.

²⁵⁹ Op. cit., Rousseau, Oeuvres, «LETTRE DE J.J. ROUSSEAU A

It seems the political power to assemble and distribute populations was sorely lacking in such a Catholic city. Rousseau confidently tells Voltaire that it was not nature that assembled twenty thousand houses six or seven stories high. Moreover, he adds, if the inhabitants of the city had been dispersed in more equal fashion, and more lightly housed, the damage could have been negligible, if not non-existent.²⁶⁰ The problem, Rousseau remarks, is simply one of human «perfectibility»²⁶¹, of governing «things» and not just administering to citizens.

What is most important about these insights and illustrations of modern government, is that they show how the latter does not find its place within the limits of sovereign law. Its domains, as Foucault's quote showed, are clearly not circumscribed by a common good contained and expressed in such a highest law. Government has its own ends, its own targets. Rousseau's «gouvernement» finds its objects and subjects in ends intrinsic to its new activities: in its management of

MONSIEUR DE VOLTAIRE», volume IV, pp. 1059-1060.

²⁶⁰ Ibid, p. 1061

²⁶¹ Ibid. As an added insight, by 1756 the well-educated aristocrat, the Marquês de Pombal, had taken over the enormous task of rebuilding Lisbon. Having been schooled in the new sciences of the French and English Enlightenment, he reinforced its re-construction using the principles of Newtonian physics and the new engineering. He also banished the Jesuits and reformed the educational system. But in spite of his enlightened disposition, it seems he did not pay attention to Rousseau's new science of government. He rebuilt the urban design of the city in exactly the same way as before the earthquake, again with thousands of houses «... six or seven stories high.»

Lisbon's morphology still holds today. At night, when one walks up the hillside from the waterfront to the center of town, the bairro alto, the looming buildings that line the narrow Moorish streets still seem like they are ascending to the stars that appear directly above their roofs. Citizens of cities like Lisbon have never seemed to understand the political allure of Geneva; Rousseau's imagined

relations, conducts and «things» of living bodies, both individual and collective (the first no doubt facilitating the assembling of the second).

Foucault's governmentality thesis helps us to understand how this new art of government was in fact blocked by traditional theories of the common good expressed within the legal framework of sovereignty. They had to dissolve into lapsed histories for the new government of the eighteenth century to emerge. With Hobbes, as we saw in chapter three, the objective of the contract is clearly demarcated by how it acquires and maintains the sovereign unity within it. The philosophical-moral ideal of a civilizing «contract» emanating from a natural condition of war was intended to combat and exclude the incursions of real warlike relations into politics. The real kind of war relations he experienced at the outbreak of the English Civil War. Yes, considering again the establishment of his problem, Hobbes was more fundamentally a peace theorist than an early psychologist of war and power. His powerful Sovereign was to rise above the multitudes and appropriate their war relations so as to deliver them their peaceful sovereignty and, to say the same thing, their common good (those two fundamental natural laws, endeavouring peace and common defense). And his governors, those «publique ministers»²⁶² of «publique safety», are part of the Sovereign's artificial but living body. They are, only and most essentially, part of the armor and sword of this living body. Their actions only reflect sovereignty in that they procure the «fundamentall

ideal (op. cit, «Dedicace» of «Discour sur l'origine et les fondemens de l'inégalité parmi les hommes», Oeuvres, volume III, p. 119).

²⁶² Op. cit. Hobbes, Leviathan, chapter 23, pp. 289-294.

lawes» that are the common good. Similarly, and in circular fashion, the common good they deliver is nothing other than sovereignty. It is in this sense that the Sovereign's government is nothing more (and certainly nothing less) than its own instruments that it wields for its own end: civil peace. This is why it has to be (rather it *needs* to be) intimately juridical so as to target its legal problem: the obedience and disobedience of the Sovereign Law. It is simply inconceivable that, in our view, the reality of such a problem could concern itself with the extra-legal management of the conduct of bodies. One can not simply attribute this to Hobbes's psychology or culture, or to the over-determination of his thought by the newly emerging market relations of bourgeois society. His public ministers do concern themselves with the pride of certain passionate actions (crime, or commercial trade for example), but only to restore legal sanction in the double sense of this word: as both legitimacy and punishment.

