

# The absent philosopher-prince

## Thinking political philosophy with Olympe de Gouges

**Ariella Azoulay**

Since the publication of Olivier Blanc's biography of Olympe de Gouges and the first collection of her texts, compiled and edited by Benoîte Groult,<sup>1</sup> dozens of articles on various aspects of de Gouges's work have been published. All of them share the assumption that the author of this work was a fascinating figure of the French Revolution who left behind an unprecedented body of feminine political writing and theatrical work. At the same time, paradoxically, many of these studies also share the assumption that de Gouges was a conservative thinker, in terms both of her politics generally and of her feminism.<sup>2</sup> She is represented as a woman trapped in the accepted political or philosophical positions of her times. Her declared affinity with Rousseau – although she also insisted on the distance between them<sup>3</sup> – has been a major factor in the way her work has been read. Indeed, the central categories deployed in discussions of her writings are informed by this affinity, a fact which prevents commentators from viewing de Gouges as an independent political thinker who did not conform to the conceptual system of most of her contemporaries.<sup>4</sup>

My own interest in Olympe de Gouges is not limited to the interpretation of the writings of a past thinker. It is part of an ongoing endeavour to outline a civil political thought, mostly through reading women's texts as an alternative to a modern political thinking that is focused on rule and turns the political into a judgement of taste. But I shall not expound on this here. However, my reading of her writings here aims not only at reconstructing what Olympe de Gouges wrote, but also what the writings contain potentially, derived from de Gouges' specific position in the discourses of her time – the position of a woman who, like her female peers, struggled with the Ancien Régime and did not become a citizen of the new one. To this end, I shall first dwell on the triangle formed by the writings of de Gouges, Arendt and Rousseau. Second, through

a discussion of de Gouges's defence of the king, of her play *The Slavery of the Blacks*<sup>5</sup> and of her novel *The Philosopher-Prince*,<sup>6</sup> I shall present the main precepts of Olympe de Gouges's political thought.

### **The governed population and the ruling power**

The common struggle of women and men in the Ancien Régime nevertheless led, as we know, to the creation of the modern citizen shaped by the denial of political rights to women. In the two years between the storming of the Bastille and the beheading of the king, the men who had become citizens already constituted a part of a new regime that had not so much removed its predecessor as tried to contain it in many ways. The 'Declaration of Human and Civil Rights' clearly shows this: the men who had ventured against the previous regime were soon enough recruited to justify the new one that they had established. The declaration composed by de Gouges, The 'Declaration of the Rights of Women and Female Citizen', like other texts by her and her female contemporaries, bears the traces of a different political discourse. This difference stems first and foremost from a gap between, on the one hand, the whole population of those who were governed and, on the other, the body politic conceived as comprising only citizens – a gap that disappeared without a trace in the language and thinking of most of her contemporaries, but which, as I hope to show, is presented in de Gouges's writings in various forms.<sup>7</sup>

Of course, challenges to traditional or hegemonic modern political thinking are not only to be found in the writings of women. Hannah Arendt, who dealt explicitly with the limits and limitations of traditional political thought, and hardly read works by female philosophers, drew out a new horizon for political thought from the margins of works by male philosophers. Arendt dwelt on critical discussions of modern

political thought in the writings of Locke, Kant, Hegel and Marx. This horizon, as Arendt's female readers know full well, opens to the gaze at moments when philosophy thinks *action* and assumes human plurality – in other words, when the gap between the governed population and the ruling power and what is considered as the body politic is not erased. Arendt did not see this horizon in Rousseau. What she found in his works was the philosophical foundation for Robespierre, and Arendt considered him the one responsible, almost directly, for transforming the 'political' into the 'social' during the French Revolution:

The shift from the republic to the people meant that the enduring unity of the future political body was guaranteed not in the worldly institutions which this people had in common, but in the will of the people themselves. The outstanding quality of this popular will as *volonté générale* was its unanimity, and when Robespierre constantly referred to 'public opinion', he meant by it the unanimity of the general will; he did not think of an opinion upon which many publicly were in agreement.<sup>8</sup>

In *On Revolution* Arendt argued that Robespierre's Reign of Terror was based on transforming the concern for the republic into a concern for the people, and that the origin of this shift is to be found in Rousseau. The Jacobins, she wrote, did not share with the Girondins their concern for forms of governance, institutions and constitutions. Instead, they trusted the natural benevolence of class. Arendt's criticisms of the Jacobins and Robespierre often coincide with those of de Gouges, to be found, for example, in the text that cost her her life, in which she suggested opening to referendum the issue of the proper form of governance.<sup>9</sup> Nevertheless, in spite of de Gouges's explicit criticism of the place and role Rousseau assigns to women, and in spite of the distance she wished to create between his works and hers, she would have contested Arendt's criticism of Rousseau had she read it. In one of de Gouges's piercing texts against Robespierre, she criticized him for trying to rule through ignorance, chiding him for his attitude towards philosophers: 'Tell me Maximilian', she wrote in a pamphlet in November 1792, 'why, in the convention, were you so wary of intellectuals? Why did we see you roaring at the electoral assembly against the philosophers to whom we owe the downfall of tyranny, who are the restorers of governments and the true foundation of the world?'<sup>10</sup> De Gouges refers here not only to contemporary philosophers but also to those thinkers whose writings foretold the end of a regime of which citizens are not a part, first and foremost among them Rousseau. However, it was not

the presence of the philosopher-king that de Gouges wished to see at the heart of the political arena, but rather his absence, or a present-absence as I hope to show below in relation to de Gouges's only novel, *The Philosopher-King*.

