

## WRITING: THE END OF HISTORY?

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*Leslie Hill*

Maurice Blanchot, *The Most High*, translated and with an introduction by Allan Stoekl, University of Nebraska Press, Lincoln and London 1996, 254pp, £32.95 cloth.

*The Most High* (*Le Très-Haut*), started in the closing months of the second world war, completed in May 1947 and finally published a year later, was Maurice Blanchot's third and final full-length novel, and the first of these early works of fiction to appear in English. Forty-nine years is a long time. *The Most High* was written against the backdrop of the struggle between the Occupation and the Resistance (in the course of which Blanchot himself was very nearly executed as a German hostage) and first published at a time when the Resistance had long become established as a source of new political legitimacy and authority. It might be thought therefore that *The Most High* has little to say to the current post-historical *fin de siècle*. Of course, in other respects half a century is no time at all. Indeed if it is true, as all the indications suggest, that Blanchot's novel is situated at the very moment of the end of history, what this would mean is that *now* might in fact be the only possible time for the book to take place at all - so long as that time is understood not as a present but an infinitely deferred futurity. Such is the burden of the enigmatic but compelling final words of the book, pronounced with weakly messianic force by the ailing narrator as he is about to be shot by his nurse (who is also his lover): after nearly 250 pages of garrulous narrative, he makes the astonishing but infinitely suspensive statement: 'Now, now is the time I shall speak' (p254, translation modified).

On one level, with its story of the supremacy of the State succumbing (or rather: not succumbing) to political unrest in the spectre of a deadly outbreak of the plague, *The Most High* functions most readily as political allegory. This is probably unsurprising. It is well known that Blanchot had been a political journalist until 1940, committed to a revolutionary nationalism that viewed with alarm the rise of Nazism and was violently critical of the feeble response of the League of Nations and the policy of appeasement pursued by successive French governments. (The notion that Blanchot in the 1930s was himself an anti-semitic and fascist sympathiser belongs, however, almost entirely to urban myth.) By the late 1940s, circumstances had evidently changed. What remained however was the conviction, implicit in Blanchot's novel, that the newly restored post-war government and the Republic that had voted itself out of existence in 1940 in order to transfer full powers to Pétain, had more in common than they acknowledged and that, as forms of State power, while far from indistinguishable, both relied

on the same fundamental legal principle of submission to the absolute authority of the State.

This political dimension, as always in Blanchot, is not addressed overtly but woven into the fabric of the novel's writing. As his protagonist and narrator Blanchot takes a man, Henri Sorge, who works as a functionary in the Registry Office, recording all births and deaths, and whose private and public life, so to speak, merge as one. Sorge is a modest yet essential cog in the dialectical machinery of the modern State, and functions throughout as an unquestioning - if ultimately fraudulent - mouthpiece of the State. To his immediate superior, Iche, Sorge announces, for instance, in characteristically neo-Hegelian terms, that 'until recently men were only fragments and projected their dreams onto the heavens. That's why the past has been a long series of traps, and struggles. But now man exists' (p23, translation modified). Throughout the novel, Sorge maintains this confidence, born of a familiarity with Kojève's pre-war lectures on Hegel's *Phenomenology*, in the capacity of the modern, rational State not only to incorporate all preceding versions of State power, but also to internalise its own opposition, and embody itself in the very state of things as they are. The State, for Sorge, as for his step-father, a high-ranking official in the government, comes here to be synonymous with the unchallengeable truth of its own teleological existence at the very end of history.

Oddly enough, it is precisely this reference to the end of history that gives *The Most High* its peculiar contemporaneity. This is not to say that Blanchot, any more than his friend Georges Bataille, the most likely source of his interest in Kojève, had or has anything in common with those neo-liberal ideologues who have recently trumpeted the ultimate victory of Western capital. For one thing, already in the 1940s, it was clear to Blanchot and Bataille that what was really at stake in the end of history was a suspension of the concept of teleology itself. The end of history, as Sorge's step-father is forced to concede, though it may pronounce closure, is itself not an end; indeed, the only way it can be thought at all is if teleology itself is deferred and interrupted. This realisation is central to *The Most High*. At the end of history in Blanchot, as Derrida argues in his *Specters of Marx*, stands not teleology, but rather an eschatology - an apocalypse without apocalypse, an apocalypse of apocalypse - that is radically irreducible to any finality at all. As one of Blanchot's plague victims - a Jew named Abran - announces to Sorge, 'the promise doesn't come true, but it never goes away either. It continues to gleam when everything goes dark. It's there when all has disappeared.' And he adds: 'Could someone get us out of this? I hesitate to think so' (p192, translation modified).

