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An audience with ... the public, the representative, the sovereign

Abstract The right of audience, in common law, is the right of a lawyer to represent a client in a court. Royalty, the Pope and some Presidents grant audiences. What does the power to grant an audience consist in? And what does it mean to demand an audience (with)? Through a reading of the way in which the vocabulary of theatre, acting and audience is involved in the generation of a theory of state by Hobbes and Rousseau, this paper looks to reopen these questions as a political resource for us to re-imagine and refigure our ways of being together. Through readings of Hobbes and Rousseau, it looks at the ways in which the performance of politics creates the public, the representative and the sovereign and the ways these figures interact. It proposes an alternative role for theatre as places of affective learning and a civic ethics of playfulness, in which the auto-institution of the state as an imagined collectivity is fully assumed.

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Key words: *public, sovereignty, performance, audience, Rousseau, rhetoric, authority, representation, Hobbes.*

The question of whom the audience of an act of speech is, and how it is composed, was a central question of the rhetorical tradition of European humanism. Giambattista Vico writes in *On the study methods of our time* in 1708, “the whole object of eloquence, is relative to our audience, and it is following its opinions that we should set our discourse.” This question of the audience, which was a theoretical as well as a practical question, has largely been occluded in modern philosophy, for reasons which have to do with a heritage of Cartesianism in part, but also to do with the isolation of philosophy in academia, writing for an ideal audience, and distanced from practical political concerns and persuading particular audiences.

I have three broad reasons for wanting to re-pose the question of the audience. Firstly, a political reason about political contestation and mobilization: I have the sentiment that for lack of sufficient reasoning around whom is the audience being addressed, and how that audience is determined, many protest movements end up speaking only to and amongst themselves, and not ‘speaking to power’, or speaking outside a group of people already in substantive agreement. The second, more theoretical, reason is that the question of audience has come back into academic discussion in the last 20 years under the guise of trying to theorize ‘publics’. I am uneasy with this

discussion around publics, which seems to go too far in the direction of idealizing audiences, and thereby make it more difficult to understand what actually happens in public debate, for example, and specifically how audiences are formed. Thirdly, as I will aim to show in this paper, in the development of modern conceptions of the state the relationship of the audience to a speaker or actor was an essential consideration, and by reopening this question we can recover a political resource which may enable us to better see the mode of existence of the state, and consider how we practically can address, contest or change it.

The right to an audience, the right to be heard, the power to be heard

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The theme of the audience manifests itself in our language in curious ways, and by highlighting some of them we can become more receptive to it. Popes, kings and queens, can *grant audiences* to people who want to meet them, who have 'requested an audience with the Pope,' for example. These sovereign figures have the power to determine their audience. Such meetings typically begin with the sovereign speaking first, so the visitor is the audience, even if the primary purpose of the meeting is for the visitor to say something, or ask something, of the sovereign. The Queen of England must always speak first before being spoken to. The origin of this use of 'audience' almost certainly comes from the Pope giving Papal audiences, and was then extended as a locution to royalty. This origin is significant given that the Pope is taken to be the voice of God on earth, the representative of God.

In English common law, there is the phrase the 'right of audience', which expresses the right of a lawyer to represent a client in a law court. A barrister has the right of audience in all courts of the land; a solicitor only has the right of audience in some specific courts. A person who decides to defend herself, a *litigant in person*, can also have the right of audience. Here the 'right of audience' is the *right to be heard*. The right to a *public* trial, and therefore the right of the public *to be auditors* of a trial, the *right to hear*, is a connected and very ancient idea.

Thus there are several distinctions we can make concerning audiences: there is the *right to be heard* and a corresponding *obligation to hear*. There is also the *right to hear*. We could summarise quite crudely that a part of the democratic ideal is that everyone has both the right to be heard (either directly or through a representative) and the right to hear. Much of the contemporary discussion about public spheres in a democracy is about trying to ensure that both aspects of this ideal are achieved to a maximum extent. We reason around how to make public spheres in which each voice is heard equally, and the *demand to hear* insists on more and more transparency on the part of the

state or authority. Of course, these aspects of speech and audition are not in themselves all of the ideal of democracy, nor even the most important parts: we have not yet said anything about the power to *decide*, to *act* or to *govern*.

The locutions ‘giving an audience’ and ‘right of audience’ suggest that the sovereign power to determine who is heard and who can hear goes further than the placing of restrictions on who can speak and who can hear: the power is first and foremost one of *creating an audience*. The Pope, or a king, seems to have the power *by fiat* to create an audience for his or her discourse. When they lose this power, they arguably lose all their power. This indicates that their power consists more in *being heard*, than in dictating an interpretation of what they say (after all, meaning is never totally stable). Other speakers do not automatically have an audience, and we should therefore look further at what this power to generate an audience could consist in. Sometimes an audience may already be present, waiting to be addressed, but most often this is not the case. So in addition to there being a *right to be heard*, an *obligation to hear* and a *right to hear*, there is the *power to determine who (or what) must be heard, who must hear, who (or what) cannot be heard and who cannot hear*.

