From Machiavelli to Nietzsche: How Modern Thinkers Saw Ancient Lawgivers

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Abstract

For many modern thinkers, the lawgiver has been important as a founding figure of civic identity and cultural values. Rousseau analysed the legacies of Solon and Lycurgus, believing in the need for a lawgiver to make a true social contract possible. By contrast, Nietzsche felt it necessary to seek a lawgiver in history who was also a poet and prophet. This lecture uses their perspectives and others to explore how the figure of the lawgiver has encapsulated key debates in modern political philosophy.

Introduction

Can freedom ever be brought about by force – or is persuasion a better path to social transformation? How can revolutionary new cultural and political orders be instituted and maintained – and is the answer different if they seek one-person domination or civic liberty? And on the spectrum of persuasion and force, where should we place the institution of new religions – which have transformed society and politics from ancient Israel to ancient India and Iran, from the founding of Christianity to the Reformation and beyond?

These questions have preoccupied philosophers for centuries. They present paradoxes that cannot be easily resolved, raising ethical and political challenges that are difficult to confront. And for the three great political philosophers who are the subjects of my lecture tonight, they were encapsulated in the figures of ancient lawgivers: as models for potential future cultural and political change. Tonight's three thinkers are Niccolò Machiavelli in the early sixteenth century, writing in Italian; Jean-Jacques Rousseau in the mid-eighteenth century, writing in French; and Friedrich Nietzsche in the late nineteenth century, writing in German.

All of them grappled with what I called, in the first lecture of this series, 'the figure of the lawgiver' as 'a way of capturing both the stable and the revolutionary faces of political life…encapsulat[ing] both society as it is…and also, in a revolutionary mode, society as it might be'. All of them expanded the tools for lawgiving that I looked at in subsequent lectures – written laws, and unwritten customs inculcated through memory and habit – to include discussion of the role of religion and the place of violence and force. And all of them elevated Moses as one of the greatest lawgivers of antiquity,[1] while setting him alongside a varying cast of

[1] In my last Gresham Lecture ('Divine Law, Human Prophet: Moses in Hebrew and Greek'), on 6 March 2025 (https://www.gresham.ac.uk/watch-now/divine-law-human-prophet-moses-hebrew-and-greek), I noted that the view of the ancient Rabbis was that Moses should not count as a lawgiver at all, given that the laws of the Hebrew Bible were (according to that work) given to him by the deity – but that for some contemporary ancient Jewish authors, especially those familiar with the accounts of the ancient Greek lawgivers, '…Moses as lawgiver was not to be viewed as merely

other lawgivers and political founders, tracking the particular concerns and ideas of each of our three philosophers. In fact, while sharing a common veneration of Moses, each of them read Moses differently: Machiavelli read Moses as an armed prophet who established a new polity by deploying violence; Rousseau read him as a model of legislative transformation through persuasion alone; while Nietzsche's complex rhetoric about Moses and other lawgivers combined appeals to spiritual force with invocations of physical violence.

Exploring these readings of Moses and other lawgivers confronts us in each case with a paradox that cannot be easily resolved. I begin with Rousseau on what I call the paradox of legislative persuasion; then move backward to Machiavelli on the paradox of force and freedom; and then conclude with Nietzsche on the paradox of persuasive force and whether this is spiritual, material or both.

The Paradox of Legislative Persuasion: Jean-Jacques Rousseau

Let me begin by introducing Jean-Jacques Rousseau. Born in 1712 in Calvinist Geneva, Rousseau had converted to Catholicism and moved to France, aligning himself there with the great intellectual and political project of the Enlightenment *philosophes.* But at the age of 37, he had a road to Damascus moment (actually on the road to Vincennes in France), in which he suddenly came to see the commerce and civilisation of France and other Enlightened countries as morally corrupt and unjust, contrasted with the strict patriotic virtues that had animated the Genevan republic at its best, and even more so, the ancient republics of the Spartans, Romans and Israelites.

In Rousseau's eyes, each of those republics owed its political legitimacy, moral virtue and longevity, to an individual lawgiver. He would come to elevate the Spartan Lycurgus[2] and the Roman Numa, alongside the Jewish Moses, as the 'three principal [lawgivers]', among 'the ancients', 'who deserve particular attention'. Indeed, Rousseau claimed that Moses was the greatest of them because of how long his laws had lasted, observing that:

> '*The laws of Solon, of Numa, of Lycurgus are dead; those of Moses, far more ancient, are still alive'*. ('On Laws', *Political Fragments* IV [On Laws], 24 [About the Jews][3]

With these models in mind, Rousseau's later thinking about politics centred on how, if at all, it could be made legitimate in the way that the ancient republics had been, and where in Europe, if anywhere, this might still be achieved –holding out no hope that it could be done in France, where he died in 1778, a decade before the outbreak of the French Revolution.

Rousseau argued that the consent of the people – expressed as what he called 'the general will' – was always necessary to make laws legitimate. Yet no people, ancient or modern, could be expected to rise to this task on their own. A Legislator was always needed, on the model of the ancient lawgivers: whose task was to do the work of framing those laws and get people to adopt them.[4]

What means could and should such a Legislator use to do so? Rousseau insisted that the Legislator should not use force, and indeed, that the work of a Legislator was not the work of a ruler : insisting of legislation that 'It is not magistracy, it is not sovereignty', but is rather 'a particular and superior activity that has nothing in common with human dominion' (*SC* II.7, p.155).[5] But while the Legislator should not use force, neither

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a scribe…[rather, he] possessed superlative virtues that enabled him to understand the purpose for which the laws were given, and to shape his transmission of the laws in such a way as to be supremely effective'.