This messianic, yet also sceptical invocation of the future is but one sign that the end of history is far from fulfilling its own avowed ends. From the outset, something is drastically wrong. Numerous scenes of irrational and erratic violence litter the pages of Blanchot's text, eventually culminating in the outbreak of a mysterious and deadly plague. Sorge himself is already

on sick leave; and throughout the book dank elemental odours, anonymous primal murmurs and rumbles, together with numerous other recurrent symptoms of what Blanchot calls elsewhere the impossibility of *not* being, all prove resistant to the mediating power of history and narrative. Gazing for instance at the river flowing through the heart of the city, Sorge is stricken with a more troubling sense of stagnation and paralysis than he dared express earlier: 'This whole neighbourhood was very old, and not only old, it gave the impression of never having changed, and the river as well seemed to have flowed through time, affirming with its vast tranquillity that there was neither beginning nor end, that history constructed nothing, that man still didn't exist - who knows?' (pp34-5).

Of the areas that fall outside the conceptual control of the State the most telling relates to Sorge's mother and sister. Sorge's family features here not as an exemplary juridical institution, but as a symptom of the elemental - and deathly - repetitiveness of life itself. 'That's what the family was', Sorge writes. 'The recalling of times before the law, a scream, rough words emerging from the past' (p3, translation modified). In a story that is reminiscent of the plot of the *Oresteia*, we learn that Sorge's own father is dead, and that Sorge has had little contact with his family since adolescence. As for his sister, Louise, relations between the two are informed by a shared yet enigmatic criminal secret that resists all clarification or resolution and like some repetitive malediction seemingly belongs to some prior mythic time. (In a later chapter, Sorge admits his lover Jeanne reminds him of Louise, a fact that allows Blanchot, glossing the novel in 1988, to add to the mythological resonances of the novel a further allusion to Antigone, confirming that at the centre of *The Most High* lies the dissymmetry, implicit in the emergence of the modern State, between the ethical and the political, between obedience to the ties of blood and duty to the laws of the city.)

The power of the State, even when it becomes total, Blanchot argues, still has its limits, even if what lies beyond those limits, in the terms of *The Most High*, is precisely: nothing. To evoke nothing is not to affirm anarchism, nor is it to succumb to 'postwar right-wing cultural despair', as Allan Stoekl contends, unconvincingly, in his translator's introduction. Rather, it is to emphasise the fraudulent duplicity of dying, dying that cannot be appropriated by any self-present subject or agent. Beyond the dialectic of death as source of all possibility, history, and meaning, it is to insist on the irreducible impossibility, unfigurable alterity, and unmasterable anonymity of dying. In *The Most High*, as in *Death Sentence* (published simultaneously with it in 1948 and based, according to the author, on the same unrepresentable reality), this relation or non-relation to the impossibility of dying is inseparable from the question of sexual difference. As such, the question of death is profiled most clearly in Sorge's relationships with the novel's three women: Louise, his sister; Marie Scadrán, the neighbour with whom he has a brief flirtation; and his carer, Jeanne. Each of these female figures, de-sexualised but not de-gendered, is like an embodiment of what in *The*

*Unavowable Community* Blanchot describes as 'Chthonian or subterranean Aphrodite', that most loved but least named of all Others, who exposes the community both of men and women to 'a death, by definition, without glory, without consolation, without recourse, which no other disappearance can equal, except perhaps for that disappearance that inscribes itself in writing.'<sup>1</sup> What sexual difference dramatises in Blanchot, then, is not fusal participation, but separation; not intimacy, but strangeness; not communality but the impossibility of communality; not the immanence of a shared present, but the futurity of an impossibility of relation. Relations with women remain irreducible to narrative; for what they imply in Blanchot is not work but worklessness, not immanence nor transcendence, but infinite neutrality.

