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Sade: Laying down the Law

Geoff Bennington

Where no law is, there is no transgression (Romans, 4:15)

Sade was often the victim, or the patient, of the law laid down: condemned first, and executed in effigy, for committing acts of indecency of a type not uncommon among the French aristocracy of the late eighteenth century, subsequently held on the authority of a *lettre de cachet*, released by the Revolution, only to be rearrested, through administrative error, as a suspect *ci-devant*; ending his life in an asylum of the Empire for having written what he wrote. After his death, the law continued to condemn his writings, until recently.¹

The texts of the law can take the texts of Sade as their object, as the *case* before them, about which they lay down the law. Most recognisably serious approaches to Sade's texts by literary theory or criticism would reduplicate this structure, taking those texts as a case and attempting to lay down the law about them. Insofar as what I shall say is serious, *it* will not escape from this configuration of languages.

A presupposition informing this structure is that a certain discourse of law can in some sense contain, constrain, or comprehend Sade: the law as prescription can confine the body of the *marquis* in the Bastille or in Charenton, or condemn the body of his writings to the *enfer*. But the apparently descriptive laws of poetician or narratologist constrain none the less, in establishing poetic or narrative 'laws' bearing on those texts.

In the 'case' of Sade, however, this model of containment is troubled: any attempt to include or comprehend Sade's writing within the law must recognise that that writing already contains the law in its turn — in other words the 'case' to be comprehended comprehends, or attempts to comprehend, the law which posits it *as* a case. Sade's novels often,

very often, discuss the law: tirelessly, they lay down the law about the law, or about the law the law lays down. Taking Sade's laying down the law about the law as the object of my critical or theoretical laying down the law, I find that the object of discussion has already taken into account, and questioned, the premises of that discussion. And insofar as Sade's laying down the law is transgressive or subversive of law in general, there is trouble for critic and theorist. This trouble seems to me to be greater than that occasioned by the violence and perversions *described* in the novels, and which might be read as *figures* of the generalised trouble with which I am concerned.

Sade's heroes and heroines break the law and treat it with scorn. A first reading of the novels might be forgiven for stressing their *lawlessness*. Against this, I want to approach the problem of the law in Sade through the attendant notions of order and rules, then look at moral and positive law, and finally consider what might be called the unspeakably difficult problem of the law of nature.

1. Law, Order, Rules

First, then, order and rules. Michel Foucault has stressed the 'ordre strict' of the life of *libertinage*, and Roland Barthes has pointed out that 'la luxure est sans frein mais non sans ordre'.² For example, in *La Philosophie dans le boudoir*, Mme de Saint-Ange suggests to the assembly: 'Mettons . . . un peu d'ordre à ces orgies; il en faut même au sein du délire et de l'infamie' ('Let us put a little order into these orgies, it is needed even in the heart of delirium and infamy')³; or at the beginning of *Juliette*, La Delbène insists: 'mettons un peu d'ordre à nos plaisirs, on n'en jouit qu'en les fixant' ('let us put a little order into our pleasures, one enjoys them only by fixing them': VIII,18). Such statements are habitually the prelude to the elaborate assemblages of bodies which Barthes has analysed. Similarly, the narrative progress of the novels is subordinated to a principle of order: for example, the order of the *historiennes'* stories in *Les 120 journées*, progressing from simple to complex to criminal 'passions', and that of the narrative itself in the same novel, which regularly defers the narration of certain acts until their allotted place has come in the Encyclopedic scheme of the book.

The *libertins'* scorn for social and moral law has further to be set against their constant appeal to order and principles, and their tendency to form groups or societies with strict and explicit rules. Thus the four *libertins* of *Les 120 journées* draw up elaborate rules and regulations for their four-month debauchery. The order imposed on the orgy can be situated as part of this larger problem, which seems to be the place of contradictions in Sade's texts. For instance, in *Les 120 Journées*, the Duc de Blangis affirms the value of consequent action according to principles, and sets this against blind subservience to the passions (XIII, 8). A little later in the novel, however, the narrative discourse,

commenting on the same character, affirms sententiously, 'rien n'est inconséquent comme un libertin' ('Nothing is inconsequential like a libertine': XIII, 113). In the same novel, narrative propositions about Curval introduce sententious propositions in favour of the principled nature of *libertinage* (314-5). But earlier, again with reference to Curval, there has been a reference to its 'perpétuelles inconséquences': and this paradoxical tendency can be illustrated by one episode in which the four masters of the château cheat with the rules they have imposed on their orgies. Durcet catches two of the victims talking about religion: in the rules transcribed at the beginning of the novel, this offence is punishable by death (XIII, 55). But despite what is described as 'consequent' reasoning by Curval, the girls are reprieved, and the *libertins* thus break the rules they have instituted, 'parce qu'on avait envie de s'amuser encore quelque temps de ces dames' (XIII, 283).

It is possible to say that in the relationship between *libertins* and their victims, laws or rules are always instituted, but that the institution of those laws and rules involves, as a rule, the possibility of arbitrary decisions as to their application or non-application: this possibility undermines something of the coherence of the notion of law or rule. This is also the case in *La Nouvelle Justine*, where, in the convent, Omphale dictates to Justine the elaborate rules governing the punishment of victims, pointing out both the existence of arbitrary elements in the code, and the arbitrary nature of the existence of a code at all (VI, 361-2).

The *libertin* writes a code of laws, then, which is a *simulacrum* of law, producing a supplementary *jouissance* from the undecidability of whether his punctual sentences, his laying down the law, will conform to that code or not. This is part of the general tendency to place the victim in a double bind, in which obeying the law can amount to breaking it: this is an important narrative device in Sade, and is figured most clearly in the text by the torture-machines in which any effort the victim makes to save his or her life from one danger means s/he dies from another.⁴ The simulacrum in play here is basically a simulacrum of contractual relationships, and could be read against the intertext of political theory from Hobbes to Rousseau.