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As Judith Butler (1998) has noted in *Excitable Speech*, the law has the capacity to say who and what can be heard and who and what cannot, when it legislates on, for example, hate speech. Building on Butler’s observations, we can also point out that the law has the quality associated with sovereignty of determining *what must be heard*: each citizen under the law is obliged to know the law in most cases (certainly when it comes to civil law), the obligation to *hear the law* – and if they do not know it, they *should know it* and so can be held responsible. This is part of what we normally call *the authority* of the law. Yet by putting the question in terms of *audience* and not in terms of *authority*, we put the emphasis not on how the law is generated, but on how it is received.

The obligation to listen to the law, and its eventual backing by force or punishment, is not in itself enough to account for how the audience of the law is created and maintained. This is something that Rousseau understood. As Rousseau points out in his *Letter to d’Alembert*, a law which is ignored by the people is worse than useless, and if an attempt to enforce it is made by force, it is likely to provoke only rebellion (Rousseau 2003: 118). The central problem of the *Social Contract* is precisely how to find a form of association in which each is the author of the (general) law he obeys, but an essential part of this problem is how to ensure the citizens are receptive to the laws that are made, and this goes beyond a problem of authorship. This aspect of the problem is usually glossed over by modern commentators (although it was a very practical concern for the French revolutionaries inspired by Rousseau, for example). Very summarily put, the solution that Rousseau works

towards is that the people 'love' their laws. We will go more deeply into this solution of Rousseau in the second part of this paper.

An alternative is for people to *fear* their laws or their sovereign. This again is about more than people fearing the *consequences* of not obeying the law, it is about them fearing the law itself, finding it terrifying. This is the strategy of Hobbes, and it is partly against this strategy, whilst borrowing several of the techniques from it, that Rousseau argues. In the imagery of Hobbes, laws are pronounced by the mouth of Leviathan, that terrifying creature from the mouth of which 'go burning lamps, and sparks of fire' according to the book of Job: 41. It is worth highlighting that in the famous frontispiece of the Leviathan for the 1651 edition, the people who make up the body of the beast are all looking away from the reader towards its head (and thus the reader joins them): they are the audience of the mouth of the beast. Yet in the edition made specially for Charles II, as Giorgio Agamben has pointed out (Agamben 2015: 37), the people making up the body of Leviathan look out towards the reader (i.e. the real sovereign, Charles). Hobbes no doubt felt obliged to make this change: the book is for the attention of the king, and Hobbes is like any other of the faces in Leviathan, that is, *part of the audience* of the king if he grants an audience by giving his attention.

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The image of Leviathan itself is an expression of a paradox common to all attempts to ground sovereignty in a social contract. This paradox can be put two ways. From one direction, there is what we could call a 'paradox of representation': what gives the right of the collectivity to represent the individuals? From the other direction, there is a 'paradox of the audience': what makes the audience of the law receptive to the law? Together, these are the questions of what is it that makes the body politic shown in the picture of Leviathan a unitary body, or what is it that fixes the regard of the faces in the body on the head? What is notable, and gives an entry into this discussion of the audience, is that Hobbes in answer to the first question turns towards the vocabulary of the theatre and his answer to the second in terms of fear appeals to a spectacular affect. We will therefore start the discussion with Hobbes' solution, and then turn to Rousseau's development of it, before drawing from these readings some reflections on an alternative relationship between audience and sovereign.

Hobbes: Of persons, authors and things personated

In the very first page of *Leviathan*, Hobbes defines the Common-wealth as an artificial person created by the art of man (in my discussion I will follow Hobbes in talking about 'men' – this gender bias is not anodyne, and as I will suggest in the final section it demands to be contested, but this first requires we do not mask it). In the later chapter entitled 'Of Persons, Authors

and things Personated' he explains this distinction between a 'natural person' and a 'feigned or artificial person', and he draws on a theatrical vocabulary. He says:

"A person, is he whose words or actions are considered, either as his own, or as representing the words and actions of another man, or of any other thing to whom they are attributed, whether Truly or by Fiction. When they are considered as his own, then he is called a *Naturall Person*: And when they are considered as representing the words and actions of an other, then is he a *Feigned or Artificiall Person*." (Hobbes 1986 [1651]: Chap. XVI)

In the following paragraphs of the chapter, Hobbes points out that the word 'person' comes from 'persona' in Latin, which signified the disguise or outward appearance of a man as represented on stage, and has been transferred from the stage to 'any Representer of speech and action, as well in Tribunalls, as Theaters.' In this way 'a Person, is the same that an Actor is, both on the Stage and in common Conversation; and to Personate, is to Act, or Represent himself, or an other; and he that acteth another, is said to beare his Person, or act in his name'. He gives the example of Cicero, who said '*unus sustineo tres Personas; Mei, Adversarii and Judicis*, I bear three Persons; my own, my Adversaries and the Judges.'