### Split in the social contract

At the time of de Gouges's writing, Rousseau's total identification with Robespierre had not yet become as obvious as it was for Arendt. De Gouges harshly criticized the Rousseauist 'general will' and its metamorphosis in the cult, created by Robespierre, of the 'Supreme Being'. Still, she identified the possibility of reading in Rousseau's text an opposition to Robespierre's interpretation and to state terror. True, de Gouges herself did not explicitly produce such a reading of Rousseau's *Social Contract*, although it is necessary in order to reconstruct the philosophical tradition within and against which de Gouges insists on thinking. I shall therefore propose a reading of Rousseau's *Social Contract* as constructed on the basis of two contradictory pacts. The blurring of these two contradictory pacts enabled Robespierre to construct a reign of terror while remaining a Rousseauist. But, I shall argue, their separation is a necessary, although not sufficient, condition for the alternative political thinking that may be detected in the writings of both Olympe de Gouges and Arendt, and within which I wish to pursue my own work.

Rousseau's *Social Contract* proposes not one but two interrelated pacts. The first pact is that upon which the citizens had agreed, being aware of its clauses while 'signing' it. The other, disguised as part of the first, as only another clause within the same contract, actually breaches and violates its foundation. The two pacts differ in five ways: in what is being exchanged; in the agreement of the citizens; in the end (telos) of the social contract (preservation of the body politic, the life of the parties to the contract or the state or the regime); in the source of sovereignty; and in the principle that determines men's choice ('greater good' or 'lesser evil').

The first pact is outlined in Rousseau's description of the passage from the state of nature to a social order:

This transition from the state of nature to the civil state produces a most remarkable change in man by substituting justice for instinct in his conduct and endowing his actions with the morality they previously lacked. Only then, when the voice of duty succeeds physical impulsion and right succeeds appetite, does man, who until then had looked

only to himself, see himself forced to act on other principles, and to consult his reason before listening to his inclinations.<sup>11</sup>

This passage is in fact the transformation of man into citizen. Rousseau enumerates the great advantages man gains ‘in return’ while depriving himself of several advantages endowed by nature. According to Rousseau, man’s faculties are developed, his ideas enlarged, his sentiments ennobled, his entire soul elevated: ‘what man loses by the social contract is his natural freedom and an unlimited right to everything that tempts him and he can reach; what he gains is civil freedom and property in everything he possesses.’<sup>12</sup> This impressive list of advantages should justify men’s choice to alienate their freedom. They do it for their own utility, Rousseau writes, and this list is meant to make us understand why. Instead of their natural liberty men gain political and moral freedom, and their simple possessions become legalized. This choice, so it seems, is a reasonable one, based on a principle of ‘greater good’. Man had liberty and property in the state of nature, and now, in the social order, he continues to benefit from both but to a higher degree. What the social pact actually requires the associates to alienate for the sake of the whole community is ‘only that portion of his *power*, his *goods*, his *freedom*, which it is important for the community to be able to use’.<sup>13</sup> The citizens, as Rousseau stresses time and again throughout *The Social Contract*, had agreed upon alienating *only* three of their rights: power, good and freedom, and nothing else.

But this is only part of the story, or just one story. For another story emerges from Rousseau’s description of the context in which this choice should be made:

I assume that men having reached the point where the obstacles that interfere with their preservation in the state of nature prevail by their resistance over the forces which each individual can muster to maintain himself in that state. Then that primitive state can no longer subsist, and humankind would perish if it did not change its way of being.<sup>14</sup>

At a certain historical moment, men’s preservation in the state of nature comes under threat. Contrary to some other philosophers of the social contract, Rousseau does not identify the state of nature with the war of all against all. He speaks instead of a threat hovering above the state of nature due to some *historical* factors that he, however, does not specify. In this story, too, the choice to be made sounds reasonable. But unlike the first story it is based on a different principle – that of ‘lesser evil’. Men are required to choose giving up what they naturally have or else be

coerced into doing so. Forcibly losing all they had in the state of nature and subjecting themselves to a political regime would be evil – choosing to do so from their own will would be the lesser evil.

But clearly from that moment on, we can no longer speak of agreement and choice. *The Social Contract* is, as Rousseau clearly writes, an effort ‘to find a form of association that will defend and protect the person and goods of each associate with the full common force, and by means of which each, uniting with all, nevertheless obey only himself and remain as free as before ... This is the fundamental problem to which the social contract provides the solution.’<sup>15</sup> The outside threat is so ponderous that people have no choice but to unite and submit themselves to a ruling power *as if it were* their own choice, obeying their own voice.

The first story, of the transition from man to citizen, from the state of nature into the social order, is ahistorical. Nothing in the external circumstances is identified as obliging men to take a decision, and their decision is an expression of free choice between two comparable options. The story of the second contract is delineated in more concrete circumstances, such as have forced men to choose between an unknown threat, about which only the sovereign possesses precise information – quite familiar to us, isn’t it? – and their subjugation to a political order that, in return, will protect them from this threat. In the second contract, they are prevented from formulating the options of their choice. The sovereign presents them with a catastrophic threat and its proposed removal – a solution cast in the mould of ‘the lesser evil’. ‘The lesser evil’, framed and formulated by the sovereign, is not one option of several, but rather a single solution to a single problem, and if the associates of the contract will not choose it willingly, it will be forced upon them anyway, and at a higher price. These two stories are not independent of each other, or totally separate. Indeed, they are seamed together in such a way that the shift from one to the other is hardly perceptible. But these are not nuances or different versions of the same thing; they are two distinct models. The intrusion of a threat into the social contract, such that only the sovereign can fully know its details, assess its scope and suggest ways to eliminate it, changes the ‘rules of the game’ of the political association and marks the difference between the two contracts.

