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Legal History:

### Zola, *La Bête humaine* and the scourge of justice

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Written in 1889 (1), *La Bête humaine* found its source in Zola's need to depict an old fear: that of being buried alive (2). Death is on the prowl in this novel set against the backdrop of France's railways, the symbolic power of which indisputably eclipses the legal dimension. The latter, however, reminds the reader that in reality Zola relies on two original ideas for a novel: a novel about the railways and one about the legal system. The author wanted to draw the *Rougon-Macquart* saga to a close, which led him to combine his earlier reflections and work on his novel "in a fury" (3). No sense of lassitude crept in as Zola continued to innovate: several months before (4), his life had changed completely when he had met Jeanne Rozerot.

In *La Bête humaine*, Roubaud, an employee of the *Chemins de fer de l'Ouest* (Western Railways), leads his *petit bourgeois* existence with his wife, Séverine, who is fifteen years his junior. Séverine's godfather, a member of the railway company's board of directors, is Grandmorin, formerly the presiding judge of the Court of Appeal at Rouen; he watches over the destiny of the Roubauds. Séverine tells her husband that she suffered sexual assaults by Grandmorin from the age of sixteen (5). In a towering fury, Roubaud decides to kill him. The couple murder their protector aboard a night train. The scene takes place in a carriage before the incredulous eyes of Jacques Lantier (6). Brought face to face with the two criminals in the offices of the examining magistrate, Denizet, Jacques becomes Séverine's lover shortly thereafter. While the justice system turns its attentions away from the Roubauds, the husband's presence increasingly becomes a nuisance to the lovers. Thus they plot to get rid of him in turn. Nevertheless, in an excess of murderous insanity, Jacques kills his mistress instead of her husband. Cabuche, a marginal character who has already been wrongfully convicted for another offence, is found guilty of Séverine's murder. Roubaud, his co-defendant, is convicted of a crime that he has not committed, while the justice (system) closes the Grandmorin case without controversy (7).

With a senior judge at the heart of the initial drama, the approach taken to judicial morals – and to the justice system more generally – by the master of naturalism deserve closer examination. Admittedly, magistrates and their entourage are only secondary characters in the novel; nonetheless, the portraits painted with such care together make for a compelling tableau (8) of justice at the end of the Second Empire. Moreover, the Third Republic would not mark a break from the tradition of a judiciary dependent on the political powers; far from it (9). *La Bête humaine* thus strikes a particular chord in the history of justice, through those problems on which the rules were far from established at the time when Zola was writing. On the one hand, there is the question of judicial recruitment and careers; on the other hand, there is the matter of the independent administration of justice. By its very structure, the judicial institution in fact perpetuates a pernicious "club" between its members; as for cases in the strict sense, they are handled under the attentive gaze of the political powers, which permanently look to protect their own interests.

## I – A structural approach to the judicial institution: the pernicious ‘club’ for the judiciary

The gestation period of *La Bête humaine* can best be understood thanks to the preparatory file written up in the author’s own hand. In the "*dossier de la magistrature*" (10) that Zola compiled, he began by distinguishing between the *magistrature assise* ("seated judiciary", the Bench) and the *magistrature debout* ("standing judiciary" or Public Prosecutor’s Office), noting above a scathing remark: that of "*magistrature courbée*" ("bowed judiciary"). The assessment is immediately explained: "*the judiciary is open to all, with no conditions as to ability. The government can appoint anyone it likes thereto. Not paid enough. It is open only to wealth, not knowledge. Invasion of mediocrities*" (11). Unsurprisingly, the judiciary in *La Bête humaine* does not fail to inspire a degree of concern as to justice, be it the institution or the values that judges defend in theory.

Admittedly, the first judge presented to the reader, President Grandmorin, immediately gives an unflattering impression of the judiciary. A whiff of scandal surrounds Grandmorin (12); his character reflects the rise of the bourgeoisie after 1830, and he rapidly scaled the judicial heights owing to the enviable position of his family. His upright appearance hides his lack of morals, although appearances unravel throughout the book. By his social standing – even by his physical appearance – Grandmorin is far removed from the conventional image of a man preying on young girls (13). In his criminal dimension, admittedly, the President appears as an isolated case. In his social dimension, he finds himself at the confluence of the judiciary, the rail industry, and politics. However, the latter aspect proves to be less important in the final version of the book than in the draft, where Zola has Grandmorin performing the role of *président de conseil général* (14).