[2] Flora Champy, *L'Antiquité politique de Jean-Jacques Rousseau: entre exemples et modèles* (Paris: Classiques Garnier, 2022), 350: it is Lycurgus rather than Solon, among the ancient Greek lawgivers, who becomes for Rousseau 'véritablement exemplaire'.

[3] Rousseau, CW IV, p. 34; Pl., III, 499: …*les loix de Solon, de Numa, de Lycurgue sont mortes, celles de Moyse bien plus antiques vivent toujours*. Rousseau contrasts Moses' success in making laws that have lasted over the longest period of time, with Mohammed's success in the great spatial extent over which his laws have spread: *SC* II.7; cf. IV.8.

[4] 'Lawgiver' and 'Legislator' are alternative translations of the same French word, *législateur*; I use the former translation to refer to the ancient figures, and the latter to refer to Rousseau's own political theory.

[5] Rousseau, CW IV, p.155; Pl., III, 382: *Ce n'est point magistrature, ce n'est point souveraineté. C'est une function particuliere et supérieure qui n'a rien de commun avec l'empire humain*…

should they use rational argument (which he called 'reasoning'). Instead, the work of the Legislator must be to 'persuade'. And so persuasion must be different from both violence and reason, somehow falling between those two poles.

So how exactly can persuasion function? Rousseau offered a famously paradoxical explanation in his greatest work of political theory, the *Social Contract* (published in 1762):

> '*In order for an emerging people to appreciate the healthy maxims of politics, and follow the fundamental rules of Statecraft, the effect would have to become the cause; the social spirit, which should be the result of the institution, would have to preside over the founding of the institution itself; and men would have to be prior to laws what they ought to become by means of laws. Since the Legislator is therefore unable to use either force or reasoning, he must necessarily have recourse to another order of authority, which can win over without violence and persuade without convincing*'. (*SC* II.7)[6]

The same phrase – to 'persuade without convincing' – would recur in another work by Rousseau, the *Essay on the Origin of Languages*.[7] That provides a clue, pointing to the evolution of human language as working through pictorial and imagistic means to persuade through engaging the passions, senses and emotions.

Building on that insight, we can find a further clue in how Rousseau thought that the ancient lawgivers had in fact worked to establish and engrain their laws. For these figures had actually succeeded, in Rousseau's view, in performing the requisite task of a 'great Legislator'. And so we can better understand the nature of persuasion, by considering how Rousseau explained the ancients' success.

What we find is that the ancient lawgivers – above all, in Rousseau's view, Moses, Lycurgus and Numa – effected persuasion by instituting new games and rites and ceremonies, both civic and religious. All these created a new way of life which could 'persuade without convincing' by becoming incorporated in citizens' identities through habits and customs.

In my February lecture, I pointed out that this approach was especially associated with Lycurgus and his emphasis on instituting unwritten customs.[8] Rousseau emphasized that point as well, contending that 'Lycurgus wanted to write only in the hearts of the Spartans' (*Political Fragments*), and pointing out that Lycurgus cultivated 'that ardent love of the fatherland' for which the Spartans were famous by having 'ceaselessly showed it [the Spartan people] the fatherland in its laws, in its games, in its home, in its loves, in its festivities' (*Poland* II).[9]

Beyond the everyday civic festivities and interactions that Lycurgus instituted in Sparta, Rousseau saw Numa and Moses as having each also instituted another important element of a new civic identity: namely, the founding of a civil religion. In both cases, the new religion was not a matter of mere belief. Rather, it involved rites and ceremonies – which were similar to the games and festivities of ancient Sparta in likewise assembling people for common practices and so cultivating bonds between them and with their homeland.

In the case of Numa, for example, even though he was not the original founder of Rome (but its third legendary king), Rousseau considered him a greater figure than the original co-founder Romulus (who had murdered his twin brother Remus and become Rome's first king). Romulus had merely assembled a band of scattered individuals who might have soon dispersed again (Rousseau called them brigands, as by legend they were Trojan soldiers who had gone rogue after Troy had fallen), whereas Numa by contrast 'was the

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[6] Rousseau, CW IV, p.156; Pl., III, 383: *Pour qu'un peuple naissant put goûter les saines maximes de la politique et suivre les regles fondamentales de la raison d'Etat [sic], il faudroit que l'effet put devenir la cause, que l'esprit social qui doit être l'ouvrage de l'institution présidât à l'institution même, et que les hommes fussent avant les loix ce qu'ils doivent devenir par elles. Ainsi donc le Législateur ne pouvant employer ni la force ni le raisonnement, c'est une nécessité qu'il recoure à une autorité d'un autre ordre, qui puisse entraîner sans violence et persuader sans convaincre.*

[7] The language closely tracking the ancient historian Josephus' account of Moses, which Westwood (2023: 6) glosses as at *CA* 2.156 asserting that Moses 'convinced' the people – whereas the Greek is actually more literally 'persuaded').

[8] Melissa Lane, 'Unwritten Laws? Legacies from Antigone and Lycurgus', Gresham Lecture delivered 20 February 2025: https://www.gresham.ac.uk/watch-now/unwritten-laws.

[9] Rousseau, CW XI, p.172: *Il lui montra sans cesse la patrie dans les loix, dans ses jeux, dans sa maison, dans ses amours, dans ses festins… naquit en lui cet ardent amour de la patrie*.

true founder of Rome…uniting these brigands into an indissoluble body, by transforming them into Citizens…by means of mild institutions that attached them to each other and all to their land by finally making their city sacred by means of apparently frivolous and superstitious rites…' (*Poland* II).[10]

The reference to 'apparently frivolous and superstitious rites' is a value judgment from Rousseau's (or his expected readers') modern Christian perspective. But while it sounds negative, in fact, Rousseau saw the ancient pagan religions as much more suited to fostering civic virtue than Christianity had proven to be.[11] Whereas Christianity taught people to care more about their immortal souls than about their mortal cities, the ancient Roman religion (for example) had been devoted to fostering rituals and ceremonies that connected all members of the city and bonded them with one another and with their revered ancestors.