The image of a governor that does not have to pursue, and/or defend against, his/her citizens, is of an entirely different order of reality. It requires a new historical constitution of «docile» bodies containing accessible norms (the ideal) of perfectibility, such as Émile's and Sophie's. There are two starkly contrasting images of governance here. When targeting obedience to the law, Hobbes's governors bring sanctions to the actions of citizens. When targeting instead the constitution of governable bodies, the rules shaping the disposition of de la Perriere's (and Rousseau's) governor become starkly different. She/he needs only the patient diligence of a caring parent. Much like Rousseau's Author, she/he needs only to be there, watching and preparing things carefully and perpetually,

before subjects go to sleep at night, and again in the morning when they rise to a new day.²⁶³ No doubt, feeling the governor's presence will require that she/he also be there, directing conduct in between our dormant and waking lives. Within such a field of reality for government, how could Hobbes's (or Grotius's, or Pufendorf's for that matter) account of sovereignty not mutate into lapsed realities?

But the question still needing an answer is what in fact allowed modern government to unblock and free itself from the legal rigidity of Sovereign Law? How did this «gouvernement» transform itself and its obstacle (the sovereignty of the law), so as to become «la gouvernementalité»? In effect, these questions betray a very different way of posing the problem of a still very contemporary reality. Are we really still asking the question of the seventeenth century: are governments within the legitimate bounds of Sovereign Authority? Or are we not questioning a problem of government, even when we pose this first one, that is different but closer to present realities than ever before: how in fact did it become historically possible (what are the precise historical constraints) for government to regularly call into question and challenge the limits of Sovereign jurisdiction? Foucault's answer to this second question shows us why the analysis of new domains of governance in some of Rousseau's texts was important.

According to Foucault's thesis, government became unblocked from the framework of sovereignty with the modified appearance of two intimately related

²⁶³ Op. cit. Foucault, *Dits et Écrits*, volume II, p. 647, for the description of de la Perrière's diligent governor. For the original description, op. cit. de la Perrière's *Miroir Politique*, pp. 23-25.

phenomena, in the latter part of the eighteenth century. These are the appearances of the problem of «population» and its essential field of identification and existence, «economy». The emergence of these two new and essential ends of modern government allow for its displacement of sovereignty and the common good, in favor of a growing «power over life»²⁶⁴. We saw how Rousseau's critical «inspection» of the family (Discours sur l'économie politique) was intended as a re-conceptualization of its role in the formation of that «great family», the national population. Rousseau no longer sees the family, and its relations of household management (its *oekonomia* as Aristotle termed it), as a model from which to distinguish forms of political government. He re-conceives it as a segment, an internal element that takes on a purely instrumental value for the government of populations. Foucault considers this historical shift and modification of family from model to instrument of population, as absolutely fundamental to the re-emergence of modern government from the middle of the eighteenth century on. The family, he tells us, will appear as this instrumentality always in relation to population: «this will be campaigns addressing mortality, campaigns concerning marriage, vaccinations,

²⁶⁴ For the coining of this expression, op. cit. Foucault, History of Sexuality, volume one, pp. 135-137. Consider the thought-provoking implication, in the following quote at p. 137, of this re-constitution of political power at the level of the life of populations: «If genocide is indeed the dream of modern powers, this is not because of a return of the ancient right to kill; it is because power is situated and exercised at the level of life, the species, the race, and the large-scale phenomena of population.» (from R. Hurley's translation of the French original)

inoculations. That which allows population to permit the unblocking of the art of government, is that it eliminates the family as model.»²⁶⁵

There is also a second way in which population comes to appear as the ultimate end of government, in place of the common good of Sovereign Right. Government no longer finds its purpose in the sovereignty of its acts, but in the living welfare of the population. And «welfare» here is not to be understood as mere material subsistence. Foucault, we would contend, uses this term to also signify government's new responsibility for a general feeling of well being amongst the population. Indeed, much like our present, government *must* be concerned for what Rousseau was already calling «le bonheur» of the people. It must become concerned about how well we consume, about our demographic shifts, our sexual behaviour (especially ones linked to reproduction and disease), how well we use the national language, our wealth, our longevity, our physical and mental health etc. Note how as «normal» means of government (by today's standards especially), every one of them is immanent to the life of populations. This field simply can not constitute a ground for a supposedly authentic representation of sovereignty, for it already exists and acts as the end of government. A key illustration of this, and again Rousseau is characteristic, is government's need to act on the particular interests of individuals, precisely so as to render them part of the general interest of the population. Population has a general interest, as Rousseau put it, but it belongs to «nobody» (because one gives one's interests to everyone). One should

²⁶⁵ Op. cit. Foucault, Dits et Écrits, volume II, p. 652.

be literal here. Government acts on the general interest of populations when that interest appears to belong to the nobodies. What the technique of assembling an everyone that is a no one effects, in particular, is the appearance of that live individual who is generally interested but is so regardless of his/her own particular interests and aspirations. This general interest exists as a governed one, not a representation of sovereignty. Or to say it differently, the general interest expressed by the sovereign assembly is already a governed one. The re-emergence of the second and related phenomenon, the economy, illustrates this best.