Without sharing Grandmorin’s sulphurous character, the other judges (15) give an impression of the profession that is mixed to say the least. Denizet (16), the examining magistrate, is the crystallisation of the aspirations and frustrations of the unknown judiciary: "*without wealth, ravaged by needs that could not be satisfied by his meagre stipend, he lived in the dependency of the poorly paid judiciary, accepted only by the mediocre, and where the intelligent eat each other whilst waiting to sell themselves*" (17). Despite everything, Denizet is not the least serious or least intelligent member of his profession (18). Zola remained true to his preparatory notes, viewing Denizet as the "*son of a prominent farmer in Normandy, [who] read law in Caen and joined the judiciary quite late on and advanced quite slowly, owing to his background*" (19). There lays the cornerstone of the judiciary as viewed by Zola: without the right network of contacts, a judge cannot hope to secure the most prestigious posts. Membership of a network is the result of belonging to a well-placed family, like Grandmorin. It also results from favours bestowed by such a member of the network, with a view to enhancing a protégé’s career. In this respect, the character of Mme. Bonnehon, a widow and the sister of Grandmorin, affords the reader every opportunity to imagine the morals of the best of Rouen’s judiciary. Women have a not inconsiderable role to play within that microcosm, as the organisers of social niceties. Mme. Bonnehon thus facilitated the rise of Councillor Desbazeilles, appointed to the Assizes bench, where Roubaud and Cabuche later appear: "*for years, he kept his chambers at Doinville* (20). *Now, though over sixty, he still came to dine there, as an old friend, whose rheumatism allowed nothing more than memories*" (21). Mme. Bonnehon also watches over the career of Councillor Chaumette, also appointed to the Assizes bench. This benefactrix, incidentally, is unusual in that she has no legal relationship with the judiciary, as her husband was not a judge (22). However, she found lovers within the profession, and the ties remain strong. A pleasant and cheerful hostess at official judicial events, Mme. Bonnehon finds herself supplanted by Mme. Leboucq. Younger than Mme.

Bonnehon, she is married to a Councillor to the Court at Rouen, an *assesseur des assises*, "a distinguished judge, good at law" (23) – ultimately the only character, in Zola's mind, whose professional abilities are established. Zola rather exaggerates this point: according to his assessment in his notes, "amongst judges, 40% are good, 40% mediocre, 20% bad" (24). Thus Grandmorin's son-in-law, Lachesnaye, embodies all of the judiciary's excesses: he owes his place in the profession solely to the family network, his own as much as that of his wife. Although Zola took care to consider the Lachesnaye family when preparing his novel, ultimately he retained only a pared-down version, in which the pettiness of Grandmorin's son-in-law shapes his physical appearance (25).

A whole world lays between Denizet and the affluent judiciary. With a combination of contempt and envy, the examining magistrate has no hesitation in making Lachesnaye feel the full force of his powers in the investigation of the murder of his father-in-law: "Mr. de Lachesnaye represented in his eyes the privileged judiciary (...) while he, poor, without protection, found himself ever reduced to the status of lowly petitioner, shouldering the ever falling boulder of advancement" (26). In this way, driven by his thirst for social recognition, the little examining magistrate is the best illustration of the "bowed judiciary" as perceived by Zola. The Grandmorin case, in affecting the interests of the profession – and, therefore, of the State (27) – is a boon for the man able to untangle it diplomatically. The gratitude of the political powers would no doubt take the form of the development of a genuine career. In the mind of a judge like Denizet, personal interests meet the public interest, a fact played upon by the Secretary General of the Ministry of Justice, Camy-Lamotte. A *grand bourgeois* close to Grandmorin, Camy-Lamotte is the eyes and voice of the sovereign (28); the discretion of his methods is on a par with the discretionary nature of his power within the judicial institution. The attention of the political powers therefore makes itself felt rather insidiously, while the Grandmorin case and its repercussions run the risk of undermining the regime.