Before looking briefly at political 'theory' in Sade, however, it is worth considering the structure of criminal associations in his novels. These are of two basic types, the first involving thieves and murderers, the second rich and noble *libertins* who can rely on their power, wealth and influence to protect them from the law of society. Both types seem paradoxical in that they appear to rely on contractual relationships between their members, while at the same time contesting the validity of the contractual relationships which found society as a whole. Sade is not the first eighteenth-century writer to consider the problem of the criminal association, although his treatment of it is the most radical I know. In the article 'Droit naturel' in the *Encyclopédie*, Diderot had considered and dismissed the problem of the criminal association: according to him, even a band of thieves respects the principle of the *volonté générale*, and

therefore that of virtue: 'la vertu est si belle que les voleurs en respectent l'image dans le fond même de leurs cavernes'.⁵ In *La Nouvelle Justine*, the criminal leader Coeur-de-fer sweeps away any question of a *volonté générale* in the criminal association, and grounds its existence in pure egoism, in a temporary and unstable aggregate of individual wills all convinced that the social contract of the political theorists is fundamentally unjust both to the strong in society (who have no need to give up anything in the interests of their happiness), and to the weak (who ultimately have to give up what they have to the strong). The criminal association can gain a temporary stability insofar as it momentarily unites only the strong *or* the weak: this model can evidently not be generalised to society as a whole, which is always, in Sade's description, composed of strong *and* weak.

The most important example of this type of association in Sade is that of the *Société des amis du crime* in *Juliette*. In a brilliant analysis,⁶ Marcel Hénaff points out that such an association presupposes agreement of its members about desire, external sources of income which solve all material problems, and social power (linked to wealth) already given in society prior to the formation of the club. This consensus can exclude from *within* the club the problem of violence, but the *libertin's* pact is limited by a *horizon* of violence, what Hénaff calls a 'jeu avec la mort pour la jouissance'. There is no real contract in that there is no third party (God, the Truth, a legal apparatus) to guarantee its terms. The contract is only mimicked in the sperm-signatures which habitually mark the institution of the pseudo-pact. The model is really that of the *complot*, Hénaff suggests, which 'porte en soi le principe de sa révocation unilatérale' ('carries within itself the principle of its unilateral revocation': Hénaff, p.281). And this is why Sbrigani, Clairwil and others can subsequently die at the hands of their partners in crime.

The opposition between law and rule might be able to help with the analysis of this paradoxical situation, and especially a recent analysis of that opposition proposed by Jean Baudrillard.⁷ The law, in the social form attacked by Sade, is a product of the contract, and guaranteed by a transcendent instance — earlier in the eighteenth century Rousseau had tried and failed to produce a coherent contractual theory of legislation without such transcendence. As Baudrillard puts it, the law obeys 'un principe qui nous dépasse': it tends to forget its contractual origin and retreat into transcendence and mystery, producing guilt and fear.⁸ The rule, on the other hand, depends on no such instance; it is arbitrary and ritualised, it institutes a space which is essentially that of the game, it calls for observance rather than belief, it conceals no mystery and produces no debt. The rule and the game set up a pure system of exchange which requires no justification beyond the desire to play, and which produces neither deficit nor surplus-value. The rule cannot be threatened by transgression, as transgression here means simply that the transgressor leaves the space of the game and falls back, outside the domain of the rule, into that of the law. The *Société*, within its rule-

bound structure, would seem to conform to this analysis, and to realise the 'entière circulation des vices' recommended by the surgeon Rodin in *La Nouvelle Justine* (VI, 249).

Despite the attraction of this model, it seems that the notion of a homeostatic functioning of the rule-governed society will not do, in that the desire of the Sadian *libertin* is precisely to move within the domain of the Law and to retain the possibility of transgression. The *Société* is only a *stage* in Juliette's progress to 'integral' *libertinage*, rather than a paradigm of *libertinage* in general (as it is taken to be in Jane Gallop's recent book on Sade),⁹ and already in its statutes exhibits tensions in the rule/law distinction at the point at which the dividing line is drawn.

For the *Société* cannot institute a pure space in isolation from society and the law. There are inevitably points of contact between law and rule, and it is these points which trouble Baudrillard's distinction, establishing a certain communication between the two terms, and thus a transgression of the bar which separates them — Baudrillard's assertion that the ritualised, rule-bound sign can 'deliver' us from meaning is a pious and over-optimistic hope. This communication between the space defined by the *Société's* rules and the surrounding legal system is suggested at a number of points in the text which deals with the statutes of the club. The first of these is in the preamble to the numbered paragraphs:

la Société protège tous ses membres; elle leur promet à tous, secours, abri, refuge, protection, crédit, contre les entreprises de la Loi; elle prend sous sa sauvegarde tous ceux qui l'enfreignent, et se regarde comme au-dessus d'elle, parce que la Loi est l'ouvrage des hommes, et que la Société, fille de la nature, n'écoute et ne suit que la nature.

('The Society protects all its members; it promises to all of them help, shelter, refuge, protection, credit, against the enterprises of the Law; it takes into its safeguard all those who infringe the Law, and regards itself as above it, because the Law is the work of men, and the Society, daughter of nature, listens to and follows only nature': VIII, 401).

Much later, in paragraph 43 of the statutes, this suggestion of communication (here in the protection of law-breakers) is made more explicit:

Il est absolument défendu de s'immiscer dans les affaires du gouvernement. Tout discours de politique est expressément interdit. La Société respecte le gouvernement sous lequel elle vit; et si elle se met au-dessus des lois, c'est parce qu'il est dans ces principes que l'homme n'a pas le pouvoir de faire des lois qui gênent et contrarient celles de la nature. Mais les désordres de ses

membres, toujours intérieurs, ne doivent jamais scandaliser ni les gouvernés, ni les gouvernants.

