Law & The Sacred: The Fault of the Sacred

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What commits 'us' to think the sacred, and in so doing, perhaps form a bond of community in response to this fascinating name? To pose such a question is to ask, 'what makes possible the communication of the sacred'? In the same instant, it is to think what is at *stake* in this communication. Let us suggest at the outset, without caution and upon the pain of an exigency to compel speech to push beyond its rights, that if what is sacred gives itself from a place of separation, the sacred grants, or rather affirms, the passion of an unbounded speech that touches upon a Yes, a yes that traces the inacessible intimacy of sacrifice.

In an address presented to the *College de Sociologie*, Georges Bataille writes of the erotic relation. I cite Bataille, not because Bataille happens to write of or on this question, but rather, because the reason and ordeal of Bataille's thought lies in attempting both to respond to and to communicate the very claim of the sacred. That is, the significance of Bataille's work lies in the irrepressible need to speak a language that returns to silence, a language of sacrifice that persistently fails before its object, and in so doing finds a power to affirm its own passing. 'Two beings', Bataille writes,

> are lost in a convulsion that binds them together. But they only communicate when losing a part of themselves. Communication ties them together with wounds (1985: 250).

Everything that concerns us here is concentrated in these three small sentences. Bataille names this communication of shared loss the 'sacred': "Thus I can say that the 'sacred' is communication between things, and thereby the formation of new beings" (1985: 251). But here, where the 'sacred' is named, it is held in quotation marks. The sacred is given, but is simultaneously held in abeyance, as if speech must reserve itself against the force and surprise of its claim. This apparent discretion is therefore the most profound and reckless moment: here, where language is suddenly convicted of its own finitude, the 'sacred' is offered as a unique and glorious word, a gift, quoted, repeated, released from language so that it may confirm and provoke the very separation that gives to speech its voice, and likewise, its terrible insufficiency.

This is not to say that the sacred is the mystical. *Logos*, insisted Simone Weil (a thinker too easily claimed for a resurgent mysticism) is *eros*. The desire to know, a will-to-truth, is no less an always uncertain relation that is never without the spectre of destruction, of ecstatic loss and absorption (but this will mean, as Bataille will insist over and over again, that it is necessary to attempt to pursue two paths, one of work, the other of 'transgression': the interest lies in where these two paths slice one another). To cite Bataille once more; "Of eroticism, it may be said that it is assenting to life up to the point of death" (*De l'erotisme, il est possible de dire qu'i est l'approbation de la vie jusque dans la mort.*)' (1986: 11). I have no relation to the other without a rapport, first, to their possible absence. Or again, in Simone Weil's words:

> Never to think of a thing or a being we love but have not actually before our eyes without reflecting that perhaps this thing has been destroyed, or this person dead. May our sense of reality not be dissolved by this thought but made more intense (1987: 14).

If the erotic is a place of the sacred, the sacred answers to or traces a yes that may only affirm itself in the finitude, the giving -- and losing -- of the other. This is also to ask: what is sacrificed where a 'yes' takes place, if not the sacred itself, so that it may resound and echo all the more, as a yes that is nothing less than its own upsurgent fading, or wound.

This is attested in the very meaning of the word 'sacred' (from the Latin *sacrare*, to 'set apart as holy'). It falls to sacrifice (from *sacrificium*, from *sacer + facere*, 'to make') to create or invent the sacred through a setting apart, a separation or mark of distance. What is sacred would appeal precisely to an *invention*, and an invention, no less, than of mourning: a yes to death as separation. If the dead accomplish the difficult task of living on in the sacred, in a more 'intense reality', a *surrealite* that appeals first to absence, the dead live on in a yes. As an inspiration of mourning, to think the sacred as a yes to and of the other is to already repeat a 'yes', a yes offered like a liturgy or prayer set apart from language in being absolutely fascinated with its own return, affirming and releasing its own trace.