## II – The conjunctural approach to justice: the insidious attentions of the political powers

The creeping conjunction between the judicial and political worlds is embodied by Camy-Lamotte, "a considerable character, with the upper hand on staff, in charge of appointments, in continual contact with the Tuileries (29)" (30). A member of the Public Prosecutor's Office, he has enjoyed a brilliant career thanks to his personal relations and finely-honed political acumen. The reader cannot help but notice that it is not the legal competence of the Secretary General of the Ministry of Justice that is brought to the fore. However, Camy-Lamotte, as a fine connoisseur of the human race, gauges hearts and interests with fearsome speed (31). Such qualities have in the past allowed him to perform political functions in the strictest sense, as he succeeded in being named *député* (equivalent to a Member of Parliament (although unelected)). In short, it is his "intrigues" and his "merits" (32) that lead to his appointment to the Ministry of Justice.

Naturellement, it falls to Camy-Lamotte to ensure that Denizet is constantly concerned about the public repercussions of his actions. The Secretary General finds himself faced with two difficulties of varying degrees of importance which are nonetheless closely linked. The first consists in convincing Denizet of the need to weigh up, with the greatest care and attention, all of his decisions in the context of the Grandmorin case: "all in all, the judge has understood that he would do well not to rush, or take any risks without prior approval" (33). The second difficulty is trickier and lays in anticipating all the possible scenarios that may present themselves over the course of the investigation, so as to identify the least worst outcome for the existing regime.

The first difficulty is overcome through regular interviews with Denizet in Camy-Lamotte's private office. These meetings are so many chances to allow the examining magistrate a glimpse of opportunities awaiting him. Camy-Lamotte's influence gradually grows: owing to the sensitive nature of the case (34), the ministerial Secretary quickly decides to turn the merely hopeful suggestions into genuine promises: first a medal, so that imperial honour might elevate Denizet; next, the enviable position of Councillor at the Paris Court of Appeal when a judge steps down. Here are the elements of distinction for members of the judiciary: the *légion d'honneur* (35) – all the fashionable judges described by Zola have one – and an appointment to a Court of Appeal, Paris undoubtedly being the most prestigious. Does Denizet manage to convince himself fully that these promises are serious? Zola leaves room for doubt. Be that as it may, the examining magistrate has neither the social nor material means to remain indifferent to them (36). If he wishes to improve his position, he has no choice but to place himself in the hands of Camy-Lamotte. Persuaded to play a decisive role in an already weakened system, Denizet hatches theories to explain his politico-judicial cases, combining as best he can (to his mind) the irreducible facts of the problems: Grandmorin had undoubtedly behaved inappropriately (37); in any event, jealousy is the prime motive of the criminal act, so Roubaud and Cabuche have committed an act from which there is no going back, being the murders of Séverine and Grandmorin.

As to the second difficulty faced by Camy-Lamotte, this takes its true form at the time when he becomes convinced of the Roubauds' criminal act committed against the person of Grandmorin. The Secretary General has long known of his friend's excesses (38). Not only does he attach no importance thereto, but he is even envious; on seeing Séverine again, he asks himself *"how the devil did that fellow [Grandmorin], ten years his senior, have such creatures right up until his death, when he himself had already had to give up such playthings, so as not to waste the remainder of his strength"* (39). So he immediately grasps the scandal that could be exploited by the political opposition (40) and he does not hesitate in covering up the tracks, even going so far as to destroy evidence of the Roubauds' guilt. The fact remains that Camy-Lamotte's inner doubts dissolve effortlessly in the face of unshakeable belief that he is acting in the best interests of the regime: must he not compensate for a lack of discernment on the part of the Emperor, whose will is that justice should be free to perform its task? Furthermore, what *is* justice? For the representative of the political powers, justice cannot strictly speaking be reconciled with freedom to judge; this offers a glimpse of what, at best, can be described as Camy-Lamotte's amorality and, at worst, his cynicism: *"justice – that backward illusion! Wanting to be just, was that not just a lure, when truth is buried so deep in the thickets? Better to be wise, to prop up this dying society which threatened ruin"* (41). All in all, for Camy-Lamotte, eminent servant of the Imperial State, protecting the political regime necessarily takes precedence over individual interests. Moreover, such interests have become alien to his way of thinking, faced with a criminal Roubaud and an insignificant Cabuche.

