

The trouble with the double; Expressions of disquiet in and around Law and Literature

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To rebegin

Talking, participating, engaging in the field of law and literature is an activity that causes me a lot of pleasure, indeed too much, even too painful a pleasure that easily tips over into, in one of the words in my title, disquiet, fear and anxiety. It is this anxiety, this extreme, perhaps, as I suggest later, 'illegal', *jouissance* provoked by the encounter between law and literature that I want to explore. So another title for this paper could be 'The Anxiety of the Double: Expressions of Anxiety' (as I read Pessoa's term 'disquiet') in law and literature.

Why anxiety, disquiet, painful, indeed illegal, *jouissance*? Because I am still wondering, what are we doing in bringing law and literature together? What do we expect or, more precisely, presuppose about each subject, and of ourselves, in conjoining them?

One thing I'm presupposing, using or abusing in the same way I did in my last attempt to map the domain of law and literature (Aristodemou 2000), is I continue to anthropomorphise our subjects: in particular, I continue to assign them the same roles on the bedrock (as Freud called it) of sexual difference.¹ In short, I see Law as man and Literature as woman. My last effort to bring them together in *From*

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Her To Eternity ended, like all good fairy tales, with a marriage. My hope was that the poet Ariadne, having discovered her own laws, her own patterns and her own language, would draw the lawyer Minotaur out of his labyrinth: a labyrinth that I suggested he built in order to exclude her but ended up imprisoning himself in. My wish was that Ariadne-literature would teach the lawyer-Asterion, new games and new languages, and that their offspring, the baby called Law & Lit, did not need to be a boy, it could be Venus as a Boy or Mars as a girl. A child, boy or girl, that is happy performing and reperforming gender roles. The news I have six years on, is that Ariadne and the Minotaur did not live happily ever after, the marriage ended in tears and divorce and their children are probably in therapy.

In this paper I want to try and analyse what went wrong, why the imagined triumph of their union did not last, and explore whether there is another way of configuring their relationship that does not fall foul of Lacan's truism that there is no sexual relationship. First, I consider the multiple tasks Ariadne has been asked to perform in this marriage, (as the fantasy object, as the symptom, as the analyst) and suggest that it is no wonder that with so much expected of her, Ariadne opted to bolt out of the marriage and leave the hapless Minotaur to sort himself out by himself.

Rather than construe literature as law's fantasy object, as its symptom, or as its analyst, the suggestion I make here is to see law and literature as each other's uncanny doubles. The idea I am exploring is that the truth, or essence, of one subject can be found only in another subject — be that a human subject or an anthropomorphised discourse such as law and literature. Further, that this discovery can take place in an encounter with our double, only one of whom between us possesses what Lacan calls the subject's *little object a*. The experience is uncanny and provokes anxiety, an anxiety, I suggest, that is structurally informative because it is the only affect that doesn't lie. Through anxiety, I suggest, we can approach the truth of the subject. A truth that, as we know, is painful because it is related to the real, and in particular to the real of death.

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Anxiety one could say is like the compass Captain Jack Sparrow has in *Pirates of the Caribbean*, whose special power is to point to what the subject really wants: since the subject never really knows what they really want. Of course when Keira Knightley holds it, the compass promptly points, not to her pretty fiancé Orlando Bloom, but to the loveable rascal Johnny Depp. Nevertheless, like any good hysteric, Keira insists on denying her desire, claiming, instead, that the compass is broken.

Just as Keira Knightley's character is frightened away by the prospect of encountering the real of the other sex, the anxiety I am analysing here is the anxiety of encountering the real of our desire, our secret, shameful, indeed illegal jouissance. The hypothesis I will venture in this paper is that the truth of law, its particular secret, excessive, illegal jouissance is its desire to be poetry while the truth of literature, its secret, excessive, illegal jouissance is its desire to be law-making.

I start with a passage from Fernando Pessoa's *The Book of Disquiet* (2002) where the encounter with the double takes the form of recognising his own image in a photographic print. I suggest that the encounter between Law & Literature, like the one we are engaged in here, is similarly uncanny and provokes anxiety or disquiet because we are forced to consider that the truth of law may lie in literature; and vice versa. But that we can learn from this anxiety and from the humiliation that accompanies the encounter with our double. In particular, I suggest we could depart with a new understanding of ethics, an ethics which is not an ethics of the other, or of the other's face, to use Lévinas' terms, but an ethics of the double who shows us our own face and enables us to see our own face differently — or *awry*.²

An extract of disquiet

The sleeping partner of the company, a man much troubled by obscure ailments, was suddenly taken with the notion (a caprice that came on him, it seems, between afflictions) that he wanted to have a group photograph taken of the office staff. So, the day before yesterday, following the instructions of the jolly photographer, we all lined up against the grubby

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white partition that serves as a rickety wooden division between the general office and Senhor Vasques' office. In the centre stood Vasques himself; on either side of him, according to a hierarchy that began rapidly enough but rapidly broke down, stood the other men who gather here each day, in body, to perform the small tasks, the ultimate purpose of which is a secret known only to the gods.

Today, when I arrived at the office, a little late and having in fact completely forgotten about the frozen moment captured twice by the photographer, I found Moreira, an unexpectedly early bird, and one of the clerks poring over some blackish objects that I recognized with a start as being the first prints of the photographs. They were, in fact, two copies of the same photograph, the one that had come out best.