With government *interested in* the life of the population, knowledge of economic well being in general becomes crucial. The emergence of political economy in the eighteenth century shows that the art of government needs to become a science of the life existing in politics. Economy is no longer the means and ways particular sovereigns or families accumulate wealth. It is not merely political arithmetic either. It is a general interest that exists as a vital field of reality. As we all might correctly say today in common parlance, «we all have an interest in the economy *whether we like it or not!*» For our own good, whether we like it or not, government must generalize our existence because it needs to truly *know* our interest. This is what Foucault means when he describes the eighteenth century transition of the art of government into a political science. He writes as follows: «... the passage from a regime dominated by structures of sovereignty to ones dominated by techniques of government forms itself in the eighteenth century around the population, and by consequence, around the birth of political

economy.»²⁶⁶ Should one be surprised that critiques inspired by the knowledge of political economy, especially with the nineteenth century, have only deepened the governing of conduct.

It is exactly after these analyses that Foucault chooses to refer to his critical history of the emergence of modern government as «governmentality».²⁶⁷ He does so precisely because he realizes the end of government is not the common good, but the power over life. It is an end that has no essential connection to justice, but to the «convenience» of each of the things it governs.²⁶⁸ And as de la Perriere carefully words it in his definition, beyond the «right disposition of things» there is no end such as a common good. There are only «convenient *ends* (italics my own)». To conclude these insights, let us just paraphrase the three things Foucault means by «la gouvernementalité»:

1-It is an ensemble, a network, formed by institutions, procedures, analyses, calculations and tactics that allow the exercising of this governmental power with the population as its target (its end), political economy as its knowledge and security as the essence of its techniques.

2-It is an enduring tendency in the history of the West that has given this governmental form of power a pre-eminence over all others (sovereignty, discipline, etc.). It results, on the one hand, in the development of whole series of governmental apparatuses, and on the other in the development of a network of requisite types of knowledge (political economy and statistics being paramount).

²⁶⁶ Ibid, p. 653

²⁶⁷ Ibid, p. 656

²⁶⁸ Ibid, p. 646

3-It is the culmination of a process in which the state of justice in the Middle ages changed into administrative justice in the fifteen and sixteenth centuries, and gradually becomes «governmentalized».²⁶⁹

Without searching for a clever turn of phrase, one can say that the traditional relation of representation between a population and its government has been inverted and transformed. Might we re-state Jefferson's famous phrase regarding republican government: «Government of the people, by the people, for the people.» Keeping in mind d'Argenson's account of government as the revolutionary tactic of «perpetual innovation», might we not respectfully invert the famous phrase: «People of the government, by the government, for the government.» Rather than posing political problems like the common good on the basis of how a government serves its population, might not modern governmentality require us to ask instead how governments constitute their populations? Or, as Foucault was fond of posing the problem, one must critically question how we are rendered subjects of governmental power.²⁷⁰

As a final comment, one must address the question a reader would, at this point, be entitled to force upon us: What then of the common good? Does its displacement by modern government into a power over life mean that it no longer has any relevance? Are we destined to live what Aristotle considered a non-political and therefore impoverished existence with what most will necessarily accept as a basic common good; namely, the mere maintenance of life itself? We

²⁶⁹ Ibid, p. 655

²⁷⁰ Ibid, «Le sujet et le pouvoir», pp. 1041-1062

believe this to be a hasty conclusion. The matter is not so clear cut. What we hope our studies have showed is that the common good of political partnerships has been fighting its fiercest battle since the latter part of the eighteenth century. If it is possible to say anything about it at all, the common good *is* battles fought over human capacities to govern their own selves, both alone and with others. And, paradoxically, like certain effects of battle fatigue, one resists even when the higher cause has faded from the imagination. Why would one do so? Because when an adversary establishes the stakes of political action on the immanence and continuation of life itself, the air becomes clear. The exercise of dangerous powers over our lives in both their best and worst of times is clear and present. The very posing of the question of the common good is today easily relayed to the other places, to other fronts, where governments can proclaim that the life itself of the people is in the balance. Just note how so many western liberal-democratic governments must link their legitimacy to the management of health care domains.