In 1898, through a twist of historical fate, Zola would himself suffer the bitter experience of a justice system "bowed" in the face of the political powers in a quest for social peace. At the very zenith of his career, the author had to answer for his *J'accuse...* ! before the Assize Court of La Seine. In many respects, truth was stranger than fiction, with judges deliberately straying from established legal rules in order to secure the conviction of France's most celebrated *Dreyfusard* (42). Faced with the unfair conduct of his trial, Zola declared: *"it is now a matter of knowing*

*whether France is still a France of human rights, which gave freedom to the world and ought to have given it justice'* (43).

#### Notes :

- (1) Mitterand (Henri), *Zola*, Paris, Fayard, 2001, tome II, p. 948: the first few pages of the draft were written before the end of 1888.
- (2) Brown (Frederick), *Zola Une vie*, Paris, Belfond, 1995, p. 633.
- (3) *Ibid.*, p. 639 : these are Zola's own words.
- (4) Zola (Emile), *Œuvres complètes*, Paris, Nouveau Monde éditions, 2005, tome 14, p. 10–11, presentation by Larroux (Guy).
- (5) Zola considered the theme of pederasty for a time but ultimately abandoned: cf. Pierre-Gnassounou (Chantal), *Zola les fortunes de la fiction*, Paris, Nathan, 1999, p. 182.
- (6) Originally, Zola had considered Etienne Lantier, the hero of *Germinal*, but he found himself compelled to invent a new character, a brother of Etienne, in order to make the story more believable: cf. Mitterand (Henri), *op. cit.*, p. 952.
- (7) On the theme of trials, cf. Delbrel (Sophie), « L'indicible en justice. Procès et non-procès dans *La Bête humaine* », Jouve (Emeline) et Miniato (Lionel, dir.), *Discours, récits, représentations – Chronique judiciaire et fictionnalisation du procès*, Paris, Mare & Martin, 2017, publication forthcoming.
- (8) The anthropological dimension of Zola's work must be noted: see Mitterand (Henri), *Zola – L'histoire et la fiction*, Paris, PUF, 1990, p. 59–60; see also Thorel-Cailleteau (Sylvie), *La pertinence réaliste de Zola*, Paris, Honoré Champion, 2001, p. 39–60.
- (9) Royer (Jean-Pierre), Jean (Jean-Paul), Durand (Bernard), Derasse (Nicolas), Dubois (Bruno), *Histoire de la justice en France*, Paris, PUF, 4<sup>e</sup> éd., p. 715–717, mention the recommendations system.
- (10) Zola (Emile), *Œuvres Manuscrites et dossiers préparatoires – La Bête humaine Dossier préparatoire*, folios 594 to 599, which may be viewed on the Bibliothèque Nationale de France's Gallica website, <http://gallica.bnf.fr/>
- (11) *Ibid.*, folio 594.
- (12) Zola (Emile), *Œuvres complètes, op.cit.*, p. 34 ; before his wife's revelations, Roubaud tells her: "*you know, the president, despite his cool appearance, there are quite some rumours whispered about him. Apparently, even when he lived with his wife, he made his way through all the maids. I mean a fellow who, even now, will truss a woman up...*".
- (13) *Ibid.*, p. 32: "*A millionaire several times over (...) he was (...) stocky and solid (...) white-haired with streaks of his former blonde (...) with a square face made severe by hard blue eyes and a large nose*".
- (14) Locally, the *président du conseil général* enjoys unrivalled prestige: on this point, see Burdeau (François), *Histoire de l'administration française du 18<sup>e</sup> au 20<sup>e</sup> siècle*, Paris, Montchrestien, 1994, 2<sup>e</sup> éd., p. 234.
- (15) On the way in which the author developed the portraits of his characters, see cf. Hamon (Philippe), *Le personnel du roman – Le système des personnages dans les Rougon-Macquart d'Emile Zola*, Genève, Droz, 1983, p. 151–184.
- (16) Pierre-Gnassounou (Chantal), *op. cit.*, p. 157: in the draft version of the novel, Zola predicted that the judge would be "*the irony of the well-known examining magistrate in Crime and Punishment*".
- (17) Zola (Emile), *Œuvres complètes, op. cit.*, p. 81.