I experienced the pain of truth when I saw myself there, because, inevitably, it was my face I looked for first. I have never had a very high opinion of my physical appearance but never before have I felt such a nonentity as I did then, comparing myself with the other faces, so familiar to me, in the line-up of my daily companions. I look like a rather dull Jesuit. My thin, inexpressive face betrays no intelligence, no intensity, nothing whatever to make it stand out from the stagnant tide of the other faces. But they're not a stagnant tide. There are some really expressive faces there. Senhor Vasques is exactly as he is in real life — the firm, likeable face, the steady gaze, all set off by the stiff moustache. The energy and intelligence of the man — qualities which are after all utterly banal and to be found in thousands of other men all over the world — are stamped on that photograph as if it were a psychological passport. The two travelling salesmen look superb; the clerk has come out well but he's half-hidden behind Moreira. And Moreira! My immediate superior Moreira, the embodiment of monotony and routine, looks much more human than I do! Even the errand boy — I detect in myself, without being able to suppress it, a feeling that I hope is not envy — has a directness in his smile that far outshines the insignificant dullness of my face, of me, the sphinx of the stationery cupboard.

What does all this mean? Is it true that the camera never lies? What is this truth documented by a cold lens? Who am I that I possess such a face? Honestly ... And then to add insult to injury ... Moreira suddenly said to me: 'It's a really good one of you.' And then, turning to the clerk, 'It's the absolute image of him, isn't it?' The clerk's happy and companionable agreement signalled my final relegation to the rubbish heap (Pessoa 2002: 7-8).

First, and forever, we search for our self

It is for our face that we inevitably, and forever, look out first. And, Pessoa might have added, that we look out for first, and last, and throughout our regrettably long lives. *The Book of Disquiet* is a meditation on the barely bearable task of finding an image, an identity, a metaphor for oneself, for a self that is at the same time irredeemably and painfully perceived as centreless, as an absence and as a wound; of constructing an identity, ideally captured by a fixed or fixable image, where instead there is only a lack of being. From the mirror image, to the photographic print, to the response and return of the other's gaze, the human subject anticipates, with the sad hope that accompanies all delusions, that what it wants to be will coincide, at last and if only for an instant, with what it is.

Unfairly the narcissist is singled out for falling prey to the delusion that what (s)he wants to be might, can, or does, coincide with what (s)he is. But to the extent that every human subject, more or less successfully, constructs a, more or less weak, ego, the narcissist's malaise is the human affliction par excellence. The bug we are infected with at Lacan's so-called mirror stage haunts the infant no more than the ageing and dying human subject. It afflicts, needless to say, lawyers no less and no more than poets, and in the rare occasions when the two are forced painfully together, it is no exaggeration to claim that the sole purpose of the encounter is for each to find and re-find an identity for itself that previous searches, with, or against, for instance, philosophy, the social sciences, economics, or other territories that I am even less sure about, have failed to deliver.

I say 'with or against' as identification is always ambivalent: it arises from the experience of loss and can imply idealisation of the other that the subject is identifying with, but also competition with and destruction of the other; starting of course with our identification with, and competition against, the parent of the same sex. So in the encounter between law and literature, law's search for identity can lead to the glorification just as easily as to the mortification of literature; and again,

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vice versa. Both these are scenarios I explore and express disquiet about in this paper, in particular the exaltation that is accompanied by the mortification of literature by law.

My claim is that the search is futile, that identity is a metaphor we spend our whole life constructing, with hopes alias known as lies, that our slippery beings might be anchored at last on a more secure foundation than is warranted by our meagre efforts, unsure methods and forever incomplete results. That there is a gap in our making as subjects, a gap that we attempt to plug up with our search for objects that are already lost and by constructing fantasies of complete others whose desires are both transparent and realisable. That the absolute coincidence between the self and its image, the unification between a subject and its object, or, as I describe later on, between the subject and its double, can be found only in death. Because we only coincide with ourselves, with our double, with our image, only once, that is, in death: the death mask ensures there is a final print.

To the extent that hope, as Pessoa suggests, is a *literary* feeling, poetry is a particularly well sought-after companion in the search for identity. You could say poetry is the popular kid at school whose friendship is courted by all the others. By conjoining our efforts with those of poetry, the fact that we forever fail to express our own absence is glossed over as a failure of language itself. The paradox is that while our own failures are displaced onto poetry, we persist in the hope that poetry can supply the new signifiers and make up for the lack in the law.

In my own previous work, I shared and indeed continue to share the aspiration that law's frozen signifiers may be melted down slightly, if not replaced with new signifiers, new metaphors, new languages even, borrowed, transported, or metaphorised, from poetry. I recall quoting approvingly Toni Morrison's hope that by 'breaking the back of words' poetry may break and hopefully remake new words, new laws, indeed new selves. Several years older, I am, perhaps unsurprisingly, less optimistic: neither law, nor literature, and least of all law, I believe can bridge the irreducible gap in human subjectivity,

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or make up for the impossibility of the sexual relationship. Nevertheless, we try. Lacan's answer, an obvious one at that, is that we try, and try again, and again, because we love. Because law loves literature? Or literature loves law? That's a question for another article but the short answer is neither: we love, first and only, our selves and to make those selves loveable and remedy our lack, we claim, or delude ourselves into thinking, that we love the other. For Lacan, as we know, the three words 'I love you' are a shorthand for 'please love me'.³

Pessoa's *Book of Disquiet* is similarly pessimistic: his bluntly depressing response (no other epithet is appropriate here) is to alert us to the danger that the hoped for anagnorisis to be found in poetry that eludes us in law, holds only one promise: the promise of humiliation. It is as if the poet, like the analyst, is there to remind us: so you wanted to take a good look at yourself did you? Well, here is what you are: a piece of rubbish, or a piece of shit in Slavoj Žižek's characteristically blunter terms, only fit for the waste bin. Lacan's own metaphor for this predicament is a quote from Martin Luther: 'You are that waste matter which falls into the world from the devil's anus' (Lacan 1992: 93).