What was at stake in the first social contract, its inviolable sanctity, is the preservation of the body politic upon which all citizens had agreed: ‘the body politic or the sovereign, since it owes its being solely to the sanctity of the contract, can never oblige itself, even

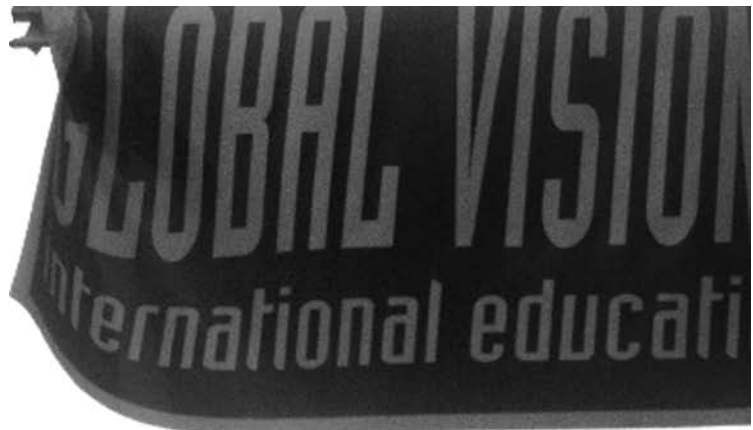
toward another, to anything that detracts from that original act, such as to alienate any part of itself or to subject itself to another Sovereign.<sup>16</sup> Sovereignty is the exercise of the general will. The general will can never be alienated and should always remain the collective being that gathers together and decides for itself and not through any representatives: 'Power can be transferred, but not will.'<sup>17</sup> In relation to the first pact, then, it is clear that the Sovereign alone – the citizens themselves – judges the importance of the services he is required to render the state.

But all of a sudden, midway through the book, Rousseau introduces a new right, not previously discussed, not included in the agreed contract presented earlier in the book: the 'Right of Life and Death'. Although this is a new right in the context of *The Social Contract*, it is a very old one outside it, well known as the right of the Sovereign in the old sense of the term. With the appearance of this right in the text, the declared end (*telos*) of the social contract – to preserve the body politic – is replaced by the more urgent need to preserve the life of the 'contracting parties'. And it is clearly written, in the old language of the pre-social contract era, that it is not only the Sovereign – now called the Prince – who has the right to take life if necessary; it is the citizen's duty to give his life:

whoever wants to preserve his life at the expense of others ought also to give it up for them when necessary. Now the citizen is no longer judge of the danger the law wills him to risk, and when the Prince has said to him, it is expedient to the State that you die, he ought to die; since it is only on this condition that he has lived in security until then, and his life is no longer only a bounty of nature, but a conditional gift of the State.<sup>18</sup>

Under a threat to their lives, a threat about which they know nothing, the citizens' preference for the 'lesser evil' makes way for the ethic of the exceptional regarding the lives of others, an ethic conceived and constructed, then, as the citizens' own free will.

Neither Rousseau, nor Hobbes before him,<sup>19</sup> ever questioned the sovereign's right over the life of the subjects, but this questioning is at the heart of de



Gouges's philosophy. One example of this is evident in de Gouges's proposal to institute a female national guard. These women will convince the warring men that the war they are fighting contradicts the essence of their citizenship as a political association with fellows. In the sovereign who authorizes them to take lives – both their own and others'; it is all the same to her – de Gouges sees a tyrant, and regards the warring men as traitors to their fellow citizens: 'It is my intention to write a play so as to ask all the soldiers involved in the war to show fraternity towards the interests of people of other nations, they have nothing to gain from the battles, they are getting killed for the sake of their tyrants!'<sup>20</sup>

It is tempting – and to a certain extent also correct – to regard de Gouges as a harbinger of the well-

established position of critic of the military aspect of democratic republican regimes. But seeing her in this way, discerning a continuity between her criticism and what nowadays is understood as a leftist criticism of a certain form of political power, is to fail to see the revolutionary moment of her time as the moment at which new possibilities of political communities were created, mistakenly identifying it solely with the transition of sovereignty from the monarch to the people. Reducing de Gouges's position to 'opposition to power' takes for granted the subjugation of the political association to a ruling pole as well as the fact that political association is based upon the division of the governed population (within the borders of a state) into citizens and non-citizens (this split is the distinction of passive and active citizens according to Sieyès). Further, it takes it for granted – as 'natural' – the recruitment of citizens to abandon or take the lives of others who are governed without being citizens. But this is precisely what reading de Gouges enables us to contest. The creation of the third estate, based on the differentiation between passive and active citizens and the establishment of non-monarchical institutions of governance (such as the national assembly and the people's army), did not satisfy the revolutionary demands of women such as Olympe de Gouges prior to the Revolution. This is why, I propose, we should see her writings as a criticism not merely of the mode of action of governing institutions but of their actual construction as such, as well as a last attempt to envision differently the nature of political association and its limits. I wish therefore to reconstruct not only de Gouges's unique outlook, but also that other possibility upon which de Gouges insisted until her dying day: to imagine political life not based upon the taking of life.

### **Sovereignty devoid of its right over lives**

I shall try to reconstruct the way in which de Gouges's conceived political association and her vision of sovereignty devoid of its right over lives through a reading of two of her texts. The first is a play written in 1782, seven years before the outbreak of the Revolution, in which the lives of two black slaves – a man and a woman – are at stake. The second, a political pamphlet, concerns the life of king Louis XVI, which is also at stake. The first deals with the authority of the king vested in his deputy, governor of the island, to take the lives of slaves and punish them for murdering a white guard who abused them. The second looks at the authority of the national assembly to take the life of the king. By juxtaposing these two texts and pointing to the matter common to both – contesting the

sovereign's right to take life and a reconceptualizing of the source of sovereign power – I hope to transcend the usual narrow framework of commentary on de Gouges to discuss de Gouges's political horizon as a constitutional monarchist and as a limited feminist. I contend that the king's trial was for de Gouges a singular, formative moment at which it was still possible to block the emerging continuity between the new and old regimes and to prevent the taking of life from becoming the basic principle of sovereignty.