1. Maurice Blanchot, *The Unavowable Community*, trans Pierre Joris, Station Hill Press, New York 1988, p46.

It is with the enigmatic invocation of both the impossibility of death and the singularity of the Other that the novel concludes. Jeanne signs with the narrator a pact or covenant that singles her out as no longer an agent of the State. She is named, albeit under an assumed name, as the singular Other to whom Sorge is bound. At which point she in turn addresses the narrator by name as the Most High of the title. What the covenant inscribes as a promise therefore is not the couple's subordination to the law, but the relation without relation between them which confirms the necessity of death but also suspends it by making death impossible. Blanchot's novel affirms freedom not in the form of a necessary submission to the law, but, in the absence of the law, in the form of an absolute obligation to the Other. Yet though the book ends with Jeanne's promise that, since the narrator is alive for her alone, she will take Sorge's life, this promise necessarily cannot be realised. *The Most High* cannot end; it can only invoke an impossibility that lies beyond the covers of this book (and of all books) as future without presence.

*The Most High* ends by suspending itself and by suspending its ending. The politics it affirms thereby also remain suspended, held aloft in a radical questioning no longer bound by the law of the State, but by a higher law, a law that is to that extent precisely not a law, but a relation without relation to the alterity which exceeds the law and is its impossible foundation. Today, fifty years after the manuscript was first delivered to the publisher, and as the temptation to turn aside from the impasse of politics becomes ever more beguiling, the appeal of *The Most High* has perhaps never been more urgent.

# DOING POLITICS

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*Kimberly Hutchings*

Gillian Rose, *Mourning Becomes the Law: Philosophy and Representation*, Cambridge University Press, Cambridge 1996, 170pp, £9.95 paperback, £35 cloth.

1. *The Broken Middle*, Blackwell, Oxford 1992; *Judaism and Modernity*, Blackwell, Oxford 1993. Rose's interpretation of Hegel, which structures all of her subsequent work is first presented in *Hegel Contra Sociology*, Athlone Press, London 1981.

In this collection of essays Rose pursues the themes and arguments of her previous work in *The Broken Middle* and *Judaism and Modernity*, and continues to interrogate and criticise postmodern theory through her radical, 'aporetic' reading of Hegel.<sup>1</sup> As with all of Rose's work the essays here are both difficult and provocative. They are difficult because of the complexity of Rose's style of argument, which always involves her thinking through, with and against a staggering array of other thinkers and traditions. Even when Rose, as she puts it, 'shoots from a pistol' (p72), her scholarship makes few concessions to those less thoroughly read in the traditions of Western philosophy and literature, not to mention Judaism, than she is. Rose's essays are provocative because she presents a critique of the resources of contemporary philosophical, social and political thought which takes in both the legacy of Heidegger in the work of Derrida, Levinas and Blanchot, and the much cruder stances of libertarianism and communitarianism, in a way which identifies the connections and mutual implications of what are often seen as diverse or opposing modes of understanding and judgment. Those sympathetic to Levinas's account of ethics or Derrida's recent work on politics, or more generally to the postmodern turn in philosophy and theory, are likely to be suspicious of Rose's sweeping conflation and condemnations of postmodernism; those schooled in more mainstream social and political theory may well be outraged by Rose's dismissals of the claims to authority of both individual and community. Nevertheless, however bold Rose's claims, they are neither crude nor ill-informed, they initiate and perpetuate argument (philosophical work of the kind in which Rose delighted) and will therefore be interesting and useful reading for all those working in areas of theory where the claims of postmodernism and the critique of metaphysics and representation have become taken for granted.