But if we are here today and/or if we also pay an analyst for this anagnorisis, then the answer that we are a piece of shit is, I suggest, priceless because it brings us face to face with our own lack, with our own mortality. For that to happen, we need the intermediary of a third, that is the unconscious (which is, after all, the discourse of the other), to join in the conversation: be this other the analyst, a work of art, or, as in Pessoa's case, his immediate superior Moreira and the errand boy.

Death and the image

We start with the face, and the face's image. And the hope that we can decipher the truth of the subject, its soul even, from the contours of the face. The face caught by the photographic image is particularly prey to this fetishistic treatment. As Roland Barthes suggests, the photographic moment is that of 'the absolute Particular, the sovereign Contingency,

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matte and somehow stupid, the *This*, in short, what Lacan calls the *Tuche*, the Chance, the Encounter, the Real' (1993: 4).

With or without Lacanian terminology, Barthes conveys an analysis of the photographic image as that which captures what is most foreign and unrepresentable in and to the subject, in short, the space of death. Death is that which does not fit our understanding of our world and of ourselves, that which eludes our attempts at constructing an identity through imaginary identifications but which obstinately persists unacknowledged and disavowed. In the unconscious, as Freud insisted, we all believe we are immortal, the death of others only serving to affirm our own immortality.

Language cannot capture the nature, let alone the meaning, of death because language is fictional: signifiers are always deceiving, always sliding away from our grasp, hence our demand for more signifiers, and more often than not, also a master signifier, to pin them down once and for all. If death cannot be captured by language, if it is the Real that eludes and remains obstinately outside the symbolic order, the photographic image serves, like the return of the repressed to remind us that death lurks within us. The immobility of the photographic print is 'funereal' precisely because the signifier and its signified, the subject and its referent, desire and its object 'are glued together, limb by limb, like the condemned man and the corpse in certain tortures' (Barthes 1993: 5). To witness our image captured by the photographic print is to be a witness to 'that rather terrible thing which is there in every photograph: the return of the dead' (Barthes 1993: 9).

That death resides in the image and is expelled by the symbolic order is no coincidence. Language's general failure to represent the Real is exacerbated when it is faced with representing the Real of death. The symbolic order, we must remind ourselves, is responsible for and inextricable from the incidence of death: language, or the word, as Lacan following Hegel continually asserts, is the murder of the thing. The thing thus killed by language, the object irretrievably lost by its pronouncement in words, is looked for and must be located elsewhere, that is, in the image. 'Death', Barthes continues, 'must be somewhere in a society; if it is no longer (or less intensely) in religion, it must be

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elsewhere: perhaps in this image which produces death while trying to preserve life' (Barthes 1993: 92).

My suggestion is that the symbolic order, which includes, but is more than law as we know it, relegates its responsibility for causing death onto the imaginary, which includes, but is much more than literature. In a parallel move, man and law, in alliance with the symbolic order and its cult of death, projects onto woman and literature death as the disavowed part of themselves. This move renders, I suggest, literature the symptom of law just as in Lacan's schema woman is the symptom of man. Literature, equally excluded and exalted by law, becomes the fantasiacal object that will remedy law's lack.

Before we explore that, we must see how the self that we are ceaselessly searching for, and occasionally and uncannily find in our double, is formed, clumsily and incompletely of course, around a famous object. This famous object is linked in a unique way to the subject's apprehension of death. Without the subject's apprehension of its own mortality, without approaching, however reluctantly, and, more often than not, extremely slowly, their own particular mode of *jouissance*, what Lacan dubs their *little object a*, then the analysis of the subject, of law, of literature or, in our case, of law and literature, is a failure (again no other epithet is appropriate).

The object in Law and Literature

The psychotic, Lacan says, has the object in his pocket: doubtless in his belief that he already and securely possesses the object, he makes no attempt to address or make demands of the Other for it. Hopeless and incurable neurotics that most of us are, we continue assuming that the Other possesses the object that we have lost and are insatiable in our attempts and demands of the Other to return it. It is because of our forced separation from the object, initially, from the womb, later on from the mother's breast, or the blah blah of the semiotic before our advent into symbolic language and laws that we come to assume, in a secondary elaboration, that the object we lost must now somehow reside somewhere else, in someone else: in another.

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Indeed it is separation from the object that enables the subject to emerge as a subject — the infant's initial lack of differentiation between subject and object is followed by the subject's claiming of the object for itself. The object is of course already lost, separated from the subject, but that doesn't bother the subject: the subject's demand for a lost object is precisely what constitutes him/her as a subject in the first place. The same can be said for the object: the object was no object before it was separated from the subject: 'It is in its nature,' as Lacan puts it, 'that the object as such is lost. It will never be found again ... It is to be found at most as something missed' (Lacan 1992: 52, and again at 118: 'The object is by nature a refund object'). The object only arises as an object as a direct result of rivalrous identifications within the structure the subject finds him/herself: the object, that is, is not a material substance but a relation.⁴

We need to wonder why it is that law makes demands of literature and vice versa, and why these demands go beyond the dimension of need and meddle in the troublesome dimension of desire. Yes, law may indeed 'need' the tools of literature, and literature may need the tools of law, but in assuming that literature possesses that which law lacks, law demands of literature that which it assumes will complete it. But in as much as neither law nor literature possess the object, for the simple fact that the object is already lost, and there would be no subject without a lost object, law's demand mutilates literature; and vice versa. I will look now at some of the ways law mutilates literature by conceiving it as the fantasy object that will heal the lack in the law, before addressing another way of conceiving literature, that is, as law's analyst.