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Hobbes says that some artificial persons "have their words and actions Owned by those whom they represent." Therefore this artificial Person is "the Actor; and he that owneth his words and actions is the Author." By 'Authority' Hobbes understands 'a Right of doing any act,' and 'done by Authority' means done by delegation or license from him whose right it is. Thus, the men in the state of nature, in making a covenant to give their right to govern themselves to the artificial Man that is the Common-wealth, on the condition that all other men do, thereby through this act create this Common-wealth. From this union is born Leviathan, which is the Authority of so much power and strength conferred on the Common-wealth that it provokes 'terror'.

The Common-wealth can be represented by one Man or by an Assembly of men. As Hobbes says at the beginning of Chapter XVIII, "A Common-wealth is said to be Instituted, when a Multitude of men do Agree, and Covenant, every one with every one, that to whatsoever Man, or Assembly of Men, shall be given by the major part, the Right to Present the Person of them all, (that is to say, to be their Representative.)" The king or the assembly is able to act, something that the Common-wealth cannot do *but* by its being personated. In this sense the Common-wealth is like a building, or a ship – an object which cannot itself act or speak, but which can be personated by a (legal) representative. Other examples given by Hobbes of non-persons are madmen, children, and idols, all of which need to be personated to have capacity to act.

We see then, that Hobbes identifies a person with an actor (both on stage and in society), and says that the Common-wealth is an artificial person, acting on behalf of the men that have performed a covenant to give it authority to represent them, to govern them. Since each of the men who make this covenant are authors, the delegation of powers has authority. This is what gives the collectivity (the state) the right to represent the individuals, and is Hobbes' answer to the paradox of representation. This artificial person is so terrifying in its assumed authority having come from so many, that like Leviathan it strikes fear into the Multitude that is its audience, in such a way that they are held in awe of it. This is Hobbes' answer to the paradox of audience: the terror keeps the faces of the subjects turned towards the face of the sovereign.

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There is a learned debate about whether the Common-wealth, in addition to being artificial, is also to be classed as represented 'by fiction' according to Hobbes' schema. Two leading contributions to this debate are Quentin Skinner (Skinner 1999), who maintains that the common wealth is artificial but not fictional, and David Runciman (Runciman 2000) who maintains it must be understood as fictional.

Skinner (Skinner 1999: 15), in making his argument, cites an interesting paragraph from *De Homine* which further explains what Hobbes has in mind when drawing these distinctions:

"For it was understood in the ancient theatre that not the player himself but someone else was speaking, for example Agamemnon, namely when the player, putting on the fictitious mask of Agamemnon, was for the time being Agamemnon. At a later stage, however, this was understood to be so even in the absence of the fictitious mask, namely when the actor declared publicly which person he was going to play."¹

Skinner glosses this passage as suggesting that the acts of the actor playing Agamemnon will not be understood as his own acts, and hence he is an artificial person, but that since the real Agamemnon does not exist (it is just a character in a play of Aeschylus) the acts are fictitious since there is no one to whom they can be validly attributed. There is a parallel between the actor playing Agamemnon, and the sovereign representing the state. Skinner argues that whereas the representation of Agamemnon is fictitious, the representation of the state must be understood as 'truly' attributable to the state, and the acts of the sovereign are "in fact the actions of the State in the real world" (Skinner 1999: 22).

1 Skinner's translation of Hobbes 1839, XV.1, p. 130. "Intelligebatur enim in theatro loqui non ipse histrio, sed aliquis alius, puta Agamemnon, nimirum faciem fictitiam Agamemnonis induente histrione, qui pro illo tempore erat Agamemnon; quod tamen postea intelligebatur etiam sine facie ficta, nimirum profitente se actore quam personam acturus erat."

Runciman (2000: 275–6) argues that “the difference between Agamemnon and the state is not that one is a person by fiction and the other is not, but that one is a person by fiction whose attributed actions are backed up by the actions of real persons, and the other is not.” What distinguishes the actions of Agamemnon from those of the state, Runciman argues, is that the actions of Agamemnon stay inside a realm of fiction which is the play, whereas the state, like idols, madmen and bridges, is a person by fiction which has a place in the real world “of truly responsible action by the combined efforts of other real persons” (Runciman 1999: 276).