In the text 'Olympe de Gouges, Défenseur officieux de Louis Capet',<sup>21</sup> de Gouges serves as counsel for the king's defence, through a brilliant analysis of the relation between the old and new power, attempting to tip the scales and ward off any continuity: 'I think that Louis made many mistakes as a king; but when he is bereft of this title of his that has been taken from him, he ceases to be guilty in the eyes of the republic.'<sup>22</sup> Here de Gouges distinguishes very clearly between the two bodies of the king – the king's position and the king himself – and seeks, analogously, to distinguish between the mistakes ascribed to him.

After years in which the king's physical body had been out of public sight and certainly away from political space, the Revolution wished to bring him back onstage and expose his truth. In view of the chain of events during the first two years of the Revolution, nothing, it seems, could have satisfied the revolutionary urge to see the king's truth short of his naked body beheaded by the guillotine. De Gouges, however, proposes a different relation between the two bodies of the king, divorced from the category of truth. This is not to take the king's mistakes lightly. She finds him guilty of them: 'He is weak, he has been misled: he has misled us, he himself has made mistakes: here in two words is his trial.' De Gouges even thinks that the king should pay a price for these mistakes. However, the worst mistake ascribed to him – being the king – is not one for which he alone is responsible: 'One of the greatest crimes of Louis Capet, you will agree, was that of being born king at a time when philosophy was quietly preparing the foundations of the republic.'<sup>23</sup> Even had he possessed nobler traits than he did, she reminds her readers, when the gates of enlightenment were opened there was no longer any place for his rule, and his deeds became patently illegal.

These claims, intended to defend the king, are one example of de Gouges's consistent support, from the first to the last of her works, of all those whom the law has rendered illegal: the illegitimate child,<sup>24</sup> the woman, the prostitute, the poor, the slave and now the king. She does not seek to show mercy for the

king or for any of the above; nor does she seek an exceptional gesture of pardon. She asks of him who has replaced the sovereign – and whom she insists on seeing as a party to political association – to suspend the law. Not suspension as we know it from Schmitt and Agamben; rather, its opposite. In the case of the king de Gouges identifies an exceptional case, giving grounds for the suspension of the law, such that the one damaged by this law be treated differently, his status regulated and, if need be, the law re-legislated. For, as de Gouges clearly states, Louis XVI does not bear exclusive responsibility for his most heinous deed. The new law has turned him into an accomplice, ‘His forefathers overfilled the cup of France’s evils; unfortunately for him, the goblet cracked while held in his hands, and all its splinters came raining down upon his head.’<sup>25</sup> But it was not only Louis’s forefathers, kings themselves, who had sinned. Our forefathers also, the subjects of the previous kings, had sinned in granting the king their recognition and allowing his rule. For de Gouges, this historical moment is the decisive test of political association and crucial in the formation of the constituent principle of the new regime as either a continuation of the old or as new and totally distinct. Had it chosen not to behead the king, the new regime would have placed at its centre an inclusive pact and the sovereign’s obligation to care for his fellow citizens – including a deposed king – rather than establishing itself, and its relation to its subjects, on the foundation of its authority to take their lives. The new regime failed this test and, like its predecessor, sanctified itself in the blood of those whose happiness it should have tended.

De Gouges in fact proposed to transform the suspension of the law into an opportunity to examine the damages it was wreaking. But the suspension of the law is not the abandonment of those for the sake of whom it was suspended, not an abrogation of their defence by the sovereign. On the contrary, this suspension entrusts these people to the protection of the sovereign. Striving to forestall the new sovereign’s execution of the death sentence against the king, she claims: ‘Beheading a king will not suffice to kill him; he lives on long after his death; but he truly dies when he survives his fall.’<sup>26</sup> The first half of the sentence paraphrases the cry ‘The king is dead, long live the king!’, and points to the relative ease with which the continuity of power is maintained with the people’s support. The second half identifies what may be the one and only possibility for the creation of a true break in the continuity of a monarchy: allowing the king to survive under the power that has usurped

him while enabling him to acknowledge this power and recognize its legitimacy as an expression of the new civil association. De Gouges thus draws a line between herself and those who were about to vote for the king’s beheading. They sought a new start of one kind only – absolute and total – and, to this end, would behead the king with a single neat cut. De Gouges, on the other hand, warned against the transformation of the authority to take life into a constituent principle of the regime, foretelling the reign of terror under which every body that threatened the unity of power and sovereignty was beheaded.

### Not to take life

Almost a decade before the king’s beheading became an item on the public agenda and the breakout of the Haitian revolution,<sup>27</sup> seven years before the storming of the Bastille, de Gouges wrote a play, *The Slavery of the Blacks*. In the background of the plot one reads how, step by step, a governed population negates the sovereign’s authority to take life through their resistance to being governed unequally. The play shows, that is, how the sovereign’s authority to take life is maintained through this differential rule and how it is abolished once the association of the citizens with the non-citizens undermines the differential rule.

The plot centres on a black slave, Zamor, who has killed his master’s white guard in response to the latter’s request that Zamor attack Mirza, his beloved (a slave like himself), for having refused the guard’s overtures.<sup>28</sup> After Zamor commits murder, he and Mirza escape. On their way they rescue a French couple whose boat has sunk. The grateful couple propose to defend them. For the most part, the play deals with the question of whether they will be executed or spared. Sophie, the Frenchwoman rescued by Zamor, the governor’s wife, slaves, men and women, servants and apprentices and even a military officer, all gradually come together to save Zamor and Mirza from a band of armed men who, led by a judge, are hunting them down to execute them for their crime. The governor wavers between the two newly polarized factions created in the play – the men demanding execution and the non-citizens (women, blacks and deserters) who cross the lines and join the demand to free the two slaves. The judge calls on the governor to reach a decision:

They must be put to death at once, more especially as two Europeans have incited a general revolt among the slaves. They depicted your commander as a monster. The slaves listened avidly to these seditious speeches, and all have promised not to execute the orders that they were given.<sup>29</sup>