The 'yes' is one of most powerful themes in the work of Derrida, if not the most significant. While I cannot address all that is at stake in the yes, I wish to illustrate certain of its features. As soon as I speak, act or announce myself, there before power, desire, or will, before attention or evaluation, a content or meaning, the event of a yes has passively taken place. Whatever my action, this action already remarks and quotes -- affirms -- a yes. For this reason, the yes is never singular. It responds to and anticipates itself. As soon as I speak, I say yes to language, or rather, the *yes of* language: but this event of the yes is only traced in being repeated -- the yes is not itself present or positive. It is already repeated, and repeats in the *absence* of what it would signify; that is, its own affirmation or event.

The yes is always a 'yes yes', already a response to the other. The yes *already* cites itself, already comes second in response to a demand that precedes it. The yes commits itself to a future, to a confirmation in a second yes, which enacts a promise by inheritance to preserve the memory of itself. For this reason, there must always be a second yes, a yes of 'confirmation', but it must take place *as if* without precedent. Rather than a pure affirmation, there is already a reaffirmation that commits itself to communication, to another reaffirmation, as the 'yes yes' of its own event. The first yes will not have taken place without the second, without the promise of the second to remember, even as the second is the forgetting, or rather the mourning, of the first. The second yes, *which already takes place in the first*, must begin again, *as if for the first time*. For this reason, the 'yes yes' always remains uncertain, taking place without the order of knowledge. We are never certain that we have said yes, whether or not the yes is in fact a memory or a work to fashion and endure. Where there would be a yes, it takes place as if a new yes, reinventing itself; it recreates and reinvites the other by responding, quoting and signing *as if for the first and only time*. And this would be our risk: that to say yes may take place without confirmation, without recognition, a sacrifice that risks its own possibility in order to touch upon this yes as the gift or event of a community.

The yes affirms a new event, something perhaps unique and singular, so vulnerable as if to take place only once, in its separation from all precedence. Yet it affirms again and again, there where I may be able say, at least, 'just once'. In this way, perhaps the yes touches upon what is sacred, or the sacred is a yes to the yes, affirming what is separated from me, where I lose or have already sacrificed that part of myself which presents me to the other over whom I have no power. Because the yes is not positive, is not the evaluation of a subject or a self, it's repeatability is also empty. The absence that it imposes is a place of affliction and torment, where we are deprived of the singularity of the I, and in this, share our separation.

And perhaps this yes is also to begin to think what Simone Weil calls grace, or affliction. If Creation is a yes through departure, its presence traced only through withdrawal, through sacrifice, to approach the figure of God means likewise to become nothing, to renounce all attachment, including the power to renounce. Returning or coming back, this repetition has its sense only where there is finitude. Only what is repeatable 'is', only what is finite 'is'. But what is finite is not therefore *absolutely* finite. The finite is already haunted by itself, haunted by the spectral or fictive double of its own nothingness. Non-being is marked in the very signification of the finite -- the finite is finite because its signifier or sense can be repeated in the absence of what it would name. If we encounter ourselves first where we are not, and speak over the distance that communication cannot but maintain, we are separated according to a finitude that we share in common. In this sense, what is finite encounters itself as other to itself. It cannot but affirm itself in a 'yes' dedicated to the strange attraction of distance. For example, where Simone Weil may decisively declare, "May I disappear in order that those things that I see may become perfect in their beauty from the very fact that they are no longer things that I see" (1987: 37), we see at once how the force of this sacrifice answers only to distance, to make of the separation between oneself and another all the more pronounced, excessive, and so allow a yes to take place. Without being, and all the more removed from being, the yes takes place as a yes to the finitude of being.