Neither Skinner nor Runciman are able to give a reading of the distinctions *natural/artificial* and *true/fictitious representation* which is wholly consistent with Hobbes’ texts, which suggests that perhaps Hobbes himself was unclear or uncertain about these distinctions. This is unsurprising for a reason which neither Skinner nor Runciman comment on: Hobbes, in the section of *Leviathan* they both take as their starting point, and as we underlined above, identifies *all persons as actors*, whether representing anyone else or not, whether ‘on the stage and in common conversation’. To be a person is to act. Therefore it is by no means clear what a natural person is, nor what representing ‘truly’ or ‘by fiction’ can mean. When Cicero says he has three persons, his own, his adversary and that of the judge, it is unclear in what way his relation to his own person is different from that of his relation to the adversary or judge. Perhaps Hobbes holds that ‘natural man’ is only possible in the state of nature before government appears, and therefore all actions in a civil state are fictitious because they enter into relations between men which are conventional, but in this reading the *only* relationship of authorship a natural man would seem to have is with the state, to which he has alienated all his rights of self-government. In any case, without a fuller account of what the self is for Hobbes, these distinctions will remain unclear.

Be that as it may, Skinner, in discussing the example of the actor of Agamemnon, deals with a modern objection that has been raised against Hobbes in including stage characters in his account of representation (Skinner attributes this to Hanna Pitkin (Skinner 1999:15)). Skinner’s response is instructive for us. Hobbes says that for there to be a valid act of representation, there must be someone or some collectivity that has the right to authorize it. The objection is that in the case of a play no one stands in this relation, no one has authorized the actions. Skinner quite rightly points out that at the time Hobbes was writing in England, the Master of Revels had to authorize any theatrical performance through the licensing of the play. Therefore it is at best anachronistic to criticize Hobbes on these grounds. Skinner seems to miss the more obvious defense that there is also, for a play, *an author* who has in a sense authorized the character, and we know that, in

times of censorship, authors have often been held responsible for characters they create.

Skinner's defense of Hobbes on this point seems to go against his attempt to draw a strict distinction between the fiction of a play and the reality of the actions of state. For why would the Master of Revels be so concerned about authorizing or not authorizing the representation of a play, if it were not for its effects 'in the real world'? What is more, as Skinner himself acknowledges in a footnote, Hobbes says in the *Elements of Law Natural and Politic* when discussing the use of language in instigation, that 'not truth but image maketh passion' and 'a Tragedie affecteth no lesse than a Murder, if well acted' (Hobbes 1969: ch.12.7). As we have already seen, it is essential to Hobbes' construction of the state that the sovereign *act the part* in a way that inspires terror and awe in his or her audience of subjects, and if we attempt to read Hobbes in a way that distinguishes too strictly theatrical performance from the sovereign performance, and if we focus exclusively on the side of the paradox of representation, we are likely to lose this side of the paradox of audience and the way theatricality is involved in resolving it.

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We will now turn to the way Rousseau appears to negate both the paradox of representation and the paradox of audience, only for them to reappear at the origin of the social contract. It may partly be Rousseau's artfulness in dealing with the paradox of audience in particular, and his continuing influence, that makes it difficult for us to discern in our own relationship with the state.

Rousseau: society as spectacle

Jean-Jacques Rousseau, in his furious Letter to d'Alembert – which was arguably just as much addressed to his former friend Diderot who had included d'Alembert's entry on Rousseau's beloved Geneva in his *Encyclopedia* – attacks the proposal of authorizing theatres in Geneva. Rousseau criticizes theatres for all kinds of reasons, some of which seem to us (and already seemed to Rousseau's contemporary audience) exaggerated or otherwise objectionable. He criticizes theatres as promoting laziness and costing money, pulling people away from their honest work, promoting a confusion of genres and a kind of feminization of society, of actors being licentious, of even being thieves, and so on.

We will return to the main thrust of these arguments, but what is less well appreciated, and comes as something of a surprise to readers of the letter, is that after thousands of words criticizing theatres, Rousseau expresses his approval of spectacles, and even suggests that the whole of society can become a kind of spectacle. He says:

“Plant in the middle of a place a stake crowned with flowers, gather there the people and you will have a fete. Do even better: *make the spectators themselves the spectacle, make them themselves the actors*; do it in such a way that each person sees himself and loves himself in the others, so that all should be better united.” (Rousseau 2003: 182, my translation, emphasis added)

He goes on to celebrate village fetes in which young people dance with one another, with a view to finding a husband or wife, and he argues that such celebrations should be publicly authorized and presided over by a magistrate (Rousseau 2003: 185–6). Such village fetes are still quite common throughout Europe and the United States – if not always with the express purpose of encouraging the youth to fall in love – and indeed often organized by, or under the patronage of, the mayor or local state official.