Unlike Christianity, ancient Judaism under Moses' guidance had focused as much on rites and ceremonies as Numa had done. Indeed, Rousseau's description of Moses' work as a lawgiver is very close to what he wrote about Numa. Like Numa (and Lycurgus), Moses was for Rousseau one of an elite group of 'founders' who had succeeded in forging a 'people': *Poland* II. Like Numa, Moses had (in Rousseau's eyes) confronted the challenge not only, like Romulus, of 'founding into the body of a nation a swarm of unfortunate fugitives';[12] but also, like Numa, of subsequently preventing the 'people from dissolving among foreign peoples' (both, *Poland* II). To do so, Moses had acted as follows. He:

> *'gave it [i.e. the Jewish people] morals and practices incompatible with those of other nations; he overburdened it with distinctive rites, ceremonies…all the bonds of fraternity that he placed among the members of his republic were so many barriers which kept it separate from its neighbors and prevented it from blending with them*' (*Poland* II).[13]

In sum, Rousseau explained that Lycurgus, Numa and Moses had each 'in their institutions…looked for bonds which attached the Citizens to the fatherland and each to each other' (*Poland* II).[14] These 'bonds' had to 'attach the Citizens to the fatherland and to one another', and as Rousseau explained, were in each polity cultivated:

> *'in distinctive practices, in religious ceremonies which were always exclusive and national by their nature …in games which kept the citizens assembled very much, in exercises which increased their pride and self-esteem along with their vigor and strength, in spectacles which, recalling to them the history of their ancestors, their misfortunes, their virtues, their victories, gained the interest of their hearts, inflamed them with a lively emulation, and strongly attached them to that fatherland with which they were kept ceaselessly occupied'* (*Poland* II).[15]

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[10] Rousseau, CW XI, pp.172-3; Pl., III, 957-8: *Ceux qui n'ont vu dans Numa qu'un instituteur de rites et de ceremonies religieuses ont bien mal jugé ce grand homme. Numa fut le vrai fondateur de Rome. Si Romulus n'eut fait qu'assembler des brigands qu'un revers pouvoit disperser, son ouvrage imparfait n'eut pu résister autems. Ce fut Numa qui le rendit solide et durable en unissant ces brigands en un corps indissoluble, en les transformant en Citoyens, moins par des loix, dont leur rustique pauvreté n'avoit guère encor besoin, que par des institutions douces qui les attachoient les uns aux autres et tous à leur sol en rendant enfin leur ville sacrée par ces rites frivoles et superstitieux en apparence*…

[11] Albeit that for Rousseau, Calvinism had proven itself in Geneva to be the most civically minded version of Christianity – but this was due less to the content of its teachings than to Calvin's administrative genius.

[12] Rousseau, CW XI, p.172; Pl. III, 956: *instituer en corps de nation un essain de malheureux fugitifs.*

[13] Rousseau, CW XI, p.172; …. Pl. III, 956-7: *Pour empêcher que son people ne se fondit parmi les peuples étrangers, il lui donna des mœurs et des usages inaliables avec ceux des autres nations ; il le surchargea de rites, de ceremonies particulieres; il le gêna de mille façons pour le tenir sans cesse en haleine et le rendre toujours étranger parmi les autres hommes, et tous les liens de fraternité qu'il mit entre les membres de sa république étoient autant de barriéres qui le tenoient séparé de ses voisins et l'empêchoient de se mêler avec eux.*

[14] Rousseau, CW XI, p.171, p.173 respectively; Pl., III, 956: *Chez les anciens, j'en vois trois principaux qui méritent une attention particulière : Moyse, Lycurgue et Numa,* and Pl., III, 958 : *Le même esprit guida tous les anciens Législateurs dans leurs institutions. Tous chercherent des liens qui attachassent les Citoyens à la patrie et les uns aux autres* The sentence continues: *et ils trouvérent [sic] dans des usages particuliers, dans des ceremonies religieuses qui par leur nature étoient toujours exclusives et nationales (voyez la fin du Contrat Social), dans des jeux qui tenoient beaucoup les citoyens rassemblés, dans des exercices qui augmentoient avec leur vigueur et leurs forces leur fierté et l'estime d'eux-mêmes, dans des spectacles qui, leur rappellant l'histoire de leurs ancêtres, leurs malheurs, leurs vertus, leurs victoires, interessoient leurs cœurs, les enflamoient d'une vive émulation, et les attachoient fortement à cette patrie dont on ne cessoit de les occuper*.

[15] Rousseau, CW XI, p.173; Pl., III, 958: *Le même esprit guida tous les anciens Législateurs dans leurs institutions.*

Forging these bonds was the work of persuasion to be carried out by the lawgiver / Legislator. But it had to be persuasion not launched frontally in mere speeches, but rather, inculcated more subliminallym through the customs and habits and practices that collectively come to constitute a new identity. The paradox of persuasion for Rousseau is that the lawgiver / Legislator cannot rightfully use force or violence – yet they must transform the identity of the citizens even more profoundly as any violent rupture could ever do.