The disturbing element of this wager is that, especially in our time, such a wagering of the lives of bodies and whole populations on governmental tactics and strategies has become a historical reality, a constituted truth of the politics of our time. Is it enough simply to proclaim this a product of the new (the fashionable use of «neo» comes to mind) ideological distortions and repression of our time, as the political economists and administrators still clamor today? No it is not for a very simple reason. The historical *will to truth* manifested in government's vital role has become real and truly decisive in our lives. Increasingly, we the people can not live without juridical governments who are deemed *responsible* for the vital and non-

juridical domains of our lives. For over two hundred years of our history, we have been willing this vital role into our political existence. It is a will to truth that, as we have tried to show, requires of politics that it regularly put our existence as living beings in question.

Instead, maybe it is time to seriously consider Nietzsche's warning toward the end of On the Genealogy of Morals: «*what is the meaning of all will to truth?*»²⁷¹ Further along he elaborates the intended effect of such a question: «what meaning would *our* whole being possess if it were not this, that in us the will to truth becomes conscious of itself as a *problem?*»²⁷² This problem is the precise realization that there are historical truths that do not serve life. And perhaps this *problem* is one that has to begin with the clear realization that the power over our own lives resides with us, no matter what the conditions. In concrete terms, with respect to the vitality of our own lives, this realization can manifest its force in a series of common, and historically critical, interventions into the latter-day «normal» areas of government jurisdiction:

For example, how did it become so that the truth of our health requires its management by central government? And yes, truly (a difficult thought!), today whole sections of the population can perish without it. How did the truth of education come to align itself with the very survival of a people and/or culture, and therefore manifest itself as a field «needful» of governmental regulation? Or as a

²⁷¹ Friedrich Nietzsche, On the Genealogy of Morals and Ecce Homo, edited and translated by Walter Kaufmann (New York: Vintage Books, 1967), third essay, section 27, p. 161.

variation of the previous, how is it that governments «need» to know the truth of our linguistic competencies in order to ensure the survival of the language of the national majority? Or, how is it that the truth of the integration of immigrants has shifted from their status as ends of local mores and laws (i.e., the constraints for their *own* ways of self-adaptation), to means for governments' securing their assimilation into (the always potentially threatened) identity of the national population. Is it an exaggeration to say today that a government's integration of immigrants has become a *vital* concern to the national population? And what could constitute a better completion of these illustrations of the governmental power over life, than the fact that ecological survival itself is increasingly a matter of government, of *world* government no doubt.

Answers to these genealogical questions will all issue from a basic pre-supposition of their possible expression: they all modify and correct the way the true historical problem is said to exist. The truth of the problem is no longer the questioning of whether government does or does not serve the common good. It is rather how the latter questioning itself exists as the political practices of the essence (i.e., the historical supports and constraints) of governmentality: its politics of «bio-power». We hope that, in our second part especially, we have contributed to the re-formulation of the government of our lives *as the problem*. In our conclusion, then, we wish simply to sum up some of the key features and implications of this governmental bio-power.

²⁷² Ibid (italics are Nietzsche's)

CONCLUSION:

There are two key series of studies from Michel Foucault's later Collège de France course lectures, 1978-1982, which animated the core of our inquiry. It is in these studies, in and through a genealogical history of the modern concept of government, where he delivers the provocative thesis that modern government cannot be critiqued on the basis of whether it serves or hinders the over-all interest (the common good) of the sovereign nation-state. Instead he shows in them that a mode of governmental power acting upon the individual conduct and assembling of the living, has in fact been «governmentalizing» the modern state. In both «Governmentality» (1978) and «Omnes et Singulatim: Towards a Criticism of Political Reason» (1982),²⁷³ Foucault questions both the centrality of the state as an actor, and the so-called unity and coherency of its powers. But his critique is not simply intended as a buttressing of his own position against state-centered approaches. He wants us to also see how power in this form of governmental reasoning has been able to act on both institutions within the state (i.e., schools, hospitals, public administration, the military, etc.) and relations normally outside, in what Rousseau called the «social body» (i.e., family relations, social hygiene, productive and reproductive capacities, linguistic competence, particular deviancies, etc.). This is an important point, for at its heart lies the paradoxical

nature of the form of political rationality that re-posed and modified the problematic of government through the seventeenth and eighteenth centuries: the paradox of modern Liberalism.