What is striking about the enthusiasm of Rousseau for these kinds of ‘Republican’ spectacles is that the public become the actors, they become the audience for themselves. He asks, ‘what will be the object of these spectacles? What will be shown in them? Nothing!’ (Rousseau 2003: 182, my translation). Where Rousseau criticizes theatre actors as being potentially morally corrupt, he is happy for citizens to *act as themselves*. On the occasions of public spectacles – which Rousseau is careful to point out should only be occasional – the citizens become honest actors. What is striking is the lack of the distance we associate with theatricality between the actor herself and the character played: where in a theatre the ‘invisible curtain’ creates a distinction between the actor and character, and authorizes what has been called a ‘willing suspension of disbelief’, in Rousseau’s public spectacles in the open fields or on the central square of a village, there is perfect coincidence between the self and the character, and kind of transparency which can be themetised as sincerity and authenticity, or ‘simplicity’.

As my phrase ‘honest actors’ suggests, we can better appreciate Rousseau’s attitudes towards theatre by putting in parallel his concerns with the long-standing philosophical concern with the problem of the honest orator. If rhetoric is the art of persuasion, how can the rhetor also speak the truth? How can the orator be trustworthy and truthful? In its more careful formulations, this problem is specifically with how the orator can *remain* an honest man: does not his agility in persuasion lead to the potential corruption of his character, to the undermining of his virtuous predisposition to the truth? This paradox in the definition of rhetoric exercised Quintillion in particular, but of course is already present in Plato and Socrates’ dialogues with the sophists.

Diderot, in a text composed some twenty years after Rousseau’s letter, reformulates this problem with the honest orator in terms of the ‘paradox of the actor’. He summarises this paradox quite simply:

“Do not people in society talk of a man being a great actor? They do not mean by that that he feels, but that he excels in simulating, though he feels nothing.” (Diderot 1883: 108)

The paradox is that the greatest actor is one who is able to create the greatest affect amongst spectators, although he himself may feel none of the passions, the sentiments that he is expressing. Indeed, Diderot maintains that it would be very difficult for the actor to feel these sentiments consistently: plays are typically performed several times, to different audiences, and whilst an actor could realistically feel the emotions he is expressing once, trying to repeat the experience is likely to lead to an artificial-feeling performance.

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The introduction of this ‘paradox of the actor’ to the moral fabric of society, and the possibility for someone to be an ‘actor’ in this sense in society when not on stage (which is what Diderot points to in the quote above), is precisely what Rousseau seeks to avoid for his beloved Geneva, and his main concern in preventing the opening of a theatre there. Although the *Letter* was composed before the *Social Contract*, we can see that this concern is a consequence of his identification of the people with the sovereign. Unlike Hobbes, Rousseau refuses the possibility for the sovereign to be represented. Sovereignty is just the exercise of general will, and therefore cannot be alienated. Each citizen is a member of the sovereign: and therefore the sovereign cannot be represented but by itself. The sovereign can commission the government to wield its power, but Rousseau maintains, that ‘will (*volonté*) cannot be transmitted.’ (Rousseau 2011: II, 1) Rousseau’s concern is that theatrical acting introduces the possibility of a distance between the performance of citizens and their will, and this weakens the sovereign which relies on the spontaneous coincidence of reason and will, which Rousseau often romanticizes as the simple state of peasants and farmers. Rousseau’s concern is that theatrical acting will undermine the (moral) basis of political acting together, which happens *through* and *as* the sovereign.

It is essential for Rousseau that the private interest of individuals coincide with the general will, since this is what gives the general will its force. Misunderstanding of this point is common. Habermas for example says of Rousseau’s sovereign: “As members of a collective body, they fuse together into the macrosubject of a legislative practice that has broken with the particular interests of private persons subjected to laws” (Habermas 1997: 102). Rousseau says at the very beginning of the *Social Contract* that he is trying to ally “what right allows and what interest prescribes, in such a way that justice and utility are not divided” (ie. the link is precisely *not* broken). He seeks to establish relations in the state such that “one cannot work for others without at the same time working for oneself” (Rousseau 2001: II, 4). Rousseau’s constant objective is to maintain a unity between the particular interests of

private persons and the general will, which is precisely where the particular interests well-understood overlap. Habermas' neglect of this point is surely connected with his own development of a procedural account of legitimacy which seems to neglect its affective dimension.