- (18) On the various deadlocks in the investigation, cf. Piton–Foucault (Emilie), *Zola ou la fenêtre condamnée – La crise de la représentation dans les Rougon–Macquart*, Rennes, PUR, 2015, p. 329–336; Thorel–Cailleteau (Sylvie), *op. cit.*, p. 110–111; Salas (Denis), « Stendhal, Zola, Mauriac : de la chronique judiciaire à la fiction littéraire », dans Humbert (Sylvie), Salas (Denis, dir.), *La chronique judiciaire – Mille ans d’histoire*, Paris, La Documentation Française, 2010, p. 95–106, takes a more pessimistic view of Denizet.
- (19) Zola (Emile), *Œuvres Manuscrites...*, *op. cit.*, folio 632.
- (20) This is Mme. Bonnehon’s territory.
- (21) Zola (Emile), *Œuvres complètes*, *op. cit.*, p. 88.
- (22) *Ibid.*, while M. Bonnehon was first conceived as being a barrister in the author’s preparatory works, he is a manufacturer in the novel.
- (23) Zola (Emile), *Œuvres Manuscrites...*, *op. cit.*, folio 619.
- (24) *Ibid.*, folio 598.
- (25) Successively described as "ugly, hard, miserly", "dry and yellow", he is simply "foolish", "a provincial of obstinate passions, mired in avarice": cf. Zola (Emile), *Œuvres complètes*, *op. cit.*, and *loc. cit.*
- (26) *Ibid.*, p. 86.
- (27) *Ibid.*, p. 80: "the most extraordinary stories circulated, the newspapers were filled every morning with new theories, which were damaging for the government. On the one hand, it was suggested that the victim, a regular visitor to the Tuileries (...) gave himself over to the worse kind of debauchery; on the other, the investigation having only got so far, accusations of complacency were levelled at the police and the judiciary".
- (28) *Ibid.*, p. 81.
- (29) Translator’s note: Under the Second Empire, the Palais des Tuileries was once again the imperial palace, having served as a hospice for wounded soldiers from 1848 to 1852.
- (30) *Ibid.*
- (31) Camy–Lamotte has the real power in Zola’s fictinal universe, which lays in interpreting signs: cf. Hamon (Philippe), *op. cit.*, p. 263–264.
- (32) Zola (Emile), *Œuvres Manuscrites...*, *op. cit.*, folio 623 to 625.
- (33) Zola (Emile), *Œuvres complètes...*, *op. cit.* and *loc. cit.*
- (34) Camy–Lamotte fears that he will discover "unforeseen abominations": *ibid.*, p 107.
- (35) Zola had himself been made a *Chevalier* (Knight) of the *Légion d’honneur* in the summer of 1888: cf. Becker (Colette), Gourdin–Servenièrre (Gina), Lavielle (Véronique), *Dictionnaire d’Emile Zola*, Paris, Robert Laffont, 2002, p. 223–225.
- (36) Zola (Emile), *Œuvres complètes*, *op. cit.*, p. 108, "he who would not have sold himself, raised in the tradition of this honest yet mediocre judiciary, he immediately gave way to a simple hope, to the vague commitment that the Administration had made to show him favour. The judicial function was no longer a profession like any other, and he carried around his neck the millstone of advancement, as a starving petitioner, forever ready to bend the knee at the command of the powerful".
- (37) In addition to Séverine, there is the case of Louissette, who was assaulted by Grandmorin. However, Séverine’s case is more sensitive, as "it no longer concerns a mere maid": Zola (Emile), *Œuvres complètes...*, *op. cit.*, p. 107.
- (38) Zola (Emile), *ibid.*, p. 81, "he knew him completely, even down to his vices".
- (39) *Ibid.*, p. 104.
- (40) *Ibid.*, p. 107.
- (41) *Ibid.*, p. 241.

(42) Cf. on this point Aubisse (Clément), *Le Procès Zola dans l'affaire Dreyfus*, Mémoire droit dactyl., Bordeaux, 2013, 169 p., sous la dir. de Delbrel (Sophie).

(43) *Le procès Zola, 7 février-23 février 1898 devant la cour d'assises de la Seine. Compte rendu sténographique « in extenso »*, Paris, Stock, 1998, p. 826.