(‘It is absolutely forbidden to involve oneself with the affairs of the government. All political discourse is expressly forbidden. The Society respects the government under which it lives; and if it places itself above the laws, this is because it is in its principles that man does not have the power to make laws which interfere with and go contrary to those of nature. But the disorders of its members, which are always internal [to the Society], must never scandalise either the governed or the governors’: VIII, 408).

The *Société* does then institute a closed space (defined as an interior), but is driven in so doing into a respect for laws which it in principle denies: this troubles the topological organisation of the spaces in question. The *Société* is above or outside the laws of society in that it denies their legitimacy, but below or inside them in that it avoids scandalising them. Paragraph 17 clarifies what is in play here:

Aucune flétrissure juridique, aucun mépris public, aucune diffamation n’empêchera d’être reçu dans la Société. Ses principes étant basés sur le crime, comment ce qui vient du crime pourrait-il jamais les entraver! Ces individus, rejetés du monde, trouveront des consolations et des amis dans une Société qui les considérera et les admettra toujours de préférence. *Plus un individu sera mésestimé dans le monde, plus il plaira à la Société*; ceux de ce genre seront élus présidents dès le même jour de leur réception, et admis dans les sérails sans noviciat.

(‘No juridical stigma, no public scorn, no defamation will prevent reception into the Society. As its principles are based on crime, how could what comes from crime ever offend them! These individuals, rejected by society, will find consolations and friends in a Society which will give them consideration and will always admit them preferentially. *The more an individual is ill-esteemed in society, the more will he please the Society*; those of this kind will be elected president from the very day of their reception, and admitted into the harems without noviciate’: VIII, 404, my emphasis).

The communication is by now evident, and it is clear that the rules are far from arbitrary, as Baudrillard would have it. This is also shown by the prescription that each session begins with a speech against morality and religion (§11), and the regular confessions which mimic and invert Catholic practice (§18). The *Société* does indeed attempt to set up a space kept secret from the legal space surrounding it (the only derogation punishable by death is the betrayal of the society’s secret

(539)), but within, that space depends on a play between the inversion of the Law, and the denial of its reality. This play is condensed in the very opening lines of the statutes, which raise what will come to be the crucial problem of the referent of the word 'crime': 'La Société se sert du mot *crime* pour se conformer aux usages reçus, mais elle déclare qu'elle ne désigne ainsi aucune espèce d'action, de quelque sort qu'elle puisse être' ('The Society uses the word *crime* to conform to established usage, but it declares that it designates thus no species of action of whatever sort': VIII, 401).

So the *Société* is above the law and below it, a secret enclave within the law which inverts the law but denies its legitimacy. It requires the word *crime* for its title and identity, it befriends crime, but simultaneously makes of 'crime' a word without reference. It follows that its secrecy is a sham, and that it needs to communicate with the discourse of law (which gives a sense to the word 'crime'), to publish its own secret, to break its own rules, in order to preserve its name.

2. The Hiatus

Sade here is working very close to a subversion of the identity-principle. In Sade's discourse, acts such as murder both are and are not crime at the same time. Challenging the identity-principle, thus (inevitably) mediated through language, here involves the superimposition of two discourses, that of positive law, and that of a certain 'law of nature' as defined by Sade, and the oscillation of a key term between the one in which it has meaning, and the other in which it is denied meaning.¹⁰ *Jouissance* is generated by this endlessly repeatable oscillation, which comes to mark with its trace all propositions which use the language of morality. Or perhaps *jouissance* could be located in the unthinkable silent space *between* the two discourses, a space in which the terms in question would have, radically, no meaning at all.

The logic of this hiatus can be further illustrated from the argument of the pamphlet *Français, encore un effort si vous voulez être républicains*, and, more specifically, in the light of Maurice Blanchot's reading of that text. Here Sade immediately casts into doubt the very coherence of the notion of the law by denying its generalising character:

Ce serait ici une absurdité palpable que de vouloir prescrire des lois universelles; ce procédé serait aussi ridicule que celui d'un général d'armée qui voudrait que tous ses soldats fussent vêtus d'un habit fait sur la même mesure; c'est une injustice effrayante que d'exiger que des hommes de caractère inégaux se plient à des lois égales: ce qui va à l'un ne va point à l'autre.

('It would here be a palpable absurdity to try to prescribe universal laws; this procedure would be as ridiculous as that of an army

general who wanted all his soldiers to be dressed in a coat made to the same measure; it is a fearful injustice to demand that men of unequal characters should bend themselves to equal laws: what suits one does not suit another': III, 492-2).¹¹

And although the pamphlet goes on to recognise the practical impossibility of there being as many laws as there are individuals, the threat to the coherence of the concept 'law' is posed. This threat is substantially radicalised at a point where the text is concerned with the problem of the maintenance of its version of a 'gouvernement républicain'. First comes a purely formal definition of the duty of such a government, which is simply that of its self-preservation:

Nous ne devons certainement pas douter un moment que tout ce qui s'appelle crimes moraux . . . ne soit parfaitement indifférent dans un gouvernement dont le seul devoir consiste à conserver, par tel moyen que ce puisse être, la forme essentielle à son maintien: voilà l'unique morale d'un gouvernement républicain.

('We should certainly not doubt for a moment that all that is called moral crimes . . . is perfectly indifferent in a government whose sole duty consists in conserving, by whatever means, the form essential to its maintenance: that is the unique morality of a republican government': III, 498).