Foucault calls our attention to the basic historical fact of how power has been exercised both within and without the modern, liberal state. He reminds us that whenever the modern state appears redoubtable, whenever it is reproached, it is so for two somewhat antagonistic reasons. On the one hand, it has often been reproached for individualizing, or atomizing, the lives of its citizens. Here, juridical, or purely procedural rights, are often accused of working against the very fabric of societal (and/or communal) relations that are said to foster the social justice of the common good. On the other hand, serious reproaches have also been made against it for supposed totalitarian tendencies. In these historical cases law wielded by sovereign governments is often seen transgressing juridical rights so as to control the totality of its citizens' lives. In either of the two cases the liberal state can lose its liberalism, so to speak.

But as Foucault correctly points out, no matter which problem one valorizes, the power said to be exercised in the modern state has been both, and often simultaneously, individualizing and totalitarian in its tactics.²⁷⁴ In the nascent policing tactics of d'Argenson's, Rousseau's and especially von Justi's concepts of government, one already sees much attention given both to the particular details of

²⁷³ Op. cit. Foucault, Dits et Écrits, volume II, pp. 635-656 for the first, and pp. 953-980 for the second.

²⁷⁴ Ibid, pp. 979-980

individual lives and to their conformity within the totality of the state. Opposing the individual and his interests to the totality of the modern state, therefore, may be just as hazardous as opposing it with the community and its requirements.²⁷⁵ The hazards of governmentality can in fact be unwittingly extended even by those believing themselves to be «revitalizing»²⁷⁶ the common good of the venerated traditions of civic republicanism. We are thinking here of the contemporary liberal-communitarian debate that continues to dominate (in the Anglo-American world especially) concerns over the relationship between liberty, political community and the common good.²⁷⁷

It is sufficient for our purposes to point out that both sides of the debate (together with the myriad of in-between positions) still conceive government as either a representation or reflection of the democratically willed common good.

²⁷⁵ Ibid, p.980

²⁷⁶ This is the term used by the noted communitarian critic, Michael Sandel when describing his perceived continuity with the «civic strand of freedom» in the West's republican past. We focus on this word because it captures a certain difference in Sandel's project. His affirmation of civic participation is about accessing the «vitality», the life, of this deeper communitarian freedom. See «In Search of a Public Philosophy», reprinted from Kettering Review, (Summer, 1997), in Kritika and Kontext, No. 2, 1999, p. 124.

²⁷⁷ For the insights of the principal participants see Shlomo Avineri and Avner de-Shalit (editors), Communitarianism and Individualism, (Oxford: Oxford University Press, 1992). For the primacy of rights position see especially J. Rawls' «Justice as Fairness; Political not Metaphysical», chapter 11, pp. 186-204. For the basic communitarian critiques of the former, see M. Sandel's «The Procedural Republic and the Unencumbered Self», chapter 1, pp. 12-28, and C. Taylor's «Atomism», chapter 2, pp. 29-50. For a fine appraisal of the debate itself, see W. Kymlicka, Contemporary Political Philosophy; An Introduction, (Oxford: Oxford University Press, 1990). See especially chapters 3, 4 and 6. For the post-modern (and «post-marxist») left's entry into the debate around the theme of an «agonistic

Despite their adversarial relation, both sides want a better rationalization of government, of how we use and/or participate in it. The consequence of this, we believe, is to dangerously ignore the way these rationalizations have been unfolding since the eighteenth century. With Rousseau as a prime example (amongst many of the time), we contend that the rights and political community of the Liberal tradition are raised as problems only in relation to the emerging needs of the politics of «bio-power». This is not to dismiss the importance of the issues raised in the debate. Nor are we casting suspicion on the good intentions or ideological agendas of the adherents. We simply, but critically, question the actual effect of situating the problem of government within the constitutionality (Sovereign Right) of the common good. The effect is to fatefully overlook what one is actually contributing to. This is not the problem of defining the nature of the common good. As we think our critical history of the modern concept of government has showed, the actual problem is how to render live human beings governable. And this problem, as our recent history shows all too well, can be as easily dissociated from the common good as it is attached.