To invoke the sacred, therefore, cannot but immediately require quotation marks, beyond any particular idiom or understanding, as if to declare that the 'sacred' is at once exemplary and glorious, without time and place in its absolute separation from the world. Such a gesture would both give the sacred as a gift to itself, allow the sacred to be expressed in its absolute form, *the sacred as sacred*, while at the same time placing the 'sacred' beyond or without this donation, veiling the sacred in its very annunciation. The name, suspended, both announces the sacred, and yet is all the more empty for only being a name; as if to mark its own finitude and affirm that what is sacred must proceed beyond and without the name. Almost to demand that the sacred sacrifice itself upon the pain of incommunicability. The quotation

marks arrest the sacred, define it absolutely, communicate the separation of the sacred *without naming what is* sacred, seeming to protect it from all decision and anticipation. The quotation marks would then be the most empty gesture, a desire to name and limit what is set apart from all possibility of response. If the quotations marks situate a *philosophical* approach to the sacred, they assert nothing that is not already found in the appeal of religious transcendence: that of the absolute separation of divinity, the place of the beyond or, in the gesture of nihilistic denial, the apparent exhaustion of a sacred speech and a loss of value (which already presupposes that the sacred is first of all a question of value). But if the question of the sacred pertains only to a choice between religion and (its double) nihilism, or between the 'beyond' and its negation, the terms then fail to measure the issue. If the sacred names a yes, because the yes is *without suspicion*, the quotation marks perform and affirm the very separation of the sacred, allowing the sacred to affirm itself all the more powerfully, *sacrificing* all other places where it may be named, as if to maintain its absolute identity in its citation as that which returns (perhaps as a joy of recurrence that wants everything eternally the same, a great yes and *amen*). And this logic of sacrifice means that there, where the sacred is quoted, the sacred must pass without the security of origin or place, and without appeal to the proper tongue of its invocation. If the sacred itself is nowhere present at the time and the place in which it may be named, we can no longer ask who speaks for the sacred. Nothing less is presupposed than that it may always be another voice, the other already -- past or yet to come -- who may name the sacred, and never oneself. And it would be on condition of allowing the other the power to name that the sacred would be respected beyond all the rights of knowledge.

Where the sacred is communicated in a yes, it requires the place of another, a sacrifice, by which to mark its own event. Bataille will insist that "Sacrifice can only posit a sacred *thing*". If it falls to sacrifice to mark what is most separate, accordingly, it is death that "always remains the privileged sign of the *sacred* (...that is to say, of *life* at its most intense and audacious)" (Bataille 1994: 119). Or life that is no longer simply life, but life become something other. It is sacrifice, for Bataille, that would appear to make possible the experience of my own death in the destruction of the other. But here, what is sacrificed is precisely my rapport to my own death. I do not -- cannot -- experience the death of the other as such. I 'experience', if this word may be permitted, the representation of my own death being put to death. Sacrifice communicates the death that "frightens and transfixes the man who is absorbed in his future disappearance, to the extent that he is a separated and irreplaceable being" (Bataille 1990: 16). What is given, and what I cannot anticipate, is a separation from my own death, a separation and a death that make impossible, in this instance, the word 'my'. It is death, declares Bataille, that reveals nothing. Yet this is not to say that the event does not communicate 'a consciousness of being-separated', or rather, affirms and communicates this very separation, communicates a yes that it at once a yes to separation. It is because sacrifice speaks the distance between the one and the other that the sacred finds its force in a yes.

This is why sacrifice is not the regathering of an essence, a transfiguration of the finite into an enduring and divine life. The sacred would survive the instant of death not because sacrifice transforms death into the very movement of being, but rather, because being is itself offered to its own finitude, again and again. What allows the sacred to touch and affect us would be its very yes to finitude, to that which escapes us, departs, and which no sacrifice can reclaim or arrest. If sacrifice creates or invents the sacred, it does so to affirm that the sacred exceeds its power, making of itself a finite act ceaselessly affirming its own finitude.