Sade's pamphleteer's reasoning now goes as follows: it is impossible for a republican government to conserve this essential form by moral means, because any moral government would run into trouble with surrounding jealous governments. It will therefore have to resort to war to defend itself, and 'rien n'est moins moral que la guerre' (III, 498). This makes the state essentially immoral, and it cannot then reasonably pretend to enforce morality on its subjects. Moreover, this immorality is desirable. It is worth quoting the following passage at length:

Les législateurs de la Grèce avaient parfaitement senti l'importante nécessité de gangrener les membres pour que, leur *dissolution morale* influant sur celle utile à la machine, il en résultât l'insurrection toujours indispensable dans un gouvernement, qui, parfaitement heureux comme le gouvernement républicain, doit nécessairement exciter la haine et la jalousie de tout ce qui l'entoure. L'insurrection, pensaient ces sages législateurs, n'est point un état *moral*; elle doit être pourtant l'état permanent d'une république; il serait donc aussi absurde que dangereux d'exiger que ceux qui doivent maintenir le perpétuel ébranlement *immoral* de la machine fussent eux-mêmes des êtres très *moraux*, parce que l'état *moral* d'un homme est un état de mouvement perpétuel qui le rapproche de l'insurrection nécessaire, dans laquelle il faut que le

républicain tienne toujours le gouvernement dont il est membre.

(‘The legislators of Greece had grasped perfectly the important necessity of gangrening the members so that, through the influence of their *moral dissolution* on that useful to the machine, there should result from it the insurrection always indispensable in a government which, being perfectly happy like the republican government, must necessarily excite the hatred and jealousy of all surrounding it. Insurrection, thought these wise legislators, is not a *moral* state; it should however be the permanent state of a republic; it would therefore be as absurd as it would be dangerous to demand that those who must maintain the perpetual *immoral* shaking of the machine should themselves be very *moral* beings, because the *moral* state of a man is a state of perpetual motion which brings him close to the necessary insurrection, in which the republican must always keep the government of which he is a member’: III, 498, my emphasis).

In other words, as Blanchot points out, the State can no more settle down into an immobile state than can Nature in Sade’s account: but by resituating Sade’s text into an internal history, Blanchot is able to refine on the definition of insurrection or revolution and to produce the following gloss: ‘Sade appelle donc régime révolutionnaire le temps pur où l’histoire suspendue fait époque, ce temps de l’entre-temps où entre les anciennes lois et les lois nouvelles règne le silence de l’absence des lois’.¹² This description is precious, but acceptable only if we refuse the quasi-historical dimension which allowed its elaboration: the *entre-temps* is not a temporal gap between two régimes of law but, *within* a system of law, the silence between the two senses of the words, the movement which marks with its trace any legislative statement with a sort of internal transgression. Insurrection is not then positively definable, but is rather the crime posited by the law in the same movement which forbids it, the injustice of justice or the incoherence of coherence. This oscillating trace is *figured* in the evidently unrealisable prescriptions for republican government given by the pamphlet.

3. Nature

It may still be, of course, that this postulated ‘silence’ in the law might not affect the law of nature, which Sade constantly lays down in the effort to undermine positive and moral legislation: some examples of this have been seen in the Statutes of the *Société des amis du crime*. On the other hand, insofar as the statements of the laws of nature in Sade require the use of words such as ‘crime’, Sade does not simply *replace* positive or moral law with the law of nature. Sade’s statements on

nature are not, in general, particularly 'original', but can be placed in the eighteenth-century materialist tradition. It is not my purpose here to discuss or establish Sade's 'debt' to earlier writers such as La Mettrie and D'Holbach, and indeed a good deal of work has already been done on this intertext.¹³ What is perhaps new in Sade is the assertion that the laws of nature bear no relation to political or moral law, or are at least irrecoverably in excess of such law. For example, in his *Idée sur les romans*, Sade affirms that 'La Nature, plus bizarre que les moralistes ne nous la peignent, s'échappe à tout instant des digues que la politique de ceux-ci voudrait lui prescrire' (X, 19). This assertion, variants of which can be found throughout Sade's novels, can be illustrated from *La Nouvelle Justine*. Bressac has invited Justine to collaborate with him in the murder of his mother, and Justine's protest provokes a theoretical discourse on crime, law, and nature.

Bressac asserts that 'Tout dans l'univers est subordonné aux lois de la nature' ('Everything in the universe is subject to the laws of nature': VI, 204), and a little later that man and animals both depend on the same basic natural laws of matter and movement. There is a complete continuity of nature, which recuperates all matter in a process of constant transformation. Man cannot destroy matter, but can merely change its form: 'le pouvoir de détruire n'est pas accordé à l'homme; il a tout au plus celui de varier des formes, mais il n'a pas celui de les anéantir' ('the power to destroy is not granted to man; at the very most he has that of varying forms, but he does not have that of destroying them': VI, 202). Killing someone thus does not destroy that person, but simply changes the formal organisation of the matter of which s/he is composed. These changes of form are in no sense directed against nature, but are favourable to her creativity:

toute forme est égale aux yeux de la nature; rien ne se perd dans le creuset immense où ses variations s'exécutent: toutes les portions de matière qui y tombent en rejaillissent incessamment sous d'autres figures; et, quels que soient nos procédés sur cela, aucun ne l'outrage sans doute, aucun ne saurait l'offenser. Nos destructions raniment son pouvoir; elles entretiennent son énergie, mais aucune ne l'atténue; elle n'est contrariée par aucune.

('all forms are equal in the eyes of nature; nothing is lost in the immense crucible in which her variations are carried out: all the portions of matter which fall into it immediately spring back forth with other figures; and, whatever our behaviour on this matter be, it is certain that none of them outrages her, none could offend her. Our destructions reanimate her power; they maintain her energy, but none attenuates it; she is crossed by none': VI, 202).

There is then no destruction, no death, no crime, just nature following her own designs and implanting in man the passions as the instruments

of her designs (on herself). Man's desire to harm or kill his neighbour is thus an expression of a law of nature, and is therefore good.