Yet the liberal-communitarian debate, leaving aside its claims to the common good, is circumscribed by the re-posing of a very important question: what in fact is that modern form of political rationality we call Liberalism? We would even say that the positions taken in this debate (especially the appropriations of ancient sources) are unrecognizable outside of the problem of determining the nature of

pluralism», see C. Mouffe, The Return of the Political, especially the chapter (2)

contemporary government in contemporary Liberal-Democracies. Foucault's research into modern «bio-power» and «bio-politics» also forces the re-posing of this problem of the government of modern Liberalism in a different but most explicit manner.

Firstly, let us give a concise definition of the «bio-power» of bio-politics in Foucault's own words. In a lecture of 1979 entitled «The Birth of Bio-politics», he states explicitly what he understood by such a mode of political power: «I understood the manner in which we have tried, since the eighteenth century, to rationalize the problems posed to governmental practice by phenomena proper to an ensemble of living beings constituted in a population.»²⁷⁸ Further along he gives us the specifications of these «problems» as a population's health, hygiene, birthrate, longevity, racial makeup, etc.²⁷⁹ It seems to us that one can not dissociate these problems from the form of political rationality within which they appeared in their full gravity. To ask what Liberalism is, then, is to seek to know how these alluring problems are constituted by its challenge. It is to ask how in a political system respectful of subjects bearing rights and the liberties of individuals, one finds the need to take account of the phenomenon of population with all its specific effects and problems? In the name of what and according to what rules of rationality did population come to be an area of government management? Before it defines the sovereignty of legal rights or political communities, and even as a

entitled «American Liberalism and its Communitarian Critics», pp. 23-40.

²⁷⁸ Op. cit. Foucault, Dits et Écrits, volume II, p. 818.

²⁷⁹ Ibid

condition of their possibility, Liberalism exists as the critical reasoning of governing practices. It originates as the critical demarcation of the legality of governmental practices (i.e., its juridical authority), and by consequence of its critiques, as also the identification of the non-juridical domains of the governable. The key point here is that one can now see the struggles for these demarcations of governance as the essential practice of Liberalism. Thus these struggles even define the practices of Liberalism against efforts to found its public right on the resting-places of the sovereign recognition of government. In fact a curious question almost poses itself here. We will return to it at the end of our conclusion. What is actually happening when, in the name of the civil peace and «well-being» of popular life, we wager (and therefore risk a loss) the government of ourselves on the final solutions of this sovereign recognition?

This is where Foucault helps us to see a very different effect emerging out of the practice of modern Liberalism. He sets aside regular accounts of it as the ideology or values wherein a society represents itself. Instead he analyses it as a way of orienting people toward objects so as to regulate how they reflect upon them.²⁸⁰ One might even refer to it in this sense as a political technology. No doubt the internal rule of Liberal government is the service of maximal economic efficiency, in both political and economic domains. But contrary to what many are accustomed to think about Liberalism, Foucault shows us that this internal rule of economy does not simply obey the criteria of maximum result at minimum cost.

²⁸⁰ Ibid, p. 819

Liberal rationality in fact interrogates itself on the very legitimacy of its own institution of government. It does not act only on the enhancement of governmental efficiency, as the early eighteenth century police tactics of reason of state («raison d'état») wanted it. In the name of legitimacy it acts, more fundamentally, to ensure that governing power can increase its efficiency but with the least governmental force possible. It has to act on what seems like a dilemma. One needs to govern but with the least presence of government possible. The answer lies in what liberals begin to call «society», or the social, from the seventeenth century on.

Recall that governmentality had much to do with government of the bio-politics of the population beyond the limits and framework of constitutional law. However, as the rationality of this government's legitimacy, Liberalism has to evolve into a critique not just of conditions of governmental efficiency, but of the latter's justifications of its actions in relation to this newly articulated reality, the social (or «society»). This is what Hobbes was already calling the «society» of men, and what Rousseau modified, according to the features of the population, into the «social body». Here we can already see why holding to the essential distinction between the state and civil society (or «new social movements») is inadequate. The very opposition itself resides with the political rationality, (liberal-democracy) that poses the problematic of government in general: its bio-politics. This form of rationality behind governmental power asks regularly how it can render the social governable without the need for governmental intervention. Yet it can do this only by regularly questioning the very need for government itself. Liberalism therefore is

neither a mere dream nor utopia (as Rousseau is still read too often).²⁸¹ It is a governmental rationality that serves as a permanent and very real critique of the realities governments *do* and *might* occupy. Let us elaborate.