To conclude our discussion of Rousseau, we may ask: did he see any of this as a possible model for his own time? He asserted as much in a letter about Geneva: 'I presented the festivals of Lacedaemon as a model for those I should like to see among us'. (*Letter to d'Alembert*)[16] And as he observed in the *Social Contract*: 'The limits of the possible in moral matters are less narrow than we think… Let us consider what can be done on the basis of what has been done'. (*SC* III.11)[17]

But this did not mean that the ancient models could be adopted anywhere and everywhere. Only communities whose mores had not been too permanently corrupted could potentially succeed. Perhaps Geneva could be appropriately reformed; perhaps Poland, at the time a less developed country than other parts of Europe; and perhaps Corsica – an island recently freed from French domination, and for which Rousseau would in fact sketch out a plan of legislation. For as he wrote in the *Social Contract*:

> '*In Europe there is still one country capable of legislation; it is the Island of Corsica. The valor and perseverance with which this courageous people was able to recover and defend its freedom would well deserve that some wise man should teach them how to preserve it. I have a feeling that some day this little Island will astound Europe'*. (*SC* II.10)[18]

The paradox of tiny Corsica potentially astounding Europe as a free society is one that Rousseau's admired and much-studied precursor, Niccolò Machiavelli, would also have relished – and it is back two centuries to Machiavelli that I now turn.

The Paradox of Force and Freedom: Niccolò Machiavelli

Rousseau saw the figure of the Legislator – and its incarnation in the ancient lawgivers – as having to deploy persuasion alone, rather than force, in order to allow the people to be free. It was only if the people were free to express the general will and so themselves enact the laws (that had been authored in content by the Legislator), that they could form a free 'republic' – the term for a law-governed society of patriotically minded political equals who were thereby free, as opposed to being dominated by a tyrant or even (for the most stringent republicans) a king or queen.

Machiavelli anticipated and shared Rousseau's celebration of republics as uniquely free polities – and so the earlier man likewise anticipated and shared his successor's admiration for 'Moses, Lycurgus and Numa' (in Rousseau's words) or (as Isaiah Berlin would put it for Machiavelli) 'Moses, Numa, Lycurgus'.[19] Just as Rousseau would grow up in republican Geneva, Machiavelli grew up in republican Florence. There he had

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Tous chercherent des liens qui attachassent les Citoyens à la patrie et les uns aux autres, et ils trouvérent [sic] dans des usages particuliers, dans des ceremonies religieuses qui par leur nature étoient toujours exclusives et nationales…, *dans des jeux qui tenoient beaucoup les citoyens rassemblés, dans des exercices qui augmentoient avec leur vigueur et leurs forces leur fierté et l'estime d'eux-mêmes, dans des spectacles qui, leur rappellant l'histoire de leurs ancêtres, leurs malheurs, leurs vertus, leurs victoires, interessoient leurs cœurs, les enflamoient d'une vive émulation, et les attachoient fortement à cette patrie dont on ne cessoit de les occuper*.

[16] Rousseau, CW X, p.350; Pl., V, 123: *Je donnois les fêtes de Lacedemone pour modéle [sic] de celles que je voudrois voir parmi nous.*

[17] Rousseau, CW IV, p.189; Pl., III, 425: *Les bornes du possible dans des choses morales sont moins étroites que nous ne pensons… Par ce qui s'est fait considérons ce qui se peut faire*.

[18] Rousseau, CW IV, p.162; Pl., III, 391: *Il est encore en Europe un pays capable de législation ; c'est l'Isle de Corse. La valeur et la constance avec laquelle ce brave peuple a su recouvrer et défendre sa liberté, mériteroit bien que quelque homme sage lui apprit à la conserver. J'ai quelque pressentiment qu'un jour cette petite Isle étonnera l'Europe.*

[19] Isaiah Berlin, 'The Originality of Machiavelli', in Berlin, *Against the Current: Essays in the History of Ideas*, 2nd edn, edited by Henry Hardy, introduced by Roger Hausheer, with a new foreword by Mark Lilla (Princeton: Princeton University Press, 2013), 33-100, at 46.

served as a high-level secretary in the city's government, before it was temporarily shaken by the ascendancy of the firebrand priest Girolamo Savonarola, and then permanently overturned by the Medici family. Individual Medici came to rule effectively as what Machiavelli called 'princes': ruling Florence for the sake of their own power and reputation, rather than for the common good and freedom that the previous republican order had fostered.[20]

It is in that context that Machiavelli explored what I call 'the paradox of force and freedom'. In fact, there are two different aspects to the paradox. One is the question of how to understand Machiavelli's notorious book titled *The Prince*, circulated in manuscript in 1513 and dedicated to successive members of the Medici family who had already begun to rule Florence – given his previous service to the cause of republican freedom. And while we can start to answer that question by appealing to his later work, the *Discourses on Livy*, which discusses republics alongside principalities, that raises the paradox in a further guise: as to how the freedom of a republic might sometimes have to be saved not through persuasion, but occasionally, through violence.

Let's first tackle Machiavelli's work *The Prince.* There we find Machiavelli most interested in lawgivers (who must engage in 'the ordering of laws': *Disc.* 1.1)[21] who founded a city and its 'orders' not merely as a result of chance or luck (in Machiavelli's Italian, *fortuna*), but as a result of 'their own *virtù*': a word that Machiavelli used in Italian to span the gamut between the Latin *virtus* (which had been used by Cicero and others for all the traditional moral virtues), and what scholars have called the more modern idea of virtuosity or skill. Indeed we must also hear in *virtù* the idea of masculine virility (which comes from the same root). The prince's *virtù* is his skill, audacity and capability, at bringing about a new civic constitution.

Among the four 'most excellent' princes ever, three became kings 'who have acquired or founded kingdoms': the ancient historical figure Cyrus the Great of Persia; Romulus, the legendary co-founder and first king of Rome; and Theseus, the legendary founder and first king of Athens (all, *Prince,* ch.6)[22] – Rome and Athens only becoming republics (in Athens' case a democracy) much later. The fourth 'most excellent' prince ever in Machiavelli's eyes was Moses, who by contrast founded a free republic (although in this context Machiavelli goes on to somewhat disparage Moses by contrast with the others, calling the Jewish lawgiver 'a mere executor of things that had been ordered for him by God', notwithstanding that he had been so exceptional as to be 'deserving of speaking with God'; *Prince,* ch.6).