Just as in Lacan's schema, woman is constructed as that which will guarantee the unity of man, the fantasy which will complete him, law also searches for something to fill the empty place, the hole. Through fantasy, the lack of the subject, its inability to know the desire of the Other, is plugged up. Fantasy makes up for our lack of knowledge of the Other, hence our reluctance to let it go. To let go of the fantasy would mean encountering and having to live with, the impenetrability of the Other's desire and with our own lack.

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The danger therefore is that we construe literature as the fantasmatic object which eludes law and which is capable of completing it. Literature becomes the place where law's lack is projected and conversely as the object that can remedy that lack: literature as law's fantasy object, guards against law's own uncertainty and incompleteness. Literature, like woman, becomes the fantasy that fills the void at the heart of the symbolic order. The fantasy is that there is someone who is not subject to the law of castration and who therefore, like the primal father, enjoys unbridled jouissance. Literature becomes the fantasy that enjoys fully, and therefore completes the lack in the law. But, as Lacan puts it, 'In persuading the other that he has that which may complement us, we assure ourselves of being able to continue to misunderstand precisely what we lack' (Lacan 1979: 133).

Literature as the fantasy that plugs in the lack and inconsistency of the symbolic order, means that the difficulties inherent in the symbolic order, in law as much as in the human subject, are then blamed or displaced onto another: onto woman or literature. By maintaining literature as the object that it cannot attain, the law maintains its desire in motion. If the loss of the lost object was lost, then law's fantasy structure would collapse, threatening law with the loss of its very being. This means literature has to be maintained as lost to keep the law fascinated and its desire in motion.

In other encounters between law and literature, the idealisation (Lacan 1992: 111) of literature takes sublime proportions in that literature, to use Lacan's formula for sublimation, is raised to the dignity of 'the Thing' (Lacan 1992: 112). Whether literature is excluded by law, or, as can often also happen, exalted and elevated, the effect is the same: literature acts as a support for law's fantasy, in other words, it becomes law's symptom. By elevating literature to the dignity of 'the Thing', Literature is made into the symptom of law in the same way that man makes woman his symptom: symptom as that which confers unity to the subject so that if the symptom were to be dissolved, if literature were shown not to be sublime, the subject, man or law, would lose their consistency.

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Literature as support for law's fantasy however, entails only the death of literature or, to paraphrase Lacan's phrase for woman, 'THE literature does not exist'.⁵ Similarly identification with the object, as I suggested earlier, implies not just idealisation but aggressivity towards the object: identity always conceals a lethal proximity (see Žižek 1992). In the case of our subjects, law alternately exalts and alternately claims to resemble literature, only in as far as literature is *dead*.

Instead of literature as a symptom of law, or as its sublime object, my suggestion is that we must de-sublimate both literature and law, and indeed our own discourse loosely called 'law and literature'. This would involve acknowledging the lack not only in law but also in literature and again, in 'law and literature'. In particular, from the point of view of law, positing literature as the absolute other supports law's claims to self-knowledge and truth. Lacan's point of course, in calling woman man's fantasy and man's symptom, is that the myth of unity, in law as much as in literature, is just that, a myth, imaginary. The mystification and sublimation of literature only lends support to law's symptom, its never-ending quest for unity and oneness which are the ultimate illusions. As there is no Other of the Other, no final guarantee of meaning, this support is illusory.

In dyadic encounters between law and literature, I suggest, law and literature end up staring into each others' eyes, and see only what each other wants to find. Like the lover and the beloved, they assume the other has the certain *je ne sais quoi* of the agalma that will complete them. However, in the process of trying to extract from the other what is believed to be most precious about them, the lover mutilates the beloved: 'I love you, but, because inexplicably I love in you something more than you — the *objet petit a* — I mutilate you' (Lacan 1979: 263). For this delusion that is love to be dispelled, literature, like Socrates in Plato's Symposium, has to resist law's advances and position itself not as Alcibiades' lover but as its analyst. This is to move from seeing literature as the object that will fill law's lack to seeing literature as law's analyst, that, in a successful analysis, would enable law to glimpse the truth about itself. Literature, like the analyst, here falls from the idealised position of the object of desire and occupies instead the position of the object *cause* of desire.

Courting the analyst

Does this role, that of literature as the analyst, suit our enquiries any better? If we pursue Shoshana Felman's (1982) discussion of the encounter between literature and psychoanalysis, we could wonder, which is the subject and which is the object in the encounter between law and literature? Is law the object of analysis and literature the subject of knowledge? Or vice versa? As in the unseen scenes between every analyst and analysand, the transference implications of the encounter consign one of the two partners to becoming the subject supposed to know the unconscious desires of the other. The temptation to consign literature to the role of law's analyst is compounded by its supposed knowledge of the unconscious, which after all, as both Freud and Lacan acknowledge, the poets knew before they did.

What can literature as the analyst offer us? In particular, can it take us out of the dyadic encounter between law and literature or does it instead compound the confusion?