It is possible to see at work here in a refined way a slippage between prescriptive and descriptive senses of the word 'law' which I would suggest to be typical of eighteenth-century discourse: for Sade appeals to the (descriptive) laws of nature, which are essentially laws of perpetual movement and transformation, to undermine the (prescriptive) laws of society (or of the fictional construct called 'nature' by the theorists of 'natural law'). But these descriptive laws of nature then become prescriptive laws for action in society in that they encourage murder and crime. For if measured by the laws of society or the fictional nature used to legitimate them, nature is herself criminal:

La première et plus belle qualité de la nature est le mouvement qui l'agite sans cesse: mais ce mouvement n'est qu'une suite perpétuelle de crimes; ce n'est que par des crimes qu'elle se conserve; elle ne vit, elle ne s'entretient, elle ne se perpétue qu'à force de destructions. L'être qui en produira davantage, celui qui sera le plus parfait, sera donc infailliblement celui dont l'agitation la plus active deviendra la cause d'un plus grand nombre de crimes.

('The first and most beautiful quality of nature is the movement which agitates it ceaselessly: but this movement is only a perpetual series of crimes; it is only through crimes that she conserves herself; she only lives, she only maintains herself, she only perpetuates herself through destructions. The being which produces more destructions, the most perfect being, will therefore infallibly be the being whose most active agitation will become the cause of a greater number of crimes': VI, 208).

One obeys the laws of nature by following all the impulses of one's passions: the law of society is, on the contrary, defined in Aristotelian style as that which is inaccessible to passion,¹⁴ and has therefore no excuse for carrying out punitive action, is no longer excusable in terms of the 'natural' egoism and cruelty of the passions. The exercise of the law is thus a crime whereas crime obeys the law, when the law is that of the nature described by Sade.

This description allows a positive and a negative description of nature: positively, it can be used to legitimate what is called crime. Negatively, it denies man the possibility of committing crime. The positive aspect also grounds the laying down of the law, which is thus still the voice of nature transcribed by the 'scélérat' who has the courage to destroy prejudice and listen to that voice. The question is one of the propriety of *naming* — all living organisms partake of the same general 'variations' of natural forms, 'ne recevant jamais une mort réelle': if the propriety of the term 'death' is thus denied (and with it, by implication, the propriety of the term 'life'), then murder, for example, can only be an 'action

improvement appelée criminelle' (VI, 203), which in fact *helps* nature to lay down her law.

On the other hand, this is not the same as simply producing a sententious affirmation of the type: 'what we call good is really bad and what we call bad is really good'. Because the 'philosophical' discourse of Sade's characters uses 'truth' only as a bogus legitimation for *jouissance*, it requires the maintenance of the terms it undermines in order for the transgression necessary to that *jouissance* to take place. If we take a typical description of desire in Sade: 'la volupté n'admet aucune chaîne, elle ne jouit jamais mieux que quand elle les rompt toutes' (VIII, 62), it is now clear that the 'chains' *are* admitted precisely to the extent that they are broken. This point could be illustrated with literally dozens of examples, the most extreme and explicit being no doubt in *La Nouvelle Justine*: 'Non, rien au monde n'est délicieux comme l'existence de ces freins, uniquement réalisés pour se procurer le plaisir de les rompre' ('No, nothing in the world is as delicious as the existence of these restraints, made real only to procure oneself the pleasure of breaking them': VII, 294). This can now be generalised to the structure of language, and it can be suggested that Sade's insistent use of the language of law or morality in his laying down the law, while he no less insistently shows that such language has no referential value, is determined by this logic of the *frein*, which is part of the logic of *jouissance*. Just as Sade interpellates God in order to deny his existence, so he calls on the abstract nouns whose economy founds morality in order to repeat the enjoyment of demonstrating their vacuity.

4. Nature unvoiced

This play with semantic values still, however, seems to be grounded in an appeal to a redefined 'law', that of nature. This law makes it strictly speaking impossible to commit crime, to find a referent for that word, and it is now possible to summarise the life of the 'integral' Sadian *libertin* (who has gone beyond the mere repetition of a single perversion which characterises the minor protagonists of the novels) as an endless quest for that lost referent, a quest marked by the imposition of simulacra of laws, and the realisation that none of these simulacra can survive the reasoning of the philosophical dissertations. La Delbène tells Juliette: 'C'est la loi seule qui fait le crime, et . . . le crime tombe dès que la loi n'existe plus' ('It is the law alone that makes the crime, and . . . the crime falls as soon as the law no longer exists': VIII, 74). Desire desires limits in order to break them in *jouissance*, but the true *libertin* cannot simply repeat this operation with the same set of limits, for desire in Sade is historical, it expands, and must discover with each *jouissance* a new, wider set of limits to transgress. This imperative of *jouissance* inevitably becomes a 'manque à jouir', and it is again La Delbène who makes this clear:

L'habitude de tout franchir leur (i.e. 'les scélérats') fait incessamment trouver tout simple ce qui d'abord leur avait paru révoltant, et, d'écart en écart, ils parviennent aux monstruosité a l'exécution desquelles ils se trouvent encore en arrière, parce qu'il faudrait des crimes réels pour leur donner une véritable jouissance, et qu'il n'existe malheureusement de crime à rien. Ainsi, toujours au-dessous de leurs désirs, ce ne sont plus eux qui manquent aux horreurs, ce sont les horreurs qui leur manquent.

('The habit of crossing all boundaries immediately makes the *scélérats* find what had seemed revolting to them at first to be quite simple, and, from deviation to deviation, they arrive at monstrous deeds in the execution of which they still find themselves to be in arrears, because *they would require real crimes to get a true enjoyment*, and because unfortunately there is no crime in anything. And so, always below their desires, it is no longer they who are lacking when it comes to horrors, but the horrors which are lacking for them to perform': VIII, 93-4, my emphasis).