All four men all deployed their exceptional *virtù* to exploit opportunities provided by *fortuna*, through which they became the founders of new orders in new states. They faced the challenge of 'introducing new orders' so as 'to found their state and its security' (*Prince*, ch.6, reversing syntactical sequence). And this is remarkably difficult. For:

> *'nothing is more difficult to handle, more doubtful of success, nor more dangerous to manage, than to put oneself at the head of introducing new orders. For the introducer has all those who benefit from the old orders as enemies, and he has lukewarm defenders in all those who might benefit from the new orders. This lukewarmness arises partly from fear of adversaries who have the laws on their side and partly from the incredulity of men, who do not truly believe in new things unless they come to have a firm experience of them'.* (*Prince*, ch.6)

It is because of the difficulty and danger of this task – the challenge of becoming a lawgiver and/or founder, of 'introducing new orders' – that Machiavelli insisted that such figures had to successfully deploy violence in the quest to make their new orders permanent.

> '*Moses, Cyrus, Theseus, and Romulus would not have been able to make their peoples observe their constitutions for long if they had been unarmed…'*. (*Prince*, ch.6)

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[20] I thank Emily Salamanca for research assistance and suggestions about wording and focus, especially in regard to this section on Machiavelli.

[21] Machiavelli, *Discourses on the First Ten [Books] of Titus Livius*, as translated here and below in N. Machiavelli, *Discourses on Livy* (trans. N. Tarcov & H. C. Mansfield) (Chicago: University of Chicago Press, 2009).

[22] Machiavelli, *The Prince*, as translated here and below in N. Machiavelli, *The Prince* (trans. H. C. Mansfield), 2nd edn (Chicago: University of Chicago Press, 1998).

This point about the necessity of violence and resort to arms may explain why Machiavelli chose here to elevate Romulus above Numa (the opposite of what some of his ancient sources had done, and of what Rousseau would later do). For whereas Numa relied on the persuasive inculcation of new religious ceremonies, Romulus had used force (and deception) to oust his brother and establish his kingship.

Moreover, where Rousseau would read Moses as an exemplar of legislative persuasion, Machiavelli here portrays him (by implication) as having been an armed prophet – and implies that it was only because of his ability to command violence that his new religion could have been established. And he immediately drew a contemporary parallel to the history of Florence in his lifetime: to the friar Girolamo Savonarola, who had temporarily held great sway there, only to endure a catastrophic fall from power. This was the consequence, in Machiavelli's eyes, of his having been and remained an unarmed prophet:

> *'He was ruined in his new orders as soon as the multitude began not to believe in them, and he had no mode for holding firm those who had believed nor for making unbelievers believe'.* (*Prince*, ch.6)

Now Cyrus, Theseus and Romulus each set out to found a kingdom – albeit that Athens and Rome much later became republics (in Machiavelli's parlance). But Moses was seeking to found a republic, and Savonarola (in his own idiosyncratic way, as Machiavelli may have seen it) to renew one. This highlights the role of violence in founding or re-founding a republic: which is paradoxical.

After all, the point of a republic is to enjoy collective freedom rather than the domination of one man – and to be free from unlawful violence, rather than to suffer it. True, the singular 'orderer (*ordinatore*) of a republic' would have a special purpose: 'the intent to wish to help not himself but the common good, not for his own succession but for the common fatherland' (*Disc.* 1.9) – a point that Machiavelli illustrates by invoking 'Moses, Lycurgus, Solon' (*Disc.* 1.9).[23] And true, the original founder of a republic would have to charge and rely upon the collective people (the 'many') in order to maintain and protect it. As Machiavelli explains:

> *'…if one individual is capable of ordering, the thing itself is ordered to last long not if it remains on the shoulders of one individual but rather if it remains in the care of many and its maintenance stays with many. For as many are not capable of ordering a thing because they do not know its good, which is because of the diverse opinions among them, so when they have come to know it, they do not agree to abandon it'*. (*Disc.* 1.9)

Such popular fortitude in defending their republic would be greatly (and perhaps necessarily) fostered by the lawgiver's institution of a civic religion (a point that as we have seen, Rousseau would reiterate and further develop in his own way). For Machiavelli, this is where Numa comes into his own as an exemplar: Numa should 'obtain the first rank' as a Roman prince, above Romulus, given what subsequent Roman history demonstrated as to 'how much religion served to command armies, to animate the plebs, to keep men good, to bring shame to the wicked' (*Disc.* 1.11).

A side note: on the role of Roman religion, Machiavelli took a somewhat cynical view. He claimed that Numa had only 'pretended to be intimate with a nymph' (a divine figure) 'who counseled him on what he had to counsel the people' (*Disc.* 1.11), and that he perpetrated this fiction in order to portray divine authority as being on his side. Moreover, he compared Numa's manoeuvre here to what Lycurgus and Solon had also done in asking the Delphic oracle of the god Apollo to give approbation to their own laws – implying that they too had only pretended to invoke the divine in order to give cover to their own claims. The line about Numa's pretense situates him as a founder willing to make use of deception, what Machiavelli in the *Prince* calls 'fraud', in order to bring the populace on board.

[23] Machiavelli cites 'Moses, Lycurgus, Solon' as examples of founders 'who were able to form laws for the purpose of the common good because they had one authority attributed to them' (*Disc.* 1.9). See also an earlier passage in the same chapter, which spells out that the point about individual founding applies to both republics and principalities ('kingdoms'): 'This should be taken as a general rule: that it never or rarely happens that any republic or kingdom is ordered well from the beginning or reformed altogether anew outside its old orders unless it is ordered by one individual. Indeed it is necessary that one alone give the mode and that any such ordering depend on his mind' (*Disc.* 1.9).