As Lacan argues in his discussion of the gaze, the problem in a dyadic encounter between a subject and an object is that the image we can attain of the object, as well as of ourselves, is never complete. 'You never look at me from the place from which I see you' (1979: 103), the object can protest to the subject. In other words, there is always a point from which we cannot see the other or ourselves, a blind-spot in our field of vision. Literature here as the analyst can produce an uncanny effect by situating itself at this blind-spot, at the place from which we cannot see ourselves.

If that is the case, since every analysis should ideally proceed to the dethroning of the subject supposed to know, my fear is that the analysis of law by literature has not made enough analytic progress. Papers are getting longer, conferences more frequent, books on the subject proliferate and yet there is a reluctance to acknowledge that there is 'no Other of the Other', no ultimate guarantee for our utterances or attempts to create meaning, in law, in literature, or in law *and* literature. How do we judge, after all, if our analysis is making any progress?

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To paraphrase Lacan at the end of his first seminar, we could say that at first Law lies on the couch and talks about itself without talking to Literature. And this is I think a scenario we are all too familiar with. In the second phase Law talks to Literature without talking about itself. I think this is the stage at which I got to last time I dabbled with literature, which is far from, I realise now, the end of analysis. When Law is able to talk to Literature about itself, then the analysis is over.

Why is this so hard to do? My feeling is that the particular challenge conjoining law and literature poses, and the stumbling block that I find hard to get over, is that art, which is often likened to having the function of the analyst, has already been invited to serve a second function, that of law's fantasy and symptom. And idealisation, as I suggest above, is different from sublimation, which is again different from analysis. It may be, as so many stories from the couch will confirm, that the analysand on the couch is stuck with trying to seduce its analyst. The analysand Law may indeed be in love with its analyst Literature. And that, as analysts from Socrates to Lacan confirm, is not good news for the analysis. Does this mean that Law has simply not spent enough years on Literature's couch? That it needs to stay longer? More years? More decades? More centuries? Forever??

One answer is that although art affords the opportunity of sublimation of the aim of the drive, Law's drive, we cannot deny, persists relentless outside its time on Literature's couch. Or, as Pessoa, puts it, art may offer relief from life but it doesn't relieve us from living it. Either way, with all these functions being expected from a single subject, I for one don't blame our poet Ariadne, if she opts out of the marriage to let Minotaur to sort himself out by himself.

Death and the double

The approach I want to suggest here is very different: rather than perceive the encounter between law and literature as that between a supposed subject of knowledge and a sick object of enquiry, or as between a lover and his beloved, or as a lacking subject looking for the lost object of desire, I propose to perceive them instead as each other's

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uncanny doubles. In the encounter between a subject and its double, it is precisely the distinction between subject and object that is blurred. The encounter is disconcerting and causes anxiety because there is a blurring of boundaries where the subject is no longer distinguished from its double, throwing up the most intriguing challenge every subject has to face: coming face to face with its *object little a*.

As Freud repeatedly affirmed, the unconscious knows no negation; the separation between subject and object, canny and uncanny, the subject and its double, is not, therefore, a separation that is known to the unconscious. This is for me the more radical way of reading the encounter between law and literature: psychoanalytically, that is, taking the unconscious seriously. Another way of putting this is to say, since the unconscious knows no negation, the distinction between law and literature doesn't concern the unconscious.

That the human subject, as much as the fields of enquiry we construe and nominate as 'subjects', (in our case, Law, Literature), is a void, a centreless absence of centre as Pessoa and Lacan suggest, means that our search can only proceed if the subject is not posited but hypothesised, assumed, presupposed. To assume a subject or a centre however, leaves the centreless subject with the fear that someone, or something else possesses the centre that it lacks, that someone else, its double, has stolen the centre belonging to it. The double haunts the subject with the fear that the truth or essence of the subject resides in the double, in other words, that the double, unlike the subject is not only presupposed but posited. The fight between the subject and its double, as we know from literature starting with the myth of Narcissus, is a fight unto death.

As Otto Rank (1989) described it, the problem of the double is the problem of man's relation to the most intimate part of himself, so intimate that it is hidden even from oneself. The double is perceived as possessing, often having stealthily stolen, the subject's innermost essence, sometimes called the soul, hence the distrust with which many cultures treat the photographic image. In such cultures, letting oneself be photographed is like giving one's soul to the devil. Giving up one's

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photographic image, or in other contexts, one's mirror image (as in Hoffman's 'Tale of the Lost Reflection'), or one's shadow, is like giving up one's soul; hence Pessoa's own 'disquiet' when confronted by his double in the photographic print.

The experience of the double is one of a number of experiences that Freud discusses under the term 'uncanny'; that strangeness that is all too familiar because it is the foreignness of our own selves. The uncanny, or *unheimlich* as Freud calls it, is that part of ourselves that is so extremely intimate that we have hidden it even from ourselves. Lacan's term for this is the extimate, something on the outside that is also inside, something so intimate that it is unfamiliar and thus blurs the boundaries between inside and outside, subject from object, mind from body and spirit from matter. 'What is involved', Lacan says, 'is that excluded interior which ... is thus excluded in the interior' (1992: 101). We can see therefore how central the concept of the uncanny is to psychoanalysis: for psychoanalysis, we remember, the distinction between inside and outside is the greatest and most dangerous delusion, since what we presume to be inside is in fact taken from outside, from the other. The unconscious, as Lacan famously keeps repeating, is the discourse of the other.