Where Rousseau's refusal of (political) representation motivates a refusal of (theatrical) representation, the theme of spectacles and the question of the audience reappears in Rousseau's theory in the role of the legislator, the censor and civil religion and is ultimately concerned with the role of public opinion and what he calls public enlightenment ('les lumières publiques').²

To approach this point it is first instructive to note that whilst Rousseau is concerned to do all he can to prevent the opening of a theatre in Geneva, he is not in favour of censoring theatres where they already exist. Indeed in the *Letter* he boasts he is an avid theatre-goer in Paris, having followed the Comédie-Française for over 10 years, and there is no question of the legislator or anyone else closing it. In book four, chapter seven of the *Social Contract*, Rousseau makes clear that the censor can only conserve public morality, and cannot reestablish it. As Rousseau argued in chapter eleven of book three, political bodies have a natural life, and carry in themselves the causes of their destruction. The censor, like the doctor, can attempt to prolong the life by holding off corruption, but increasingly the corruption becomes inevitable. Rousseau's battle in the *Letter* is to try to preserve the health of Geneva, and he sees Paris as already corrupted.

This connects to the broader point that whilst the perfect coincidence of the general will and particular wills of the citizens is an ideal, in real societies there is rarely this harmony. As Rousseau says in chapter 3 of book 2, "If the general will can err': whilst the general will is always right and always leans towards public utility, it does not follow that the deliberations of the people always have the same rectitude. One always wants one's good, but one does not always see it." The role of the legislator is to work to ensure that the people can see their good. This is the 'secret' work of the legislator, who while he is apparently occupied with particular rules, is behind the scenes (as we might put it), working on the 'real constitution of the state' which is not engraved in marble nor in bronze, but in the 'hearts of the citizens', in their 'manners, their customs and above all in their opinions' ('des moeurs, des coutumes et surtout de l'opinion' (Rousseau 2001: II, 12)).

The censor is "not the judge of the opinion of the people, but only its declarer", and as soon as it moves away from the opinion of the people "its decisions are vain and without effect" (Rousseau 2001: IV, 7). Yet the example given in

2 On this topic, see the groundbreaking study of Bruno Bernardi (2014): *La Fabrique des concepts*.

the chapter of the *Social Contract* concerned with the censor of the way duels of honour are conducted, and which Rousseau relates directly with the same discussion in the *Letter*, shows that things are more complicated.

In the *Social Contract*, Rousseau gives the example of the use of 'Seconds' in duels – ie. calling on someone else to represent you in a duel. This practice was put to an end Rousseau says, by the king calling people who called up a replacement 'lache' (cowardly). But when the same edict tried to say that those who engage in duels *at all* are cowardly, the public simply mocked this decision, since it was contrary to the public opinion. When it came to the use of Seconds, the public opinion was receptive, but with regards to the practice of duels itself, public opinion was not prepared, and the ruling was worse than useless: the public mocked it and ignored it.

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In the *Letter*, Rousseau goes further and talks of the tribunal of marshals instituted in France to act as judges of honour. Rousseau says that this tribunal was created to "change public opinion about duels" (Rousseau 2003: 119). In order to achieve this change of opinion, Rousseau recommends firstly that such a tribunal cannot use any coercive methods, but rather simply honour and shame. He suggests that the apparitor summon the defendant by touching him with a white stick, and not appearing before the marshals would become itself an infamy. Secondly, in order for the tribunal to have authority, it was required for the judges to have authority on questions of honour in the public opinion, and in a 'military' society like France, military chiefs are therefore a good choice. Thirdly, for the tribunal to be successful, the king himself needed to appear to be subject to it. Above all, in order for the tribunal to be successful, all calls for combats between individuals needed to be submitted to the tribunal for judgment on whether they should be permitted, and the marshals would at the beginning need to authorize some duels, so as not to lose their authority before public opinion or appear biased. Then progressively, the society would move towards accepting the judgment of the tribunal (which would progressively rule-out any duels), and any remaining duels would become secretive and shameful. In this way, by 'art', the legislator arrives at changing the public opinion (Rousseau 2003: 121). We see that crucial in this ruse of the legislator is to guard the authority that comes from the general will or (its equivalent when it comes to particular matters) public opinion, and in this way, we might say, to bring the audience of the public opinion with him.

The example of the way public opinion concerning duels can be acted upon is an example of the general role of the legislator, which is to guide the people towards its own good, in such a way that its understanding and its will coincide. Here is the paradox of establishing political authority from a social contract, because the opinions of the people should flow from the law, but in

reality the opinions preexist the law. The social spirit which would found the general will is its result: “the effect would need to become the cause” (Rousseau 2001: II, 7) Hence the legislator is caught in a dialectic which calls for artfulness. Unable to use force or reason without losing his authority before the people (that is, losing his audience), the founders of political communities have often called upon the divine to give them authority, and Rousseau sees Moses in relation with God as the perfect example of a founder of a political community in this sense.³ He says that any man can engrave laws in stone, or pretend to have a communication with the divine, but only the ‘great sprit’ of the legislator is able to found a community, and this miracle is only proved by its result. The censor, tribunals and magistrate continue the work of the founding legislator over the life of the political community.