In any case, returning to the question of violence in maintaining a republican order. Machiavelli argues that this might become necessary should the many should ultimately falter in their virtue. In that case, a new founding figure might have to use not only 'fraud', but also, in the terms of *The Prince*, 'force': that is, they might have to resort to violence to renew the laws and effectively re-found the city. Machiavelli drove that paradoxical point home in describing the history of Sparta several centuries after Lycurgus, after the virtue of the citizens had declined.

> *'When Agis, king of Sparta, desired to return the Spartans to the limits within which the laws of Lycurgus had enclosed them, it appeared to him that, because it had in some part deviated, his city had lost very much of its ancient virtue, and, in consequence, its strength and empire. He was killed in his first beginnings by the Spartan ephors as a man who wished to seize the tyranny. When Cleomenes succeeded to the kingdom, the same desire arose in him because of the records and writings he had found of Agis, in which his mind and intention were seen. But he knew that he could not do this good for his fatherland unless he alone were in authority since it appeared to him that because of the ambition of men, he could not do something useful to many against the wish of the few. He took a convenient opportunity, had all the ephors and anyone else who might be able to stand against him killed, and then renewed altogether the laws of Lycurgus. That decision was apt for making Sparta rise again and for giving to Cleomenes the reputation that Lycurgus had...'.* (*Disc.* 1.11)

On Machiavelli's account Agis had failed in his task: he was perceived as a would-be tyrant (presumably for having used incipient violence) and consequently killed before he could complete the renewal. By contrast, Cleomenes had wielded violence successfully: having 'all the ephors [i.e. the most Spartan officeholders] and anyone else who might be able to stand against him killed'. Cleomenes did not act so as to amass power for himself, as a would-be tyrant would do. Rather, he acted in the service of a republican purpose or end. Once opponents have been violently swept aside, he 'renewed…the laws of Lycurgus'.

Now that will give republicans – and their contemporary democratic heirs – cold comfort. For it is often impossible to know in time whether someone is deploying violence as a would-be tyrant or as a republican restorer. And more fundamentally: the use of violence violates the due process and civic protections on which a republic (or democracy) otherwise depends, indeed, for which it exists to defend. Violently interrupting the civic order in the name of saving it – and sacrificing the lives of some individuals in order to do so – raises the question of whether the end can ever justify the means. And especially, whether freedom can ever be saved or established by means of violent force.

I leave Machiavelli on that paradoxical note, as he left the reader of the *Prince* in its final chapter, calling for a new prince to free the whole of Italy from its foreign oppressors (including the French, for example, who had occupied parts of the north) – on the explicit model of demonstrating the kind of resurrection of an oppressed or divided people that Moses, Cyrus and Theseus had each achieved in their own day:

> *'Thus…thinking to myself whether in Italy at present the times have been tending to the honor of a new prince, and whether there is matter to give opportunity to someone prudent and virtuous to introduce a form that would bring honor to him and good to the community of men there, it appears to me that so many things are tending to the benefit of a new prince that I do not know what time has ever been more apt for it. And if, as I said, it was necessary for anyone wanting to see the virtue of Moses that the people of Israel been enslaved in Egypt, and to learn the greatness of spirit of Cyrus, that the Persians be oppressed by the Medes, and to learn the excellence of Theseus, that the Athenians be dispersed, so at present to know the virtue of an Italian spirit it was necessary that Italy be reduced to the condition in which she is at present, which is more enslaved than the Hebrews, more servile than the Persians, more dispersed than the Athenians, without a head, without order, beaten, despoiled, torn, pillaged, and having endured ruin of every sort'.* (*Prince*, ch.27, titled 'Exhortation to Seize Italy and to Free Her from the Barbarians')

Persuasive Force, Spiritual or Material? Friedrich Nietzsche

Like his predecessors, both of whom he cites (though more antipathetic to Rousseau than to Machiavelli), Friedrich Nietzsche (1844-1900) was fascinated by the transformative figure of Moses as a founder and lawgiver. Like them, he also invoked Lycurgus and Solon, and like Rousseau, also Mohammed. Yet he

expanded the pantheon of lawgivers still further, in two directions. On the one hand, to other founders of ancient religions, including the Hindu lawgiver and first king, Manu, and the Iranian prophet and lawgiver Zoroaster or Zarathustra. On the other hand, back in ancient Greece, to consider a whole panoply of philosophers as having been lawgivers. Some of those philosophers, like Pythagoras, had in fact acted as civic lawgivers, or were believed to have tried to do so; others of them, like Socrates, had acted as lawgivers in a more intellectual or spiritual sense, changing beliefs through their teaching and example.

It is in the case of the Greek philosophers above all – though also in the other lawgivers and religious founders – that we find the paradox in Nietzsche's writing that I want to explore. Namely, that he seemed to draw no sharp distinction between persuasion and force. Instead, he ran the two together in the form of what I shall call 'persuasive force', which he presented as operating sometimes in the spiritual or intellectual domain, sometimes in the physical or material domain, and sometimes in both – or in one as a metaphor for the other.