What is most extimate to the subject is the *little object a*, the space of intersection between the real, symbolic and imaginary, that which is most unique to the subject and is too strong to be assumed and subjectified. It has to be presupposed because it is precisely what is lost in order for the subject to become a subject. What the encounter with the double brings us face to face with, and thus makes unbearable, is what we don't normally see, that is, the *little object a* because between the subject and its double only one of them possesses the *object petit a*.

My suggestion is that encounters between law and literature cause anxiety because literature is assumed to possess law's *object petit a* while law is assumed to contain literature's *object petit a*. In the process of extracting it from each other, these uncanny doubles, however, end up mutilating each other; to death.

Anxiety of little object a

Lacan in his seminar on anxiety points out the inconsistency in Freud's treatment of anxiety: while in the 1910s Freud suggested that anxiety arose from an excess of undischarged libido, in the 1920s Freud linked anxiety to the subject's fear of loss. What is it we fear losing, since our entry into the symbolic order presupposes precisely the loss of the object? Lacan's answer is that what we fear losing is the loss itself: anxiety arises when we are close to the object and therefore in danger of losing the loss. The threat of re-finding it causes anxiety because it threatens the subject with losing the loss which after all constituted and defined them as subjects.

The anxiety caused by the uncanny is therefore not the anxiety of an imminent loss but the anxiety of re-finding the lost object. When we come close to attaining the object, we become anxious because we risk losing the lack. In our terms, we could say, when law is in danger of re-finding, in literature, what it gave up as lost in order to become law, or when literature is in danger of re-finding, in law, what it gave up in order to constitute itself as literature, then anxiety arises because both of them are in danger of losing the lack they have been so used to living with and complaining about. The complaint and frustration that after all, constituted and sustained them as subjects.

Nevertheless: if, as I suggest, us law and literature critics experience anxiety when addressing our so-called subject, that anxiety is priceless: it is the most sure route we have to law's latent *little object a*. Anxiety, as Lacan suggests, is the only affect that doesn't lie; it is accompanied not only by certainty but by a horrible certainty: Lacan, in company here with Kierkegaard and Heidegger, asserts the ontological value of the affect of anxiety. If encounters between law and literature provoke anxiety, it is because we are dealing with the truth of the subject's being, the truth of the subject's own particular mode of jouissance.⁶

And if the truth of our being resides in our awareness of our own mortality, it is no coincidence that there is a special relationship between the *little object a* and death. To grasp our *object a* is to come to terms

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with our own mortality. The photographic image, as Barthes and Fernando Pessoa separately acknowledge, has an uncanny effect precisely because it shows the certainty of death in the subject, the bit of the subject that has no representation in the unconscious.

In stories of the double, from Narcissus' encounter with his own image, to Dostoevsky's double, to Borges' frequent use of the motif, the encounter with one's double spells only one thing: death. We can now understand this: since the subject projects his fear of death onto the other, since she is trying to push the real onto the double, it is no wonder the double pursues the subject relentlessly unto death. Our double is the part of ourselves that we are haunted by and can never dismiss or divorce. And as H  l  ne Cixous (1976) points out, what Freud himself is endlessly deferring and circuitously avoiding in his own text on the uncanny, is death.

Illegal jouissance

As Cixous further points out, the uncanny is linked to lack of modesty — 'all that should have remained hidden and secret becomes visible'. The uncanny then arises with the return of repressed material but not all repressed material, only sexual material, and then only some repressed sexual material cause uncanniness. Cixous does not develop or specify which repressed sexual material return to cause the feeling of uncanniness. I propose that the term sexual material here is too general and unhelpful and propose to substitute it with Lacan's term *jouissance*. My suggestion is that what is repressed and is glimpsed through the experience of the uncanny is the subject's specific mode of *jouissance*, his/her particular mode of enjoying vis-  -vis the Other, that is encapsulated by the *little object a*. The encounter with the double who possesses the *little object a*, forces the subject to confront their own specific mode of *jouissance*. And, as we can guess, the subject's idiosyncratic mode of enjoying itself is infinitely more stupid and more embarrassing than sex in general.

By partaking in all three registers the uncanny, and the double as one of the manifestations of the uncanny, raise the anxiety that the

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defensive layers we create to keep the three layers apart, and in particular our imaginary constructions that protect us from the intrusion of the real, may be lifted and we will encounter the real in all its rawness. Since the layers, and in particular the symbolic order, act as limits protecting us from the intrusion of unbridled *jouissance*, the uncanny threatens *jouissance* beyond the pleasure principle, beyond what Lacan calls the phallic signifier. *Jouissance* beyond the signifier, therefore, beyond speech, alludes to what Lacan himself labels in his Seminar *Encore* the 'other' *jouissance*, a *jouissance* that he associates with women and mystics.

The uncanny feeling, then, giving rise to anxiety is not caused by uncertainty but, as Joan Copjec terms it, by illegality — the illegality occasioned by not respecting boundaries. 'The presence of the uncanny registers an abandonment of prohibitions, an unabandoned embrace of *jouissance*' (Copjec 1995: 113). This illegality, what Pessoa calls, 'all-pervading lack of definition of boundaries' (2002: 83) is I suggest the uncanny experience we are putting ourselves through by threatening to lift the veil that protects law from literature and literature from law. Where law and literature act as limits, to and from each other, by bringing them together we risk lifting the veil that hides each other's obscene, supplementary *jouissance*.