The play explicitly calls for the rule of law as a necessary condition for freedom but acknowledges the limits of the law. It justifies disobedience to an obviously illegal law, the legislation of which was made possible under circumstances of differential rule. The play presents Zamor not purely from the perspective of the law that judges his deed, but rather in the context of a reconsideration of the regime that outlawed him in the first place, and abandoned him to injuries that would not be inflicted upon white citizens.<sup>30</sup> According to Marie-Pierre Le Hir's interpretation, the actions of the women working to save the two slaves are for de Gouges invalid if they are not sanctioned by the sovereign.<sup>31</sup> On my reading, quite the opposite is the case. The necessity to take the slaves' lives was unanimously accepted among the governing group of governed. When the governor rules that this is what is to be done, his decision would reconfirm that upon which they – namely one group of governed whose agreement is preserved by excluding another group of governed from the circle of agreement – are agreed. The decision *not to take* their lives, on the other hand, is an effect of the governed's contestation of the dividing line between them as governed. This contestation annuls any previous agreement between the sovereign and one group of the governed, an agreement that constituted the basis for abandoning the lives of another group. The decision *not to take lives* having been taken, the sovereign and the representatives of the governing–governed group cannot continue to confirm their previous agreement about whose life may be taken. The play ends not only with the governor's preventing the execution of the slaves, but also with his calling to the residents to come out and celebrate the opening of a new political horizon as the different governed parties associate with each other and refuse to be ruled differentially:

Residents, join me and let us serve these miserable beings with our power. Europe has donned a new face. All peoples tend towards one and the same liberty ... The King of France, called Beloved Louis, is a friend of the people, he no longer desires an unequal division amongst the governed who are all his children. He, conjointly with the nation, no longer wishes for the governed to be executed. The constant tyranny of rulers has committed crimes. And if ever the French Spirit shall prove the keenness of its humaneness and outlook, this will happen when such a noble revolution takes place.<sup>32</sup>

Although de Gouges revised this play several times, one year, even three years, after the French Revolution, she always kept the anticipation of a revolution that did not take place: the joining together of a heterogeneous

corpus of the governed – women, slaves and men as well – who refuse to recognize any law or authority which abandons their lives or enlists them to take others' lives.

The difference between the old and the new regimes now gains a new meaning that is not limited to the ruling sphere and its institutions, but to the way they relate to the plane of being governed and the alliance binding those governed. Neither monarchy nor republic as a form of governance suffices to describe a real transition from one regime to another. The agreement among the members of a homogeneous governing group of governed which characterized the Ancien Régime – the agreement on the right of the sovereign and its proxies to take life – continues to characterize the new regime as well, even if the composition of this governing group has radically changed.

Towards the end of the *The Slavery of the Blacks* the governor deliberates, musing over power:

Sovereigns render their people happy: every citizen is free under a good master, and in this country of slavery one must be barbaric in spite of oneself. Hey! How can I help abandoning myself to these reflections, when the voice of humanity cries out from the bottom of my heart: 'Be kind and sensitive to the cries of the wretched'. I know that my opinion must displease you: Europe, however, takes care to justify it and I dare hope that long there will no longer be any slaves. O Louis!<sup>33</sup>



Unlike interpretations of the play that draw an analogy between the governor and the king, the fictional setting and France, I propose a straightforward reading of the governor's words. The governor addresses an absent king whose absence obliges him to refrain from taking Zamor's life, to pardon Zamor for his crime and to change the law creating the hothouse that in fact nurtured this crime. As the judge in the play demands, Zamor's execution would have been an example to the people of what would happen to anyone who ever dared to challenge the ruling power, its laws and its single, unified, irrefutable sovereignty. In this play, as in the political pamphlet 'The Three Ballot Boxes', that landed de Gouges in prison, she attempts to turn the people's uprising against injustices into a lesson for tyrants, 'that to win their revolution will be a lesson to tyrants and not to the people'.<sup>34</sup>

### Rendering the taking of life patently illegal

In her text in defence of the king, de Gouges still believed that it would be possible to prevent the constitution of a unified sovereign power and propose, instead, a different structure. However, in this text she contends that the goal of the new regime, too, is to preserve its sovereignty and its unity. It is the very idea that the people should choose a regime once and for all – be it republican, federalist, monarchical or democratic – such that this regime constructs itself as irrefutable that motivates de Gouges to address the allegedly republican sovereign as if he were merely one of an unbroken lineage of tyrants: 'Oh tyrants of the earth, let a tremble engulf you.'<sup>35</sup>

In her address to the king, written after the flight from his Paris palace, de Gouges comments on the nature of any legitimate relation between the sovereign and the nation: 'You have learned that the king's ruling power is worth nothing when it does not *originate* in the supreme power supported by the people's trust.'<sup>36</sup> Beyond the chronology of concrete events that it is possible to link in various differing causal relations to explain the fall of the king, the monarchy disintegrated, according to de Gouges, because the people deserted the king. De Gouges emphasizes not the source of sovereignty but rather the capacity of the people, of the governed community – men and women alike – to lend authority to sovereignty, even when it does not originate in the nation. In other words, in both a monarchy and a republic the legitimacy of the sovereign depends on the people. When the king was deposed, the nation became the origin of sovereignty that, however, is not ensured once and for all, but rather requires incessant

renewal of its validity by the nation. Reading the third clause of de Gouges's 'Declaration of the Rights of Woman and the Female Citizen' in this light, it is clear that for her the nation is not an abstract myth or ideal but rather a concrete aggregate of the governed who comprise it – women, men, whites and blacks. Moreover, the sovereignty of those who have declared themselves the nation's representatives 'is worthless' unless the women acknowledge it. Accordingly, as de Gouges wrote in clause 16 of her 'Declaration', 'The constitution is cancelled and null if most of the individuals who comprise the nation have not taken part in its composition.'<sup>37</sup> Addressing the king in this text ('Will there or won't there be a king?'), she affirms what he needs to regain his rule: the people's renewed recognition of his rule. She acknowledges the king's mistakes, criticizes his deeds and his discretion, but is in no hurry to join those who wish to relinquish his rule altogether. She does not spare the enlightened revolutionaries either, but concludes that their great mistake, equivalent in her view to that of the king, was their exclusion of women and slaves. However, de Gouges affirms the potential embodied in the declaration that served as a foundation for the constitution for restoring the rights of women and slaves. She is therefore not in a rush to be rid of the constitution either, which she describes as 'a masterpiece'. Calling on the king to return to the people and on the people to return to him, she warns against the 'unthinkable' destruction: 'Should such a glorious creation, a source of light that has become a beacon for the world, be extinguished so as to ignite the torches of clashes? No, honourable sirs, a masterpiece such as this should not ever be allowed to rot away.'<sup>38</sup>