Let's start with how Nietzsche saw the role of custom in creating traditions, beliefs and identities over time – very much in the vein of Machiavelli and Rousseau in terms of what a lawgiver should aim to do. We see this in the following text:

> *'Concept of the morality of mores…Originally, all training, all tending to health, marriage, the art of healing, agriculture, war, speaking and keeping silent, traffic with one another and with the gods belonged in the domain of morality…Originally, then, everything was a matter of custom, and anyone wishing to elevate himself above custom had to become lawgiver and medicine man and a demigod of sorts: that is, he had to create customs—a terrifying, life-threatening thing! …'* (*Dawn*, I.9)[24]

Only the very rare lawgiver could disrupt and remake such customs. And as for Machiavelli, so also for Nietzsche, the subsequent stability of that new order had traditionally rested on claiming divine support. He argued this with regard to the laws of Manu:

> *'A code of law such as that of Manu arises like every good book of law: it summarizes the experience, prudence and experimental morality of long centuries, it concludes, it creates nothing more. The precondition for a codification of this kind is the insight that the means of lending authority to a slowly and expensively won truth are fundamentally different from those with which it might be proved. …*
>
> *A double wall [against continued experimentation]: first, revelation, which is the claim that the rationality of these laws is not of human descent, not slowly sought and found amid blunders, but merely communicated, of divine origin, whole, perfect, without a history, a gift, a miracle…Then tradition, which is the claim that the law had already existed since time immemorial, that it would be impiety, a crime against ancestors, to place it in doubt. The authority of the law is founded on the propositions: God gave it, the ancestors lived it'.* (*The Antichrist*)[25]

So far, then, we have seen Nietzsche appealing to custom and persuasion, including through the invocation of divinity to support religion and laws more generally. Where then did force and violence come in?

Throughout Nietzsche's writings we find scattered calls for a "warrior" ethos (*GM I*, §5) and related attitudes and practices – though these cannot always be taken at face value or in literal terms.[26] In *Thus Spake Zarathustra*, for example, he includes a section "On War and Warriors" in which the prophet adjures his followers that:

> *'Your enemy shall ye seek; your war shall you wage, and for the sake of your thoughts! And if your thoughts succumb, your honesty* (*Redlichkeit*) shall still shout triumph thereby!' (*Zarathustra*, sec.10)[27]

[24] Trans. Brittain Smith, in *The Complete Works of Friedrich Nietzsche*, vol. V, Stanford University Press; all translations of Nietzsche herein are from that series (abbreviated as CW).
[25] Nietzsche, CW, IX.
[26] I am indebted to Utku Cansu for recalling the quotations in this paragraph to my attention and have learned much from him as to how to think about Nietzsche in this regard.
[27] Nietzsche, *Thus Spake Zarathustra*, trans. Thomas Common (Blacksburg, VA: Virginia Tech, 2001), sec. 10, p.28, modified by Melissa Lane to translate *Redlichkeit* as 'honesty' rather than 'uprightness': on the significance of this word in Nietzsche, see Melissa Lane, 'Honesty as the Best Policy: Nietzsche on *Redlichkeit* and the Contrast between Stoic

Thus enmity and war – which to be sure, Nietzsche sometimes discussed in literal and material terms – could also be a figurative way of talking about self-overcoming in the intellectual sphere. This was something that Nietzsche attributed to Plato himself, when he portrays him in 'Homer's Contest' as saying:

> *'"Look: I, too, can do what my great rivals can; yes, I can do it better than them".'*[28]

Yet Plato's self-overcoming was not purely internalized in Nietzsche's eyes. On the contrary, Nietzsche saw the philosophical drive in which Plato shared as having had a tyrannical dimension directed toward other people – in contrast to Rousseau, who had followed the Greeks themselves in drawing a sharp distinction between lawgivers and tyrants. Consider this passage, from *Human, All Too Human*:

> *'These philosophers…each of them was a contentious, violent, tyrant. They were tyrants, hence what every Greek wanted to be and what everyone was whenever he could be. Perhaps only Solon was an exception; in his poems he tells how he scorned personal tyranny. But he did it out of love for his work, for his setting down of laws; and to be a lawgiver is a more sublimated form of tyranny. Parmenides, too, set down laws, as Pythagoras and Empedocles probably did as well; Anaximander founded a city. Plato was the incarnate desire to become the supreme philosophical giver of laws and founder of states; he seems to have suffered terribly from the nonfulfillment of his nature, and toward the end his soul was filled with the blackest bile'.*[29]

'To be a lawgiver is a more sublimated form of tyranny': here Nietzsche is both blurring the political line between lawgiver and tyrant, and more broadly, blurring the line between philosophical legislation and political founding: in referring to Plato as embodying the 'desire to become the supreme philosophical giver of laws and founder of states'). Indeed, Nietzsche had previously compared Plato to Solon and Lycurgus – even though the philosopher had never officially acted as a political lawgiver, albeit that he had reportedly been invited to do so by the city of Megalopolis:

> '*Plato's legislative mission is at the center of what he wills. He measures himself with Solon and Lycurgus…*' ('Introduction to the study of the Platonic Dialogues')[30]

Nietzsche also called attention to Plato's 'thoroughgoing political purpose' ('fertiges politisches Ziel') at the age of forty-one or forty-two, when he founded the Academy in order to educate those who could work with him to 'found the new state' ('es fehlt nur an Menschen, die er zu Philosophen macht, damit sie einmal mit ihm den neuen Staat gründen').[31]

The potentially material implications of Plato's philosophical legislation were envisaged by Nietzsche in an extraordinary passage in Nietzsche's *Dawn*:[32]

> *'… is it any wonder if, filled with the 'political drive' as he [Plato] himself says he was, he attempted three times to settle in Sicily, where at that time a Pan-Hellenic Mediterranean city seemed to be in*

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and Epicurean Strategies of the Self', in *Histories of Postmodernism,* edited by Mark Bevir, Jill Hargis, and Sara Rushing, 25-51 (NY: Routledge, 2007).

[28] Nietzsche, 'Homer's Contest', in Nietzsche, *On the Genealogy of Morality and Other Writings*, ed. Keith Ansell-Pearson, trans. Carol Diethe, 3rd edn, 177-84 (Cambridge: Cambridge University Press, 2017), at 182.