Law on the one hand, pretends that texts are there to pronounce guilt or innocence, to judge, and mete punishment or rewards, not to enjoy. To enjoy the texts of the law is to enter into the forbidden territory, the territory of literature. Literature (and us pursuing it) feel guilty for enjoying too much and we can be sure the law is there to steal some of that enjoyment through its superegoic injunctions. God forbid that some lawyers indulging in law and literature should acknowledge and parade this enjoyment. Conversely literature, used to pretending that texts are their own excuse for being, is not used to parading its secret enjoyment, the supplementary *jouissance* it derives when those texts, consciously or unconsciously, turn out to be law-making.

When we confront the subject of law and the subject of literature with each other, as today, we are in effect forcing them both to acknowledge their hidden, nightmarish, indeed illegal *jouissance*. By

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parading them side by side we are forcing the subject to acknowledge and confront the fantasies that usually support it from underneath and lie hidden from the subject's view.⁷ When those fantasies are swept away, or shown side by side with reality, the consistency of the subject is thrown into turmoil. It is this surplus enjoyment that the uncanny courts, arouses and uncomfortably displays:⁸ in encounters between law and literature, in short, literature is forced to admit its 'illegal' jouissance of making laws while law is forced to admit its surplus 'illegal' enjoyment of words.

Ethics of the double

What can we learn, therefore, from the anxiety occasioned by such encounters? Are there, to put it nuffly and bluntly, any ethical lessons we can take home with us?

For Lacan, analytic practice is a preliminary to moral action; before the subject can act ethically it must first, through analysis, come face to face with the real (1992: 22). Ethics is not, or not just, about one's relation to the other but about one's relation to oneself. To the self that is not one, but a self that is radically and irreducibly split. In contrast to Levinas's fetishistic insistence on the face of the other, it is not the other's face but our own, as Pessoa understands, that we must encounter. The humiliation caused by the encounter with ourselves, warns us that it is ourselves, not our neighbour, that we don't dare approach. The horror Freud expresses at the commandment to love one's neighbour arises, as Lacan explains, because of the evil that dwells in the neighbour and therefore also in oneself.⁹

In psychoanalysis after all, it is the distinction between self and other, subject and neighbour, inside and outside, that is precisely blurred: the most intimate part of ourselves, is actually taken from the outside, from the other. Since the self is made up of other people, not recognising part of ourselves means not recognising the other: and vice versa. As Pessoa puts it, it is other people's rubbish that is piled up in the courtyard of what we take, or more accurately mistake, for our selves.

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Ethics for psychoanalysis means being able to see the other, the stranger, the neighbour, in ourselves; the unconscious is, after all, the discourse of the other. It is about discovering our own strangeness, what is most intimate to us and yet unknown to us; what is 'real' in us but we don't have the means to represent to ourselves. The truth of the subject is not a superior law but 'a truth that we will look for in a hiding place in our subject. It is a particular truth' (Lacan 1992: 24). This truth is our particular mode of *jouissance*, our idiosyncratic mode of enjoying ourselves.

As guides to this truth, to this real, this Thing, Lacan warns, 'feelings are deceptive' (1992: 30). But the only affect that doesn't lie is anxiety. The anxiety caused by the uncanny, in our case the encounter with our double is one of the ways we can approach the *objet little a*. Uncanny encounters, by confronting us with the double who possesses the *objet a*, can render the invisible visible.

Before we can encounter the other therefore, we must be prepared to encounter the other in ourselves. And as Pessoa experiences in his encounter with his photographic image, that is the uncanniest, most horrifying thing of all. A cunning and uncanny 'dissociation of consciousness from identity', in Barthes' words, 'the advent of myself as other' (1993: 12). We don't have to be analysts to agree that we humans do everything possible to resist encountering ourselves, forever blaming the other for our failings and frustrations. Always and forever forgetting the part we play in our own suffering. This forgetting, as Freud insisted, is not passive but active: it requires a lot of energy to repress and keep repressing and continue to keep the repressed repressed. The ethical advantage of the uncanny experience, of the anxiety it arouses in us, is being reminded of something we thought we forgot or re-found something we assumed to be, and unconsciously hoped would remain, forever lost.

This knowledge, however, cannot be attained in isolation, in a monologue. Only God is omniscient, only God's consciousness is transparent to itself. Mere mortals like us need the intervention of the third party of the analyst to distinguish between copy from original,

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observer from observed, self and its double: as Borch-Jacobson puts it, the analysand needs to pass through the looking glass, 'see himself, see himself see, and ultimately see himself not see' (Borch-Jacobson 1988: 40).

For the subject to get its message back in an inverted form, to see it differently, it has first to be refracted, it has to go through the other: Pessoa's image being confirmed by the clerk and Moreira. Otherwise self-reflection is a mirror-image, that is, imaginary. What is after all, more uncanny, than the experience of analysis itself? Encountering the self we didn't know we harboured. No wonder psychoanalysis is the ultimate horror story, confronting us with our unique *little object a*, our own relation to death. And the subject who confronts its own death, its own limits, who ceases to make demands of the other, is, like Antigone in Lacan's view, properly ethical.

In short, for us law-lit critics to cross the fundamental fantasy, to go to the other side of the looking glass, to look at ourselves awry, means acknowledging the lack in the law as much as the lack in literature. It means acknowledging the fundamental uncertainty, unknowability and incompleteness of the other. That uncertainty, that unknowability cannot be restored if we insist in treating literature as the sublime object that will fill law's lack. At most such an approach enables law to continue treating, and continue to enjoy treating, literature as law's symptom.