In the Introduction to this book of essays Rose offers an account of the meaning of its primary title, *Mourning Becomes the Law* (pp11-12). This account relies on the contrast between Rose's characterisation of postmodernism's identification of itself with a process of endless mourning for the lost securities and the failures of reason and Rose's notion of completed mourning, in which reason is not simply despaired of but reassessed and rediscovered (a contrast which is explained and explored in more detail in the third essay, 'The Comedy of Hegel and the *Trauerspiel* of Modern

Philosophy'). The first kind of mourning is located by Rose in the assumption of the failure of metaphysics and the claims for an ethics and a politics without metaphysics which are put forward by Levinas and Derrida respectively (pp12-14). At different points in the text, Heidegger and Blanchot as well as Levinas and Derrida are used to exemplify mourning in the first, anti-metaphysical sense. On Rose's reading this 'aberrated' mourning is a turning away from the world which, paradoxically, implicitly affirms indiscriminate violence precisely because of its indiscriminate identification of all determination with violence. Rose's point is that the postmodernist position disallows difference in two senses, even as it claims to be premised on its recognition. Firstly, no difference is perceived between different determinations of power, between legitimate or illegitimate violence; secondly, and consequently, it seems that nothing can make a difference, since to act is to lay violence upon violence and in any case acting itself rests on a series of mistakes about the possibility of agency and the relations between subject and objective reality.

Although Rose points out that the premise of the impossibility of metaphysics yields a philosophical position which must always be false to itself, in that it denies the possibility of grounding, even as it grounds itself in the dogma of groundlessness and perpetual irony (pp12-13, 64-71), she is much more centrally concerned with the politics inherent in postmodernist mourning. This is a politics which she finds reflected in the contemporary competing paradigms in political thought of libertarianism on the one hand and communitarianism on the other. As with postmodernists, Rose argues that libertarianism and communitarianism are premised on the rejection of the universal. According to libertarianism the only judge of the individual's good is that individual; according to the communitarian, the only judge of the individual's good is the given identity of the group of which she is a member. There can be no legitimacy in any political power which transcends and coerces either the individual or the group. Rose argues that the libertarian and communitarian positions not only share the same essential structure, in that both rest ultimately on the arbitrariness of particular interest, but that both also, in denying the validity of a politics beyond particular interest, actually abet state power and authority (pp4-5): 'They do so directly, by disowning the coercive immediacy of the type of action legitimated, and indirectly, in the way the stance at stake disowns the political implications of legitimated violence and so re-imposes that burden on agents and agencies of the state' (p5). Like the postmodernist philosophers, Rose suggests, libertarians and communitarians are blind to their own political violence and both rely on and permit the violence of the universal which they disown as always unauthorised and illegitimate.

If the 'aberrated' mourning of postmodernism is the failure of philosophy to engage with contemporary ethical life and leave it abandoned to the struggles of individuals or groups who require but do not acknowledge or recognise the state, then what is Rose's alternative, completed or

'inaugurated' mourning? Here we have to return to the title of the book, because Rose's mourning 'becomes' law in two senses.

In the first sense, Rose's mourning follows the phenomenological path of the failures of reason and learns from them with a view not to the abandonment of metaphysics and ethics but to their reconfiguration and the exploration of the possibilities of their re-connection. Rose seeks not to abandon law but to re-work it in the light of experience. This re-working being always a risk and a 'failing towards' both as understanding and as action. Mourning becomes law, therefore, in the sense that it informs thought and action, which changes things even if it does not solve or mend them. Here the story of Phocion and his wife, which appears twice in the text presented through the interpretation of Poussin's painting, encapsulates mourning becoming the law, as Rose imagines the wife returning to the city with an enhanced comprehension of what tyranny and resistance to tyranny mean (pp22-6, 102-4). Rose's mourning is always, therefore, fundamentally political (p103).

This is evident in the way in which mourning 'becomes' the law in another sense, that is 'becomes' in the sense of being suited to or enhancing the law. Without mourning, without the recognition and appreciation of loss and limitation, the law remains unquestioned both in the city and in the soul (p10). Politics is, as Rose puts it, about 'the perennial work which constantly legitimates and delegitimizes the transformation of power into authority of different kinds' (p16) both at the level of individual and state action.