### Altering sovereignty

To classify de Gouges as a monarchist is to miss her argument about the king's salvation – the salvation of the possibility of women reuniting with men as equal participants in the political act, thus restoring the possibility of circumscribing man's rule. De Gouges did not seek the preservation of the monarchy but rather the revival of the kingdom. Within the kingdom she wished to preserve the function of the king but only while reorganizing the structure of sovereignty. Unlike most of the revolutionaries of her generation, de Gouges did not propose to transfer sovereignty from the king to the people. Neither did she propose, however, to leave it in the hands of the king as a unified sovereignty.

A sketch of de Gouges's alternative conception of sovereignty emerges from her novel *The Philosopher-*



*Prince*. The novel tells of a journey through the kingdom of reason, imagination and power. It is an adventurous and brilliant novel, full of humour and philosophical insights comparable to Voltaire's *Candide*, published four decades earlier. At the end of his journey, the protagonist Almoladin describes what Louis XVI should have done to prevent the massive bloodshed that occurred during and following the French Revolution. Very little has been written about this novel beyond its being mentioned in passing in works that deal with other of de Gouges's texts.<sup>39</sup> The limited discussion of it that there is totally ignores its radical proposal for a newly articulated conception of sovereignty and presents the novel as conservative, especially in relation to the position of women.<sup>40</sup> (On its back cover even the publisher declares: 'a very conventional ending'.)

Almoladin, the philosopher-prince of the title, travels through several kingdoms, studying how political relations between human beings and the sovereign are managed in each, and how relations between the sovereign and his subjects are conducted. Having achieved glory through the counsel he offers and the deeds he performs, he returns to his own country, Siam, and rules it for fourteen years. He is renowned as a beloved king and a caring father to his children. After grooming his son to rule after him, Almoladin chooses to leave, to give up his throne and live as a commoner in a village with Palmire, the woman with whom he fell in love some fifteen years earlier and whose love he had been forced to forfeit for marriage with Queen Idamée, to whom he had already been betrothed at the time. Before leaving his kingdom, Almoladin assembles his people and, donning his royal robes, appears before them in his full authority:

My children, for fourteen years now you have been subject to my laws, they have not been a burden to you and your gentleness has proved to me, thousands of times over, that you were satisfied with your sovereign. I have not ruled you at all as a tyrant, I have always loved you gently and ruled you like a father; but if fate had allowed me to choose my avocation, my heart would not have led me to kingship. I will never forget the sacred words uttered by he who brought me into this world, in his very last moments, 'My son', he told me, 'a good king who has done everything for his people has not done enough if he hasn't given them a worthy successor to replace him.'<sup>41</sup>

Almoladin relinquishes the throne as soon as he feels able to trust his son to take his place in a worthy manner and to trust the people to resist his son's rule should it exceed appropriate limits. The

coronation at which he passes his crown to his son is, then, not as a ceremony continuing the royal dynasty as in the past but, rather, as a ceremony constituting a new covenant in the framework of which a new type of sovereign rule is founded. Almoladin imposes two conditions that shake up the structure of sovereignty: 'Here is the condition that I have decided to impose upon my son', he says, turning to the people before he goes on, 'I do not know how many years I will be absent from my kingdom. I request and demand that without my express instructions not a single death sentence against a single offender will be carried out.'<sup>42</sup>

On the face of it, one might say, Almoladin remains the sovereign, he who is authorized to declare an exception, while his son, the acting sovereign, is his father's subject, thus leaving the structure of sovereignty as before. However, two significant details undermine this interpretation and reveal the complexity of the proposed structure. First, Almoladin is physically abandoning the territory and retreat from the political space in which he will, in fact, remain only as an absent authority – one that could be termed nature, philosopher-king, invisible entity, godhead or even international tribunal – which the people or the (acting) sovereign can mobilize should one of them dare to disobey Almoladin's commandment not to take anyone's life. This commandment was intended to protect both the people from the king and the king from the people. The second condition that Almoladin imposes concerns the structure of the relations between the three poles of the invisible absent authority, the sovereign and the people. During the coronation a covenant is established between them, articulating a new structure of sovereignty. In the course of the ceremony Almoladin warns his son in the presence of the people, forbidding him the localized use of the death sentence and thus founding his regime on a mechanism of exception – the meaning of which is the taking of lives. From here on, Almoladin will become an invisible entity, an absent presence, through the condition he leaves behind for the continuation of power. As he is about to disappear, his consent will be forever unobtainable. In so doing, he accordingly renders the taking of life patently illegal.

### **Toward a civil disagreement**

Even if de Gouges's writings do not propose a well-ordered or methodical discussion of 'the political', 'the regime', 'contract', 'citizenship' or 'sovereignty', they are a rich and inspiring source for political thought because of the traces they bear of a possibility that

was present at the precise moment that the modern conception of citizenship was invented and distorted, shaped as goods distributed by the sovereign state. Its distribution – always tight-fisted and not always for all alike – has maimed the citizens who received it.