Losing the double, finding a (divided) self

'There is no mirror', Fernando Pessoa writes, 'that can show us to ourselves as exteriors, because no mirror can take us outside ourselves. We would need another self, another way of looking and thinking' (2002: 146). Encountering our double, I suggest, may be one way of achieving what is normally impossible, to make the gaze visible and enable us to see ourselves from outside. In as far as law continues to perceive literature as its sublime object, in as far as it alternately sees it as its analyst that it is simultaneously trying to seduce, then law is still resisting seeing itself from the outside.

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Law and literature as uncanny doubles raise, I suggest, more anxieties, if not *the* anxieties than other pairs of doubles. On the one hand, as I suggest above, art is normally the last veil that covers up the ugly, the impossible jouissance that we all supposedly seek but flee from in terror at the prospect of encountering. By courting literature, lawyers threaten themselves with piercing the veil that covers the ugly jouissance of the law, hence the anxiety, hence the creation of more laws, within law and literature itself, to protect against losing the veil. Art, which normally functions as protection from the impossible jouissance, and which enables us to encounter it *elsewhere*, is hereby brought in to the *topos* of the law. And this trespassing, this penetration of boundaries risks losing art's capacity to keep us at a distance from The Thing.¹⁰

Conversely law, rather than acting to prohibit access to the object, to jouissance, is instead the method we choose to cover up the fact that what is prohibited is actually what is impossible. The law acts to protect us from getting close to the impossible real by inserting itself as the instrument of prohibition of what is already impossible. For law to acknowledge its secret jouissance, would be to relinquish its function of protecting us from unlimited jouissance, hence the anxiety such a prospect generates.

The moment of the uncanny experience therefore, the moment of encountering our double, is also, ideally, the moment of analysis and the possibility of ethics. Analysis in the sense of not just recognising the self but also of recognising the other in ourselves in such a way that we are led to change our own position vis-à-vis the other. In particular, learning to live with the impenetrability of the other's desire without seeking to plug it up with fantasies. The work of analysis which an encounter with the double should promote, is encountering the gap in the constitution of the subject, that is, the repressed death drive.

Ultimately, as Barthes makes clear, what we are seeking for in the photograph of ourselves, or in our uncanny doubles, is Death, the death of the subject. What Pessoa encounters in the photographic print and what he is painfully if humorously exposing is his own humiliation at

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encountering himself. Like a subject at the end of analysis, he experiences his own alienation, dis-being, having shed his imaginary identifications and being left with the irreducible particularity, the *object petit a*, which as we know, and as Pessoa painfully experiences, is a piece of rubbish, a piece of shit.

The confrontation with the double alerts us to the death lurking within us, what Pessoa terms 'what dies in me when I am' (2002: 64). Acknowledging what I term 'illegal jouissance' that an encounter with our double provokes, is to acknowledge that 'jouissance implies precisely the acceptance of death' (Lacan 1992: 189). What dies in the subject when it becomes a subject, is the object that takes the place of *object a*. Perhaps, by addressing law and literature as uncanny doubles rather than as each other's fantasy object, as each other's analyst, or as each other's symptom, we can begin to wonder whether what dies in literature when it becomes literature is law, while what dies in law when it becomes law is literature.

Notes

- 1 I use the term 'sexual difference' in the Lacanian rather than in the anatomical sense: in other words, following Lacan's formula of sexuation, subjects can belong to the male or female side of the formula depending on their own idiosyncratic relationship to the signifier and irrespective of their anatomical make-up. For detailed discussion of Lacan's concept of sexuation see Salecl 2000.
- 2 The suggestion that we may learn the truth about ourselves in a confrontation with our double is in some respects a continuation of the theme of the mirror I explored in *From Her To Eternity*; that is, that a mirror can show us more than we want to see, more than we can *bear* to see. And that hopefully this reflection can lead to another reflection, in the sense of *contemplation*.
- 3 'To love is, essentially, to wish to be loved': Lacan 1979: 253.
- 4 This was a point developed by Marie-Helene Brousse at a seminar of the London New Lacanian School, in June 2006. A classic illustration of this predicament if of course St Augustine's aptly named 'confession' to the

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envy, bitterness, and resentment he experienced at witnessing his baby brother sucking at their mother's breast. It was St Augustine's envy and resentment that constituted the breast as the object; without St Augustine's rivalrous envy, the breast would not have been raised to the painful dignity of an 'object' of desire.

- 5 Lacan 1992: 111: While art affords the opportunity of sublimation of the aim of the drive, 'idealization involves an identification of the subject with the object'.
- 6 This theme was developed by Colette Soler at a seminar given at CFAR, London, 2006.
- 7 As if the fantasy is no longer there to sustain reality by supporting it from underneath (vertically) but is shown side by side with it (horizontally). This theme is developed by Slavoj Žižek a propos the uncanny effect of David Lynch's movies in Žižek 2000: 21.
- 8 Seminar XVI: the being of a is the *plus-jouir*, surplus jouissance.
- 9 Lacan 1992: 186, 219: 'every time that Freud stops short in horror at the consequences of the commandment to love one's neighbour, we see evoked the presence of that fundamental evil which dwells within this neighbour. But if that is the case, then it also dwells within me'.
- 10 The thing itself is the enigma of the other's desire. The bit of the other that we do not know and cannot assimilate or represent. We can never know the desire of the other, at best we can have interpretations, never certainties. Only psychotics have the luxury, the painful luxury, of the certainty of what the other demands. For us hopeless neurotics, the prospect of encountering it makes us flee in terror.

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