The question then becomes, how to speak a language of the sacred if it is not my own (or more to the point, if the sacred is addressed in a language that belongs to no-one)? In order to speak it, I must perform some kind of translation, quote the work of others, attempt to come to terms with their experience. In so far as the other language is different from my own, I must speak across this distance: I must address the gift of speech that comes first from the other whose distance compels me to speak, and speak while maintaining the separation that puts us into relation. It is, therefore, not without significance that the sacred poses a problem of translation. In *The Task of the Translator*, Walter Benjamin declares that the "'sacred text' is the prototype or ideal (*Urbild*) of all translation'" (Benjamin 1992: 82). Where an original text addresses itself to the possibility of translation, it addresses itself to its after-life (*Uberleben*), its 'over' or 'beyond' life. In *Des Tours de Babel*, Derrida translates *Uberleben* as *survie*, on or beyond life, what survives life and death, what is more than life (death): a 'living on', a life or existence that is more than or beyond death (and that means, in accordance with the thought of repetition, that death is not the end). [1] *Uberleben* would suggest that translation (*trans*, over or beyond) is itself a kind of mourning, an experience of the finitude of language that as yet allows different

languages to live on in their difference. Where the exigency of repetition in Benjamin is to extract from history a suppressed and revolutionary impulse -- that is, an new and unpredictable event -- it is between an original work and its repetition in translation, that history is invented (or perhaps, reinvented). But this 'between' of the original and the translation is nothing historical. A translation gives a work its history, and so issues from the separation that it inaugurates, giving to the work the possibility and promise of an after-life, a survival in repetition. The translatability of a work, Benjamin argues, is not measured in the ease of transferring meaning from one language to another, but rather, in the space that lies between languages. Translation is first a yes to the separation and difference of the languages. In marking or tracing a promise of translatability, translation gestures toward a pure language within which each language may find its place and its voice. What offers this promise, Benjamin writes, "is the element that does not lend itself to translation" (1992: 76); which would be to say, the very separation and difference that lies between the languages, and through which one language must respond to another. Translation measures the degree to which a language must be transformed. The separation between languages resounds, we may say, like an echo wherever translation takes place, and accordingly, traces the force of a yes or a debt that one language owes to another for its survival.

It is the sacred text that is the most translatable, because *the most separate*, marking all languages as unique idioms. It demands the greatest transformation of language, which is perhaps to say that it demands of language the capacity to reinvent itself and speak its own after-life, to speak its own separation, *by speaking another language*. If the task of the translator is to "release in his own language that pure language which is under the spell of another" (Benjamin 1992: 80), this task is first in debt to an echo or a 'yes yes' that translation must *institute* and call forth in response to the separation of languages. But if this echo of a pure language is an effect of translation, this language cannot be itself spoken. If a translation *transforms* the language, a new language is each time invented. Translation, Benjamin insists, puts "the growth of languages to the test: How far removed is their hidden meaning from revelation, how close can it be brought by the knowledge of this remoteness (*Entfernung*)" (1992: 75). Translation would be the experience and invention of the remote, of a distance all the more naked where it survives as a promise of the sacred, of the most separate.

Is this pure language that Benjamin speaks of the language of a 'yes yes', a language that is the echo of a yes? Such a language would be apocalyptic, the first and last word, a promise of reconciliation that yet withholds this moment: such a language both arrests and yet cannot arrest the distance that lies between tongues, but must speak this distance only by reinventing itself, by becoming other to itself, by repeating and affirming itself where it no longer is and can no longer speak in its own voice. A language that must translate becomes a new language, painfully finite, perhaps taking place only once, sacrificing itself before the words and speech of the other idiom.

A thought that attempts to name the sacred already communicates its separation. A yes to the sacred takes place without the safety of the name and, according to the greatest exigency, to let the sacred appear in its own name. Rilke's 'Ninth Elegy' would evoke something of the sacred where the poem declares that the fleeting world needs us, the most fleeting and transient of all, to say and name things more intensely than the Things themselves ever dreamed of existing to say.

> Ein *Mal*
> *jedes, nur* ein *Mal*
> Ein *Mal und nichtmehr*
> *Und wir auch*
> ein *Mal*
> *Nie wieder*
> *Once*
> for each thing
> Just *once*; no more
> And we too
> just *once*
> And never again.

In Nietzsche's words, perhaps a yes that wants nothing different. To say 'just once' would be a yes that takes place *as if* for the first and only time. But in response, there is Celan's *Einmal*, which recalls Rilke's elegy (and here, we shoud not forget that an elegy is a plaintive poem, a lament) with a

mourning that it cannot resist, an annihilation born by the 'I', by the one who would witness what has departed and who would speak this departure.