This lack leads to a frustration which resituates desire on a cosmic level, in which Nature, which had previously legitimated crime, becomes an ultimate limit to crime. In *La Nouvelle Justine*, the monk Jérôme, beyond the *jouissance* of simple crime, wishes he could emulate the privileged example in Sade of the *écart* within nature, the volcano.¹⁵ This turns out to be possible, through the good offices of the chemist Almani, but Nature simply absorbs attempts made to violate her (VII, 47-8). The specific frustration the *libertin* eventually encounters is that provoked by the totalising capacity of nature, which simply gathers up all expenditure and deficit into an economy at a different level. Almani admits defeat, his imitation is always already condemned to the service of nature. The laws of nature which legitimated the breaking of the *freins* of social laws, here become themselves the *freins* which seem to be unbreakable, the limits on desire rather than its motive force. Sade's logic seems to be stuck in contradiction here, insofar as the law of nature is both, and contradictorily, a law which releases and a law which contains. As a force releasing desire it can be praised in the terms we have seen: as container, it can be cursed. The *pas au-delà* which describes the Sadian exploitation of moral and legislative vocabulary in the interests of *jouissance* is here apparently radically blocked. However, in certain passages of the novels, an attempt is made to overcome this limit by exploiting the *indifference* of nature to man, and by transforming this indifference into a relationship characterised as an absence of all relationship; or, as can be said more neatly in French, a *rappor du sans-rapport*.

The complex problems raised by this new position are most readily in evidence in the Pope's discourse to Juliette which precedes the orgy in the Vatican. These pages form what is perhaps the most difficult

'philosophical' passage in the whole of Sade. The first essential element here is that nature's creations or productions are essentially the result of blind forces: man might be the result of the laws of nature, but should not be allowed the dignity of being a creation: the creatures of the earth are merely the vapours produced by a process indifferent to them (IX, 171). Nature is entirely independent of her creatures insofar as it is perfectly conceivable that she could continue to exist according to a different set of laws. There are two consequences of this: the first is the *non-rapport* of man and nature; the second is that nature is herself *subject* to laws. The first of these points is argued as follows:

Les rapports de l'homme à la nature, ou de la nature à l'homme, sont donc nuls; la nature ne peut enchaîner l'homme par aucune loi; l'homme ne dépend en rien de la nature; ils ne doivent rien l'un à l'autre et ne peuvent ni s'offenser, ni se servir; l'un a produit malgré soi: de ce moment, aucun rapport réel; l'autre est produit malgré lui, et, conséquemment, nul rapport. Une fois lancé, l'homme ne tient plus à la nature; une fois que la nature a lancé, elle ne peut plus rien sur l'homme; *toutes ses lois sont particulières*.

('The relations of man to nature, or of nature to man, are thus nil; nature can chain man by no law; in nothing does man depend on nature; they owe nothing the one to the other and can neither wound each other nor serve each other; the one has produced in spite of herself: from that moment on, no real relation; the other is produced in spite of himself and, consequently, no relation. Once launched, man no longer cares about nature; once she has launched, she has no more power over man; *all her laws are particular*': IX, 171, my emphasis).

In his punctual *lancement*, man receives laws to which he is subsequently bound, although these laws are no longer in relationship with nature. On the other hand (and here is the *rapport* despite the previous assertion of the *sans-rapport*), if man (and the other species) follow the law of this launching, notably by propagating, then they in fact block the creative faculty of nature and prevent her from throwing the dice differently: nature is herself bound by her own laws: [La nature] n'est pas maîtresse . . . elle est la première esclave de ses lois . . . elle n'y peut rien changer' (IX, 172).

The logic at work here provokes a distinction between primary and secondary processes, and this is vital for the structure of the enunciation of the law. By propagating and/or not destroying, man binds nature to *secondary* laws which restrict the *primary* law of nature, here simply described as a *puissance*. Within the space defined by these secondary laws, which is the space of 'reality', nature operates according to principles of perpetual movement, in which notions such as 'death' or 'destruction' are purely relative, mechanically produced by the logic of

the *lancement*. This secondary space denies reference or relevance to the laws of society and morality. Nature, whose power to create *or* destroy is radically limited by the effects of this secondary sphere, nevertheless preserves a *volonté* which allows her to send out tyrants and *scélérats* whose impossible destination is the destruction of the secondary sphere which they inevitably perpetuate: nature could only regain her primary power by destroying the whole of the secondary sphere — in other words by destroying herself: the crimes of the *scélérat* are only effective within the secondary laws, and remain indifferent, neither help nor hindrance, to nature as primary *puissance* (IX, 175).

This of course proves far too much, and would tend to suggest the ultimate pointlessness of crime, so the Pope resorts to two arguments in its favour. The first is that as nature would like to be free of the laws imposed on her by the secondary sphere, mankind must at least try to please her by going as far in that direction as it can: 'Vous ne pouvez lui plaire par l'atrocité d'une entière destruction, plaisez-lui donc du moins par une atrocité locale' ('You cannot please her by the atrocity of an entire destruction, so at least please her by a local atrocity': IX, 180). This contradicts the logic of what has gone before, and especially the law of the *non-rapport*. The second argument reproduces with respect to nature the structure of interpellation, transgression and *jouissance*:

loin de remercier cette nature inconséquente du peu de liberté qu'elle nous donne pour accomplir les penchants inspirés par sa voix, blasphémons-la, du fond de notre coeur, de nous avoir autant rétréci la carrière qui remplit ses vues; outrageons-la, détruisons-la, pour nous avoir laissé si peu de crimes à faire, en donnant de si violents désirs d'en commettre à tous les instants . . . Quand j'aurai exterminé sur la terre toutes les créatures qui la couvrent, je serai bien loin de mon but, puisque je t'aurai servie . . . marâtre! . . . et que je n'aspire qu'à me venger de ta bêtise, ou de la méchanceté que tu fais éprouver aux hommes, en ne leur fournissant jamais les moyens de se livrer aux affreux penchants que tu leur inspires!