This maiming, which I have elsewhere called *civil invalidity*, turned these citizens – us – into accomplices in a crime committed against others governed along with us without any acts having been perpetrated. This civil invalidity is not an individual characteristic, the outcome of a damaged personality or moral shortcoming in the persons suffering from it. A civil invalidity is created when the differences in the ways various groups are being governed become a structural feature of the regime. It is an effect of being governed differentially – governed with and alongside others, but in an entirely different way. A civil invalidity is an effect of the regime and its governmental apparatuses; the governed participate – consciously and unconsciously, willingly or unwillingly – in the formation of those apparatuses and are formed by them.

It is this invalidity that enables one group of the governed to be recruited in order to persecute another group; to subject them to a catastrophe, and then see this catastrophe as ‘these people’s catastrophe’, ‘a catastrophe from their point of view’, a natural part of the order of things.<sup>43</sup> ‘In its various forms’, Eyal Weizman wrote, ‘the principle of the “lesser evil” functions as a pragmatic compromise, an exception to common ethics and political contracts, and in fact acts as the primary justification for the very notion of this exception.’<sup>44</sup> Through the reading of Rousseau’s *The Social Contract* in this article I have tried to show how the consent of the citizens to the ethics of the exception, to the lesser evil in relation to the taking of life, is not external to the social contract but part of its structural logic and an essential part of the existence of citizens in democratic regimes. I have also tried, through the reading of Olympe de Gouges, to mark initial ‘dotted lines’ along the seams that hold these two pacts together, locating the threads that need to be pulled in order to unravel the fusion that had become an evident given of modern democratic regimes. A new regime – led by a revolution that has not yet taken place – would have to be based upon a structural *disagreement* among its governed about the taking or abandoning of life. This disagreement is the consequence of the political ontology of their being a heterogeneous plurality, or an ‘inoperative community’ to use Jean-Luc Nancy’s words.

**Based on a translation by Tal Haran**

## Notes

1. Olivier Blanc, *Olympe de Gouges*, Editions Syros, Paris, 1981; Benoîte Groult, ‘Olympe de Gouges: la première féministe moderne’, in *Olympe de Gouges: Œuvres*, Mille et une femmes, Mercure de France, 1986. To date, very little (only one play and the ‘Declaration’) of de Gouges’s writings have been translated into English.
2. It has become *bon ton* to depict de Gouges as politically conservative and limited in her thinking on slavery or women. See, for example, Doris Kadish, ‘Translating in Context’, in Doris Y. Kadish and Françoise Massardier-Kenney, *Translating Slavery: Gender and Race in French Womens’ Writing 1783–1823*, Kent State University Press, Kent OH, 1994; Laurent Dubois, *A Colony of Citizens: Revolution and Slave Emancipation in the French Caribbean 1787–1804*, Chapel Hill Press, Chapel Hill NC, 2004. This is accompanied by an attitude that holds her talent as a playwright to be limited beyond the pioneering subject matter with which she dealt. Thus, for instance, Eléni Varikas writes, in her introduction to a play republished in 1989, ‘if de Gouges’ play is worthy of our attention today, this is not so much due to its dramatic value but mainly because of the ideas it expresses.’ Eléni Varikas. ‘Introduction à L’esclavage des noirs’, in *L’esclavage des noirs*, Côté-femmes, Paris, 1989, p. 17. See also Annette Rosa, *Citoyennes: les femmes et la révolution française*, Messidor, Paris, 1988. Gabriella Verdier, who offers an analysis of several of de Gouges’s plays, criticizes this view and demonstrates de Gouges’s innovativeness in the realm of theatre: Gabriella Verdier, ‘From Reform to Revolution: The Social Theater of Olympe de Gouges’, Catherine Montfort-Howard, ed., *Literate Women and the French Revolution of 1789*, Summa Publications, Birmingham AL, 1994.
3. See, for example, the sarcasm with which she refers to him – ‘the citizen from Geneva’ – in a text calling on women to rescue France. De Gouges quotes a passage from Rousseau’s 21st letter to Julie without disclosing its author, distancing herself from its position. See Olympe de Gouges, *Écrits Politiques 1792–1793*, Côté-femmes, Paris, 1993, p. 121.
4. The most radical stand of this type is taken by Erica Harth, who in the final chapter of her book thanks Daniel Morris for making her think about the limitations of de Gouges’s thought: ‘De Gouges’ feminism is defined by the boundaries of the philosophical discourse.’ Erica Harth, *Cartesian Women: Versions and Subversions of Rational Discourse in the Old Regime*, Cornell University Press, Ithaca NY, 1992, p. 233. Harth analyses the play *The Slavery of the Blacks* and the novel *The Philosopher-Prince*, presenting both as mainly conservative due to de Gouges’s understanding of nature, ‘which contradicts Rousseau’s depiction of initial equality in the second speech and illustrates his view of women’ (ibid.). In this article I propose a reading of these plays that is diametrically opposed to Harth’s. Contra Harth, see also Verdier, ‘From Reform to Revolution’, in which Verdier proposes the category of solidarity among women as a central motif for the interpretation of de Gouges’s plays.