Here we see that Rousseau understands that the paradox of representation and the paradox of the audience go together: the only way to establish the existence of the sovereign is for each individual to conceive of his own will as part of a common will, but this state of affairs will only come about through the actions of a sovereign. To deal with this gap, the legislator must (secretly) act upon the people in such a way that the people believe they are acting themselves, and only in this way do they really act as a collectivity: the people must believe it is acting when it is in-fact an audience (being acted-upon) and through this form of alchemy the audience really does become the actor and speaks as the general will and the public opinion. To use a terminology foreign to Rousseau but which speaks to us, this is the origin and function of ideology; what Rousseau says about the necessity of civil religion at the end of the *Social Contract*, as well as the whole enterprise of the book itself, in which Rousseau acts as the (secret) legislator, is to be understood in this way.

If we return to the injunction in the *Letter* to have public fetes, we see clearly the art of the legislator and its relation with the audience. When Rousseau says “plant in the middle of the place a stake crowned with flowers; gather there the people...” he is addressing the magistrate or legislator. It is the magistrate that creates the spectacle by planting the stake with flowers – for without this marker, there is no spectacle at all. The (secret) function of this spectacle, in which the only actors are the audience, is to make the people love each other. This love of the other is the precondition for sovereignty, and as Rousseau says of the civil religion, there is no way for the sovereign to oblige the citizens to love one another (or to believe the civil religion), but the sovereign can banish anyone who manifestly does not love the other citizens/does not believe the civil religion/refuses to take part in the spectacle,

3 On this point see Bruno Karsenti (2012).

“not as someone impious, but as someone unsociable, as incapable of loving sincerely the law, justice and sacrificing as needed his life to his obligations” (Rousseau 2001: IV, 8).

For a civic ethics of playfulness

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What is troubling in the scene of the village fete in the Letter to d’Alembert, and which gives some credence to the (exaggerated) reading of Rousseau which makes him border on tyrannical, is the demand for absolute coincidence between the citizen and the state. The requirement of total sincerity and authenticity, to the point of transparency – the impossibility of all theatricality and *seeming* – means the village fete risks becoming a joyless exercise, in which we do not, in fact, recognize one another. There is the lingering suspicion that the ideal of moral unity of the state is so exigent and therefore distant, ultimately only the legislator through his secret ways really *acts*. If this is the outcome, then there is the risk that despite attempting the opposite, there is as much alienation of power in Rousseau’s society as in Hobbes’ state of obedience, and we are all pretending (pre-tending: *stretched out before*) before the sovereign.

We should not accept this strong ideal of the unity of the state; we should reject it as impossible for us and dangerous; but we need to find a way of rejecting it without rejecting the strong ideal of equality of voice and audition which is its motivation and differentiation from the vision of Hobbes. Nor should we accept the precept of Rousseau that states necessarily lose their virtue as they age, in such a way that there is always a presupposition in favour of any law which is old. Instead of looking back to the Roman republic, Sparta, or a pastoral idyll, this romanticism carries the danger that the past which speaks to us today risks being a nationalistic and ethnic one. On these two conditions perhaps we can recover from our reading of Hobbes and Rousseau a virtuous role for a theatrical playfulness in our relationship with the state.

We have seen both with Hobbes and Rousseau the ways in which the state only appears as an artificial or fictional projection of the audience. For this projection to perdure, and as a precondition for the state to act and be heard in its declarations, the audience must be held in an affective state which keeps their attention, which we identified as *fear* in the case of Hobbes and *love* (albeit rather artificial love) in the case of Rousseau. If instead of fear or intense love, we were to aim towards the affective states of playfulness and care, we might tell (perform) the story of the state rather differently.

Firstly, we would be aware that the state is created through a performance, and so is a fiction of auto-institution. We would not see this as falseness or

as alienation, but precisely as the result of human creativity and imagination. To say that something is fictional or imaginary does not necessarily imply that it does not exist. There is a difference between saying that unicorns are imaginary, which implies that they do not exist and that the statement 'unicorns exist' is false, and saying that the state or the nation are imaginary, which does not imply that the state or the nation do not exist. To say that the state is a fiction, or is imaginary, can be a way of brining out the way the state is made from the imaginative resources of human creativity, it is lived through our relation to it. It also suggests that the state is contingent, and to some extent malleable: we do not have to imagine the state *as a nation*, for example (plenty of societies have not). If we can keep in mind this imaginary mode of existence of the state or of collectivity in general, and if we can *own it* as our representation, as *our play*, then we may recover a critical vocabulary to evaluate this representation. This vocabulary would be able to judge the state in terms of its consequences (does it increase material wellbeing? does it preserve the environmental resources? etc.) but also in itself, in what we could call aesthetic terms (what affective relationship does it promote? what emotions does it provoke? is it beautiful?). We would thus recover a palette of critical ethical, moral, political and aesthetic terms with which to appreciate the goodness (or otherwise) of the state.