('far from thanking this inconsequent nature for the little liberty she gives us with which to accomplish the leanings inspired by her voice, let us blaspheme her, from the bottom of our hearts, for having so shrunk for us the career fulfilling her views; let us outrage her, let us destroy her, for having left us so few crimes to commit, yet giving such violent desires to commit then at every moment. . . . When I have exterminated all the creatures which cover the earth, I shall be far from my goal, since I shall have served you . . . marâtre! . . . and may I only aspire to avenge myself of your stupidity, or of the wickedness you cause men to experience, by never furnishing them with the means of giving in to the awful penchants with which you inspire them!': IX, 186-7).

It is, I imagine, tempting simply to reject with impatience this type of argument, to denounce its incoherence and delirious character. On the other hand, these incoherences might be read as traces in Sade's writing of the unrepresentable *primary* sphere of nature (although there is probably no particularly good reason for calling it 'nature', nor for assuming it can be named in any coherent way) which would be the final absence grounding Sade's writing. Gilles Deleuze, describing what Sade calls the secondary sphere as a space in which *partial* destructions are possible, partial crimes, a space of 'le négatif comme processus partiel', opposes to it this primary nature as 'la négation pure comme Idée totalisante', and 'un délire de la raison comme telle'.¹⁶

It would be possible to argue that for most eighteenth-century thinkers, nature is essentially a voice, and a legislative voice. This is heard in the individual as the voice of conscience, and is the ultimate ground for the authority of the law in general. But in Sade, the primary nature we are discussing *has no voice*:

La nature n'a donc point de voix; celle qui tonne en nous n'est donc plus que celle du préjugé, qu'avec un peu de force nous pouvons absorber pour toujours.

('Nature has therefore no voice; that which thunders in us is therefore now only that of prejudice, which with a little strength we can absorb for ever': IX, 184).

One consequence of this ultimate silence of nature is that sentences in Sade's fiction which lay down the law and claim philosophical status are as 'fictional' as fiction, and any internal legitimations in terms of the 'truth' are fictionalised too. Any 'truths' spoken by the voice of the secondary sphere of nature and laid down as law by the *libertin* are used to combat the *préjugé* of moral or positive law only on this radically fictionalised ground. Nor can we pretend to speak the 'truth' of that radical fictionality, to lay down *its* law, from the vantage-point of that 'ground', precisely because it is fictionalised. There is no longer *any* ground on which to stand.

It now seems possible to say that Sade's various pretences to speak the truth about, for example, crime or perversion, to present 'perversion' as the truth of nature, and so on, always already constitute a crime, a perversion of speaking the truth, a perversion of the distinction between truth and fiction, which can no longer obey the controlled exchanges of classical narrative economy. A 'final' problem is that of the status of language in Sade: this is indeed a basic question, if it is justified to assert that the quest of the *libertin* is a quest for a referent for the word 'crime'. There is nowhere in Sade an explicit theory of language, and it is probably unthinkable that he should have elaborated one, as in a certain sense language is impossible in Sade's world. Rousseau, in order to get man out of the isolation of the state of nature, needed to exploit the

notion of pity as founding the possibility of an identification with the other, on the basis of which, given the necessary natural catastrophe, language and society could develop. In Sade, 'pity' has no status except for the weak, the victims: it would belong to a series comprising terms such as 'bienfaisance, charité, remords . . .'. The Sadian *libertin* is *isolated* from the other.¹⁷ Given what has been said on the non-general status of the law, and the undermining of contractual relationships, it is now possible to suggest that in Sade there can be no linguistic contract for the *libertin*. This contract would be more radical than that of 'keeping one's word', and would involve the problems of nomination mentioned above: for Sade's heroes agreement in nomination is a mark of the weak, the *sots* dominated by the *préjugé* and the bogus social contract. If for Nietzsche the 'origin of language', and specifically of moral language, is linked to the power of the 'master' to give names,¹⁸ in Sade this naming is a product of the tendency of the weak to herd together: the *libertin* must contest language and the stability of reference if he is to become the 'souverain'. This is evidently a situation close to madness, but again, any 'escape' from the closure of meaning does not lead to a delirious or non-referential writing, but to a perversion of that writing, a play on its limits. This is dramatised in the only episode in Sade which features madmen, in the *Histoire de Juliette*, where madness is linked to a confusion of proper names (the madmen think they are God, Mary, Jesus), which is of course exploited by the *libertins* in terms of the simulacrum, in the interests of *jouissance* (IX, 385-387). The logic is the same in the general use of moral terms: the madness of society is to assume the meaning of those terms; that of the *libertin* is to play at inverting those terms, in the knowledge that they have no referent.


Sadian cruelty is not limited to the body of the victim, if only because this dimension of cruelty depends on a reading based on the referential, denotative function of language, cast into doubt in the texts themselves. In a sense, the only 'real' cruelty in Sade is that worked on the body of language, insofar as 'Sade' here means only a body of writing. Where Bataille, for example, can suppose that 'violence' precedes Sade's texts which are thus the paradoxical expression of what is essentially silent,¹⁹ it seems necessary to say that nothing precedes the text (not even the voiceless primary nature), but that the text produces violence only because of language, which is not preceded. The problem with Sade is not that he recommends crime, but that, in denying a referent to the word 'crime', he commits a linguistic crime, which can no longer be named as such. This is not to suggest that Sade escapes from meaning, nor even from morality or sociality: there is no such escape. Sade's crime is, rather, to introduce into language an internal transgression which opens up, *within* a certain simulacrum of meaning and law, the oscillation of *jouissance*. At the very least, this suggests that the law is a text, and will not lie down where it is laid.