In an article on de Gouges’s rhetoric, Janie Vanpée stresses the importance of the immediate historical

- context in understanding her work and shows the degree to which de Gouges assumes that context to be shared by her audience. Vanpée proposes a fascinating analysis for understanding the rhetorical means employed by de Gouges to address her audience. Janie Vanpée, 'Taking the Podium: Olympe de Gouges's Revolutionary Discourse', in *Women Writers in Pre-revolutionary France: Strategies of Emancipation*, Garland Publishing, New York, 1997). However, this analysis is based on an assumption that I will seek to refute: the assumption that, in the absence of this context, the texts emerge as weak. This assumption pertains to a particular stratum of the text while disregarding the importance that de Gouges ascribed to the fact that her texts were meant to be *read*. In Vanpée's work the criticisms of de Gouges's capacities for writing and philosophizing are contradicted by the spell-binding manner in which she represents the author's unique treatment of issues such as that of illegitimate children. See Janie Vanpée, 'Revendication de la légitimité: les performances révolutionnaires d'Olympe de Gouges', in *Sexualité, mariage et famille au XVIII<sup>e</sup> siècle*, Les presses de l'université Laval, Quebec, 1988; Janie Vanpée, 'Performing Justice: The Trials of Olympe de Gouges', *Theater Journal* 51, Johns Hopkins University Press, Baltimore MD 1999.
5. Olympe de Gouges, *L'esclavage des noirs* (1792), Côté-femmes, Paris, 2006; Olympe de Gouges, *L'esclavage des Nègres – version inédite du 28 décembre 1789*, ed. S. Chalaye and J. Razgonnikoff, L'Harmattan, Paris, 2006.
  6. Olympe de Gouges, *Le Prince philosophe: conte oriental*, 2 vols, Indigo and Côté-femmes, Paris, 1995.
  7. For more on this gap see ch. 1 of Ariella Azoulay, *The Civil Contract of Photography*, Zone Books, New York, 2008.
  8. Hannah Arendt, *On Revolution*, Penguin Books, London, 1990, p. 76.
  9. Olympe de Gouges, 'The Three Ballot Boxes', in *Écrits Politiques 1792–1793*.
  10. De Gouges, *Écrits Politiques 1792–1793*, p. 166.
  11. Jean-Jacques Rousseau, *The Social Contract and Other Later Political Writings*, trans. Victor Gourevitch, Cambridge University Press, Cambridge, 1997, Book I, ch. 8, p. 53. All quotations from Rousseau refer to this edition.
  12. Ibid., Book I, ch. 8, pp. 53–4.
  13. Ibid., Book II, ch. 4, p. 61, emphasis added.
  14. Ibid., Book I, ch. 6, p. 50.
  15. Ibid., Book I, ch. 6, pp. 49–50.
  16. Ibid., Book I, ch. 7, p. 52.
  17. Ibid., Book II, ch. 1, p. 57.
  18. Ibid., Book II, ch. 5, p. 64.
  19. See Thomas Hobbes, *Leviathan*, Cambridge University Press, Cambridge, 1996, ch. 21.
  20. De Gouges, *Écrits Politiques 1792–1793*.
  21. Ibid., pp. 191–4.
  22. Ibid., p. 192.
  23. Ibid.
  24. See Vanpée, 'Revendication de la légitimité', for an analysis of the issue of illegitimate children in de Gouges's work.
  25. Ibid.
  26. Ibid., p. 194.
  27. In a later Introduction added to the play one year after the revolution in Haiti (and almost a decade after the play was written), de Gouges attempted to ward off the colonists' attacks against her play and its contribution to the uprising. In reply to these attacks she addressed the slaves and challenged the violence of their revolution just as vehemently as she had condemned Robespierre and the violence exercised by him and his accomplices in the French Revolution, comparing the deeds of the slaves to those of the despots that preceded them. De Gouges acknowledged the blacks' rights to equality but rejected violence as a means to obtain them.
  28. Prior to a restaging of this play at the Théâtre Volland, Emmanuel Genvrin compiled a comparison of its three versions. All three indicate de Gouges's strong position on the abolition of slavery. I would like to thank Genvrin for allowing me to read his remarks, only part of which were published. See his introduction to the play in Emmanuel Genvrin, *Études: suivi de l'esclavage des nègres d'après Olympe de Gouges*, Éditions Théâtre Volland 1988.
  29. Olympe de Gouges, *The Slavery of the Blacks*, Act II, Scene 6, trans. Maryann DeJulio as *Black Slavery, or The Happy Shipwreck*, in Kadish and Massardier-Kenney, *Translating Slavery*.
  30. This stance anticipates Lyotard's moral thinking by about two hundred years. (Jean François Lyotard, *Just Gaming*, trans. Wlad Godzich, Theory and History of Literature Vol. 20, University of Minnesota Press, Minneapolis, 1985.)
  31. In her article on the play, Marie-Pierre La Hir points out the pioneering stand of de Gouges, who as early as 1783 called for a redefinition of the role of the king. Le Hir states, however, that 'there is no question at all that *The Slavery of the Blacks* sets out to defend the monarchy'. In order to explain the conflict between de Gouges's innovativeness and her monarchist stand, she introduces the terms of a patriot king and popular sovereignty. Marie-Pierre Le Hir, 'Feminism, Theater, Race: *L'esclavage des Noirs*', in Kadish and Massardier-Kenney, *Translating Slavery*, p. 74.
  32. Ibid.
  33. De Gouges, *The Slavery of the Blacks*, p. 106.
  34. De Gouges, 'The Three Ballot Boxes', p. 246.
  35. Ibid.,
  36. De Gouges, *Écrits Politiques 1792–1793*, p. 189.
  37. Ibid., p. 209.
  38. Ibid., p. 191.
  39. With the exception of Harth, *Cartesian Women*.
  40. De Gouges, *Le Prince Philosophe*. Some critics even charge the text with support for the oppression of women. According to Leopold Lecour, 'She paid women no compliments here either [mentioning only] their "shameful" features, their shortcomings, laziness, their vanity, etc.' (*Trois femmes de la révolution*, Librairie Plon, Paris, 1900, p. 82).
  41. De Gouges, *Le Prince Philosophe*, p. 70.
  42. Ibid.
  43. I showed this in relation to the catastrophe inflicted upon the Palestinian residents of Palestine/Eretz-Israel during the years 1947–50 which became their 'disaster' – the *Nakba*. See Ariella Azoulay, *Constituent Violence 1947–1950* (in Hebrew), Resling, Tel Aviv, 2009.
  44. From an unpublished paper Weizman presented at a workshop on 'The Lesser Evil' at Bard College, Annandale-on-Hudson NY, 2007. A later version is available at <http://roundtable.kein.org/node/802>.