> Eins und Unendlich,
> vernichtet,
> ichten.

> One and infinite, one and unending
> annihilated,
> I'ed.

Einmal, once or just once. If in Rilke's elegy the abysall desire to "hold onto it all, forever", seems to repeat Nietzsche's "and thus I willed it", Celan's annihilation, the 'I' one and unending in its destruction, bears witness to this exigency, confirming it yet maintaining a distance. *Einmal* ends on the words *Licht war. Rettung*. "Light was. Salvation". As if all of those things we may be permitted, and permitted just once, to name as sacred or holy or divine, that would have promised salvation in being named, are extinguished. Yet the poem still names and says yes to a singular event, that the light of salvation will not return, that *it was*, and *was only once*. Or that it *was*, that it has being *only* in having been. And this could still be salvation, salvation that lies in the mourning, the *survivre*, of what has departed and that returns in departure. It is a yes that also recalls and reaffirms Zarathustra's declaration that he is the

> one who blesses and says Yes, if only you are about me, pure and light, you abyss of light: then I carry the blessings of my Yes into all absysses (Nietzsche 1982: 277).

To speak or to bear witness to an event that remains unique, to say this event through praising and lamenting, affirms and consecrates a return in the citation and confirmation of a yes. The poem cannot say 'once', and never again, without having always and already said yes to the return, to what annihilates the unique, the first or the one. The exigency to say 'just once' means always reinventing the yes. To speak and to write where language repeats itself beyond us, as the possibility of speaking just once in the most intimate manner, and to have this saying repeated again and again, eternally and infinitely, so that it may live on in its return, in its ghostly after-life.

Celan's poem traces a yes in the repetition of *einmal*. As if this repetition answers to the transformation of language that Benjamin calls for. Rilke's German is 'translated', we may say, into the idiom of another event, a language that passed through "the thousand darknesses of murdered speech" (Celan 1986: 34), a language sacrificed and remembered in the poem, holding fast to the very disaster it carries within itself. Perhaps it is for this reason that Levinas cites Celan's authority, that "the poem is the spiritual act par excellence".

And the yes that we find in Nietzsche, from the *Dithyrambs of Dionysus*, bears precisely upon separation.

> Image of what must be
> Highest star of being
> -- what no longing attains
> -- no denial defiles
> eternal Yes of being
> eternally I am thy Yes
> for I love thee, O eternity! –
> (Nietzsche 1984: 67)

Longing does not attain the Yes, nor does denial -- the No -- touch the yes. The yes remains undefiled. But to say "*bin ich dein Ja*", "I am thy yes", I am the place of the yes, that once resounds and encircles me, in the image of the highest star (*Gestirn*) or constellation, ring or circle, yet is beyond and without me, is to say and love the yes beyond my own finitude, to love a yes that separates. What binds and unbinds this yes to the place of its reaffirmation is its return. A love of fate or necessity that says *de Capo*, once again, perhaps to be able to say 'once', just once, and over and over, means reinventing the yes at every moment. For Nietzsche, this 'yes' bears upon the God to come, the God that will return. In Nietzsche's posthumous fragments it is Dionysus who is named as the God to come, who "teaches a new path to the yes"; Dionysus that lives an affirmation of the world

without subtraction, exception, or selection -- it wants the eternal circulation -- the same things, the same logic and illogic of entanglements. The highest state a philosopher can attain: to stand in a Dionysian relationship to existence -- my formula for this is *amor fati* (Nietzsche 1989: 536).