Notes

1. An earlier version of this text was presented as a paper to the Cambridge University Modern Language Society in October 1983, and is part of a longer study of Sade which forms the final chapter of a forthcoming book on the eighteenth-century French novel.
2. Michel Foucault, *Les Mots et les choses* (Paris: Gallimard, 1966), pp.222-3; Roland Barthes, 'Sade 1', in *Sade, Fourier, Loyola* (Paris: Seuil, 1971; reprint collection 'Points', 1980), p.32.
3. Donatien Alphonse François, marquis de Sade, *Oeuvres complètes*, édition définitive, 16t in 8 vols (Paris: Cercle du Livre Précieux, 1966-7), III, 424. All references to Sade are to this edition and will be incorporated into the text. All translations are my own, and try to be as literal as possible.
4. An example of double bind as a narrative device is provided in *La Nouvelle Justine*, where the criminal innkeeper d'Esterval calculates on the basis of Justine's virtue that she will not attempt to escape because of a feeling of duty towards the guests she might save by staying. This double bind allows the narrative to continue, but is also a figure of d'Esterval's *jouissance* (VII, 94-5). See too VII, 30, for an example of a torture-machine as a figure of the double bind.
5. 'Virtue is so beautiful that thieves respect its image even in the bottom of their caves': 'Droit naturel', in *Oeuvres politiques*, edited by Paul Vernière (Paris: Garnier, 1966), pp.29-35 (p.34).
6. Marcel Hénaff, *Sade: l'invention du corps libertin* (Paris: PUF, 1978), pp.243-283. The present text owes much to Hénaff's masterful work.
7. Jean Baudrillard, *De la séduction* (Paris: Galilée, 1979; reprint Denoël/Gonthier, 1981), pp.120-124.
8. This argument was used earlier by Gilles Deleuze in his *Présentation de Sacher Masoch* (Paris: Minuit, 1967), p.67.
9. Jane Gallop, *Intersections: A Reading of Sade with Bataille, Blanchot and Klossowski* (University of Nebraska Press, 1981).
10. The principle of this structure can be found in an early poem by Sade, entitled 'La Vérité': here Sade interpellates God only to deny his existence, thus paradoxically taking as his addressee a proper name to which he simultaneously denies reference.
11. See too the principles laid down by the monk Sylvestre in *La Nouvelle Justine* (VI, 336-337). It would be possible to argue that this push towards an individual law is in fact within the logic of the political thought of Sade's generation: see Leo Strauss, *Natural Right and History* (Chicago U.P., 1953), p.14.
12. 'Sade thus calls "revolutionary régime" the pure time in which suspended history forms an époque, this time of the between-time where, between the old laws and the new laws, there reigns the silence of the absence of laws': Maurice Blanchot, 'L'insurrection, la folie d'écrire', in *L'Entretien Infini* (Paris: Gallimard, 1969), pp.323-342, p.336.
13. Pierre Naville, *D'Holbach et la philosophie scientifique au XVIIIe siècle*, nouvelle édition (Paris: Gallimard, 1967); Jean Deprun, 'Sade et les rationalisme des lumières', *Raison présente*, 3 (1967), 75-90, and 'Quand Sade récrit Fréret, Voltaire et d'Holbach', in *Roman et lumières au XVIIIe siècle* (Paris: Editions sociales, 1970), 331-340; Paul-Laurent Assoun's presentation of his edition of La Mettrie's *L'Homme machine* (Paris: Denoël-Gonthier, 1981).
14. See III, 493 (from *Français, encore un effort . . .*): 'La loi, froide par elle-même, ne saurait être accessible aux passions qui peuvent légitimer dans l'homme la cruelle action du meurtre; l'homme reçoit de la nature les impressions qui peuvent lui faire pardonner cette action, et la loi, au contraire, toujours en opposition à la nature et ne recevant rien d'elle, ne peut être autorisée à se permettre les mêmes écarts . . .'. See Aristotle's *Politics*, 1287a: 'The law is reason unaffected by desire'.
15. Philippe Roger has a good chapter on the role of the volcano in *Sade: La Philosophie dans le pressoir* (Paris: Grasset, 1976), Chapter XI, pp.156-165.
16. Deleuze goes on to map this configuration onto the structure described by Freud in *Beyond the Pleasure Principle*: there are on the one hand death drives mingled with

life drives, processes which can only be observed as negative moments mingled with positive ones, in which destruction is only presentable as the 'envers' of construction. On the other hand, the death *instinct*, which can never be presented as such, is pure negativity (*Présentation de Sacher Masoch*, p.24). I think that it would be unwise to read Freud as the 'truth' of Sade (there is, for example, no reason why the structure of 'nature' as elaborated by Sade should be seen in psychic terms); it may be too that to discuss the ultimate silence of nature in Sade in terms of 'pure negativity' or a totalising Idea is still too positive and 'philosophical' a description.

17. See Blanchot, 'La Raison de Sade', in *Lautréamont et Sade* (Paris: Minuit, 1963), p.19; A.M. Laborde, 'La Notion d'isolisme', in *Sade romancier* (Neuchâtel: La Baconnière, 1974), pp.157-163.
18. Nietzsche, *The Genealogy of Morals*, in *The Birth of Tragedy and the Genealogy of Morals*, translated by Francis Golffing (New York: Doubleday, 1956), p.160: 'The lordly right of bestowing names is such that one would almost be justified in seeing the origin of language itself as an expression of the rulers' power. They say, "This is this or that"; they seal off each thing and action with a sound and thereby take symbolic possession of it'.
19. Georges Bataille, 'Sade et l'homme normal', in *L'Erotisme* (Paris: Minuit, 1963), pp.197-218, especially p.207.



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