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Secondly, we would be attentive to the ways in the state that some have easier access to an audience than others, because in *figuring* (from *figere*: *to shape, form*) the state in one way or another, we inevitably set some norms of sovereign behavior which tend to take precedence over others. This is particularly the case if we project the state as a person (a man, or a woman, or a monster, for example), but even if we conceive of its collectivity in other ways (as a machine, a network or a fluidity, for example). We could define as 'precarious subjects' precisely those citizens who have an insecure relationship with the audience of the rest of the society, and we could accord to them a particular degree of care. Ultimately we would recognize that we are all precarious subjects in the sense that we depend for our civil existence on the attention of others, on our audibility to an audience. In this way the power of creating an audience would be extended as widely as possible, and we would be aware of the distribution of the right to hear and the right to be heard, without making as a precondition for accession to these rights a particularly strong civic morality of authenticity or sincerity.

Thirdly, we could use theatre as a space of playfulness in which we could present, and eventually call into question, aspects of the social and political condition and the characters we are each called upon to play in it. If we appreciate that the creation of the state implies the creation of characters, these characters are open to appraisal as well.

A solution to the paradox of the honest orator is that the lawyer defending her client, for example, is able to understand her role as defence lawyer in a particular performance in which her behavior in defending to the best of her abilities her client is a contribution to a larger scene which overall promotes the social good (i.e. in order to ensure a fair hearing, it is important that both defendant and accuser are represented with the best arguments possible). This does not imply that the lawyer suspends her fidelity to the truth; it does imply that she understands she plays different roles at different times in society and she is able to place these roles in relation with a general good. The same can be said of the (professional) actor, who understands the difference between being on stage and being a mother, for example, and is able to place these roles in a mental projection of the collectivity.

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Theatre is a way in which the roles and their relation to the good can be questioned, and we need to understand theatre in this sense to include also 'theatrics' or the interrupting of repertoires of what is taken to be 'good' performance by citizens in different ways and contexts (which can include protest, pretending, rebellion and artistic creation). What is more, we might understand that given the many roles each of us needs to play, there is inevitably some element of 'seeming' in our relations with others: this element of performance is not a sign of a lack of moral integrity, but rather of the dexterity required to negotiate complex social relations which rely on some distance and differentiation between individuals. The worn and overcharged terms of authenticity and sincerity are not the best ways to characterize this playing of social roles. Through this theatrical *calling into question*, we might also become increasingly attentive to the ways our social relations and roles are mediated by commercial technologies and corporate interests, which tend to give voice to some over others, or result in the *power to create an audience* being inequitably distributed.

Fourthly, the theatre would be a space in which to experiment in new forms of collectivity which could correspond to new forms of subjectivity, not seeing in this a risk to the moral unity of the state, but as a space in which our affective relations to the collectivity are exercised and explored. Through enabling playfulness, the theatre would be a secure space in which affective learning would take place that empowers us to be more receptive to others both on and off the stage – inside the theatre, and on the square – and fosters in us the imaginative resources that allow political invention to happen.

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Nikolo Milaneze

Audijencija kod/Saslušanje ... javnosti, predstavnika, suverena

Apstrakt

Pravo na saslušanje (audijenciju), u običajnom pravu, jeste pravo advokata da zastupa klijenta na sudu. Kralj, Papa i neki predsednici primaju u audijenciju. U čemu se sastoji moć primanja u audijenciju (to grant an audience)? I šta znači zahtevati audijenciju? Čitanjem načina na koji je vokabular pozoriša, glume i audijencije (publike) uključen u proizvodnju teorije države kod Hobsa i Rusoa ovaj rad propituje pitanje političkih resursa koji nam pomažu da iznova promislimo načine bivanja zajedno. Preko Hobsa i Rusoa, ovaj tekst ispituje na koji način performiranje politike stvara javnost, predstavnika i suverena, te na koji način ove figure interaguju. Predlaže se alternativna uloga za pozorište kao mesto afektivnog učenja i građanske etike razigranosti u kojoj se autoinstitucija države kao zamišljenog zajedništva obuhvata u celosti.

Ključne reči: javnost, suverenost, izvedba, audijencija, publika, Ruso, retorika, autoritet, predstavljanje, Hobs.