[29] Nietzsche, *Human, All Too* Human, trans. Gary J. Handwerk, *Complete Works* IV (1995). The same text continues later: '…on the whole, contending dogmas and skepticism now speak too powerfully, too loudly. The period of the tyrants of the spirit is over. In the spheres of higher culture, admittedly, there must always be some form of mastery, but this mastery lies henceforth in the hands of the *oligarchs of the spirit*. …'.

[30] Nietzsche, in Basel lectures, 1871-2: 'als Mittelpunkt des platonischen Wollens ist seine legislatorische Mission zu begreifen', trans. by students in Cambridge University reading group and Princeton University seminars.

[31] Nietzsche, "Einleitung in das Studium der platonischen Dialoge," lecture course, Basel, Winter 1871-72, Winter 1873-74, Summer 1876, in *Werke: Kritische Gesamtausgabe*, ed. Giorgio Colli and Mazzino Montinari, pt. 2, vol. 4, *Vorlesungsaufzeichnungen (WS 1871/72-WS 1874/75),* ed. Fritz Bornmann and Mario Carpitella (Berlin: Walter de Gruyter, 1995), 211-362. See also ibid., 54, 48.

[32] Nietzsche, *Daybreak* [= *Dawn*] Book V, no. 496, as trans. by R.J. Hollingdale (Cambridge: Cambridge University Press, 1982), and as quoted in Melissa Lane, *Plato's Progeny: how Plato and Socrates still captivate the modern mind* (London: Duckworth, 2001).

process of formation? In this city, and with its help, Plato intended to do for all the Greeks what Mohammed later did for his Arabs: to determine customs in things great and small and especially to regulate everyone's day-to-day mode of life. His ideas were as surely practical as those of Mohammed were practical: after all, far more incredible ideas, those of Christianity, have proved practical! A couple of accidents more and a couple of other accidents fewer - and the world would have seen the Platonisation of the European south...'

Back in his Basel lectures, Nietzsche argued that Plato set himself 'as a model to be imitated' by future founder-lawgivers. But again, the question arises: as a material political actor, or as a spiritual and intellectual lawgiver, or both? For his part, Nietzsche seems to have imitated Plato not by actually founding any cities, but through his writings: in his portrayal of Zarathustra and his repeated calls for 'legislators of the future'.[33] Indeed, as Rüdiger Safranski has argued in his intellectual biography of Nietzsche,[34] Nietzsche especially at the end of his life started identifying with the ancient philosophers he had studied in his youth and lectured on in Basel: Plato was among these, characterized by Nietzsche at one point as a combination of Socrates, Pythagoras and Lycurgus: one of them a philosopher who had not even written; one a philosopher who also founded cities; one a lawgiver.

In his own writing, Nietzsche employs several of the means that we have seen in earlier authors, for example, calling for those rare figures who could internalize and convey laws in a way resonant with the idea of writing in the hearts, or making the laws otherwise incarnate: e.g., in a fragment from the period of *Thus Spoke Zarathustra*, remarking (7[104]) on 'people who are walking legislation'.[35] Through the figure of Zarathustra, he engaged in a kind of discursive lawgiving, but one which is also deferred in large part to the future – to the apostrophizing of those 'legislators of the future' invoked so often in his work. Perhaps it was his very consciousness of the tension between the conservative and revolutionary sides of lawgiving that imposed this deferral. Or perhaps the creation of an educational politics, legislating to shape a culture and society through the power of poetry and myth, was more fundamentally important in his eyes than any particular political movement.[36]

Conclusion

If '[p]olitics is a spectrum of the possibilities of power', as I have argued elsewhere,[37] we need to interrogate just where, in realising those possibilities, the boundary between persuasion and force might lie. Having in this lecture explored the paradoxes that cluster around that boundary as a matter of political thought, next week my final lecture in this series will address it in the history of actual political revolutions. But for tonight, we may conclude with a remark of Nietzsche's, about the purpose for which lawgivers must act and the imperatives – political, but not necessarily ethical – that arise as a result:

> 'One must desire the means when one desires the end — this political insight was clear in the mind of all legislators'.[38]

[33] E.g. *Will to Power* 132, as translated and quoted by Ruth Abbey and Fredrick Appel, 'Nietzsche and the Will to Politics'. *The Review of Politics* 60, no. 1 (1998): 83–114, at 99.
Note there also, as quoted on 91, BGAE 211: '*Actual philosophers* ... are commanders and law-givers; they say "it shall be!" It is they who determine the Wherefore and Whither of Mankind.... They reach for the future with creative hand...Their "knowing" is creating, their creating is law-giving, their will to truth—is—*will to power*.—Are there such philosophers today? Have there been such philosophers? *Must* there not be such philosophers?'.
[34] Rüdiger Safranski, *Nietzsche: A Philosophical Biography*, trans. Shelley Frisch (NY: W.W. Norton, 2002), 304-16.
[35] In *Unpublished Fragments from the Period of* Thus Spoke Zarathustra (Summer 1882 – Winter 1883/84), trans. Paul S. Loeb and David F. Tinsley (Stanford: Stanford University Press, 2019), at 248.
[36] I adapt this sentence from Melissa Lane, 'The Platonic Politics of the George Circle: A Reconsideration,' 133-63, in Melissa S. Lane and Martin A. Ruehl (eds.), *A Poet's Reich: Politics and Culture in the George Kreis*, Camden House (an imprint of Boydell & Brewer), 2011.
[37] Lane, *Greek and Roman Political Ideas* (Penguin, 2014) = *The Birth of Politics* (Princeton University Press, 2015).
[38] KSA 13 15[45] 1888 WP 142, as trans. in Frank Cameron and Don Dombowsky (eds). *Political Writings of Friedrich Nietzsche: An Edited Anthology* (Palgrave Macmillan: 2008), 291.

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