As measures of defense, the rights of Liberalism allow us to demarcate the forms of governmentality, to reform them at their base, and to denounce abuses. From this vantage point Foucault conceptualizes Liberalism as, simultaneously, government's rationale for the regulation of conduct, and a perpetual theme of opposition to the actual practices of its governments. It is born to critically limit the government it seeks to sanction. It involves very much the risks of a double-edged sword. In order to rationalize government (especially its early policing practices) it regularly criticizes its interventions. It does not derive therefore from economic impulses, or the legalism of procedural politics, or the awakenings of communal identities, but only appeals to the social relations of the market, the rights of society, or the good of community, as test cases for determining the limits of governmentality. In this sense, the relation between government and Liberalism is parasitical. They do not reconcile around the question of sovereignty. As Foucault shows us, the moment liberal governments find their legitimate sources outside of the legal framework of sovereignty (in populations and the conduct of bodies), Liberalism compels us to ask the following question with regularity: in whatever area of life one is dealing with, why must there be government? «Why govern in

²⁸¹ Ibid, p. 821

this or that way?» «Why govern over this or that group?» «Why these or those governors?» «Why in this or that domain, etc.?»

Liberalism is the critical response, the resistance, to the very thing that seeks (that needs!) its justification: government. It responds, in and through the laws of juridical powers if need be, to the challenges of modern government as the extra-judicial bio-politics of the population. As this challenge («défi» as Foucault terms it)²⁸², therefore, one has to draw the conclusion that liberal reasoning on and about government, exists to resist government claims to sovereign legitimacy and *not* to complete them. What is enigmatic about concepts of government such as Rousseau's, is that it was intended (especially when critiquing the natural rights theorists) as a completion of the project of true governmental power, by founding its sovereignty on the expressed general will of a people in assembly. Yet, as we saw in chapter three, the technique («social convention») of the first assembly is already a governmental act. It is so in du Contrat Social precisely in the fact that the assembly exists to question governments' claims to sovereign legitimacy. Does not Rousseau tell us this himself when he proclaims the pronouncement of the following two questions as a permanent ritual opening every assembly: «Does it please the Sovereign to conserve the present form of Government?» Followed by: «Does it please the People to leave the administration to those who are in actual charge of it?»²⁸³ We do not doubt that what Rousseau himself favoured in these techniques of assembly were the dominating powers of surveillance, moral

²⁸² Ibid, p. 820

hygiene, and public transparency. Or to repeat a positive variation on his political thought, he sought in the power of assemble the resuscitation (or «revitalization») of republican virtue. But the incessant critique of government by the self-governing forces of the assembly is unavoidable in Rousseau's conceptualization of true Public Right. The latter *is* in fact a battle for governance, about governance, by self-governing forces.

We can now address our «curious» question: regarding the actual effects of rendering critical struggles for the government of ourselves a matter of sovereign recognition. One would have to say, from our perspective, that one can only describe it as a renunciation of the antagonistic element, its critical resistance, of the governing rationality of Liberalism. One might even say that, in the name of its true and pure sovereign origins, the accession to Sovereign Right has required us to renounce the critical, say vital, capacity to fend, fight and govern for ourselves. Let us again underscore the salient point Foucault makes: liberal rationality was born as a response to the essential tactics of Reason of State governance - seventeenth and eighteenth century policing (*polizeiwissenschaft*). To its oppressive pursuit of governance the advocates of liberal rights opposed the dangers of governing too much.²⁸⁴ In effect, what was the liberal antagonism

²⁸³ Op. cit. Rousseau, Oeuvres, volume III, p. 436 (translation my own).

²⁸⁴ Op. cit. Foucault, Dits et Écrits, volume II, p. 19.

toward eighteenth century government if not, at least in this small but crucial element of its rationality, an active resistance and limiting of policing activities.²⁸⁵

It seems therefore, at a closer glance, that the project of reconciling the sovereignty of liberal rights (of individuals and/or national communities) with sources of self-government (national cultures, ethnic traditions, social classes, genders, sexual orientations, etc.) may be delivering something different and perhaps worse than its progressive good intentions honestly proclaim. We end with a question. What is a government of our selves that requires of the subjects of its power that they increasingly forfeit the power over their own lives?

²⁸⁵ For the clarification of this insight, op. cit. Michaud's, «Des modes de subjectivation aux techniques de soi: Foucault et les identités de notre temps.», «Cités», p.25.

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