This is not the Dionysus of the *Birth of Tragedy*, of frenzy and intoxication, but another Dionysus, of an "urge to unity and recurrence", a Dionysus *reinvented*. And if Dionysus is, as Nietzsche suggests, the God to come, the God always absent, a God of the yes, does this support and renew Bataille's insistence that "the *absence of God* is not a closure, but the opening up to the infinite" -- "The absence of God *est plus grande, elle est plus divine que Dieu* (is greater, and more divine, than God)" (Bataille 1994: 48). This absence of God is already more than God, beyond God and before and after God, as the place or possibility of the unbound; an absence or nothingness that is not death as the negation of an existence, but that lives on in the return. Perhaps Bataille is thinking here of *Beyond Good and Evil*, of 'What is Religious' where Nietzsche asks,

> If, in the most absolute world-denying nihilism, there is not, correspondingly, the opposite ideal, the world affirming human being who has not only come to terms and learned to get along with whatever was and is, and who wants to have what was and is repeated into all eternity, shouting insatiably *de capo* (1989: 68)?

Is this not, Nietzsche suggests (and only as a perhaps) *circulus vitiosus deus?* [2]

The absence that Bataille thinks here is not the negativity of a nihilism, but an absence that precedes God, echoing the thought of Simone Weil that "God's sacrifice is creation itself", that the sacred flows not from the figure of God, or divinity, but from that torment of affirmation that invents and calls upon absence and separation.

This means that the yes is *not* about coming to terms with the world: If the 'no' asserts itself as an objection to existence, then the yes itself *has already taken place*. The yes that bears upon the eternal return and the revaluation of all values is not a self-affirmation or self-assertion, but a communication of vulnerability. Nietzsche also said (for it remains necessary to pursue the opposite affirmation in Nietzsche's thought) with an unconditional yes, "I love not knowing the future". This love -- a love of not knowing -- is not an ignorance or a divine bliss, but a yes that goes beyond 'what is' to survive death, a yes that sacrifices itself so that it may endure and live on in the finite speech that calls it forth.

In this speech that invents a community of thought according to the name of the sacred, this community must risk the very sense of its language. That is, it must experience itself as separate from the name if to affirm itself as a place of speech, placed into question by the other whose being donates the experience of detachment. And this, Bataille will insist, is the essential thing; The sacred places being into question "*in so far as it has the fault of not being dead* (Cela veut dire en tant qu'il a le tort de n'etre pas mort)" (1994: 119). The *fault, tort, the error, the wrong, of the sacred* is that it is not dead. Not dead, it returns, or does not die, but *lives on*. But it is in not dying or not being dead that the sacred communicates, and communicates only through the event of death. Perhaps to say, the sacred transgresses the limit of death to bear the yes, according to a contradictory exigency. The sacred must *first sacrifice itself by taking place in language*, in finite speech and word, but at the same time, sacrifice death, sacrifice its own finitude, so as to claim its power of affirmation and return, to declare itself as absolutely or infinitely unique, again and again. The sacred is only communicated through the separation, the fault or transgression, that it affirms in coming back and living on. The sacred is perhaps where the yes is marked in its separation or absolution, its originary dissolution into repetition, a yes and amen to recurrence. The sacred is neither death nor dead, nor is it life or being. Beyond or without the death of God, more divine than God and death, it returns and affirms itself without the power to speak or name itself. The sacred *as sacred* returns to itself to affirm itself across the separation of its fault. To affirm itself, to bear a yes from which it is detached, and that speaks through this detachment or fault, sacrificing the language that gives it voice and being and yet living on in this sacrifice, sacrificing sacrifice itself. The sacred would mean only this: the separation or fault, of what is set apart in the shared loss of finitude, a yes to the other whom I never reach, the one who speaks through me and without me, if only once, over and over.

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Footnotes

1 The figure of *survie* is found also in Blanchot. "To survive (*Survivre*), not to live, or not living, to maintaining oneself, without life, in a state of pure supplement, movement of substitution for life, but rather to arrest dying, arrest that does not arrest, making it, on the contrary, *last*" (Blanchot 1992: 135).

2 Nietzsche writes also of the God that returns from beyond good and evil: "God conceived as an emancipation from morality, taking into himself the whole fullness of life's antithesis and, in a divine torment, redeeming and justifying them: God as the beyond and above of the wretched loafers morality of 'good and evil'" (Nietzsche 1989: 533).