It is impossible to offer an adequate summary of each of the essays in this book. In different ways they all represent and explore the themes outlined above as well as range beyond them. The first chapter, 'Athens and Jerusalem: a Tale of Three Cities', includes a fascinating exploration of the nature and dangers of politics. In this essay, Rose argues against the contemporary condemnation of the city (Athens) as opposed to the utopian 'New Jerusalem' of community (p16). She makes her argument through an examination of the oppositions and connections set up between Athens, Jerusalem and Auschwitz in the new ethics (p30). These oppositions, she maintains, ignore what she refers to as the 'third city' (p34). The third city is the realm of civil society within the modern capitalist state which, with all its complex and contradictory determinations, mediates and fails to mediate between individual, sectional and collective interests. If Auschwitz is the demon cousin of Athens, then the new Jerusalem and the new ethics must reject reason and explanation in favour of witness and prayer. This means that the holocaust cannot be understood, only endlessly mourned, but also that it cannot be prevented - it becomes a fate or destiny rather than the product of contingency (p35).

In the second chapter 'Beginnings of the Day - Fascism and Representation', Rose pursues her interrogation of 'holocaust piety' and argues for the unavoidability and necessity of representation as the means by which we 'discover and confront our own fascism' rather than deny it

(p48). This chapter makes its argument through a consideration of literary and cinematic representations of fascism and the holocaust, looking at both the books and films of *Schindler's List* and *Remains of the the Day*. Rose's concern here, as in all the other essays, is to replace perpetual dichotomy and innocence with complexity (the broken middle) and experience and thereby to suggest the possibility of learning, of making new mistakes or at least of understanding why old ones are likely to be repeated.

Although I am entirely unacquainted with the literature on Midrash which Rose focuses on in the fourth essay ('Would that they would forsake Me but observe my Torah: Midrash and Political Authority'), her linking of Hartman's interpretation of Midrash with the work of Machiavelli and Weber to produce a model of doing politics is very much a continuation of the arguments in the first two chapters. In this essay Rose argues for a kind of political realism which has little to do with reductive readings of Weber and Machiavelli in terms of instrumental rationality and *raison d'etat*. This is a realism which understands politics as the art of the actual and the possible, and does not presume that power is always either good or bad or that the outcome of action can be known in advance. It is a politics situated in a commitment to understand the terms of contemporary ethical life and its complex and dangerous potential.

The last two essays of this book are centrally concerned with the meaning of death in Blanchot and Heidegger. It is impossible to read these chapters without thinking about Rose's own death (this volume is a posthumous publication). What stands out for me in reading these chapters and the rest of the book as a whole are two words, the keyword 'mourning' in the title and the other word, which appears in the title of her philosophical memoirs, 'work'.<sup>2</sup> Rose's legacy in this book is the work of mourning in the phenomenological, public and political sense of learning from loss and limitation and returning to the risks of thought, argument and action: 'If all meaning is mourning, and mourning (or absence) must become our norm (or presence) for there to be morning (dawning or future), and *not* interminable dying, then all meaning and all mourning belong to the city, to the *polis*.' (p103).

2. *Love's Work*,  
Chatto & Windus,  
London 1995.

# DISUNITED KINGDOM

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Adam Gearey

Joseph Valente, *James Joyce and the Problem of Justice, Negotiating Sexual and Colonial Difference*, Cambridge University Press, Cambridge, 1995, 282pp, £37.50 cloth.

Valente's is a timely intervention within both Joycean studies and the rapidly expanding field of 'postmodern jurisprudence'.<sup>1</sup> This book targets a new territory, an 'undiscovered Joyce' (p48); it can be read as part of a new exploration of law and justice at the beginning of our ancient future.

*James Joyce and the Problem of Justice* contends with the coming to an end of a tradition of legal thought. Heralding the fall of law's empire are texts such as Jacques Derrida's address to the Cardozo Law School and Jean-François Lyotard's *The Differend*, works which call for a thinking of justice which challenges its construction in the Western tradition.<sup>2</sup> Although conflating Derrida and Lyotard is dangerous, these 'postmodern' theories of justice could be seen as arguing for a return of ethics to law, an ethics that departs from a 'humanist' tradition and opens to the demands made by those whose voices have been excluded from the dominant articulations of the just. Valente's book offers an approach to Joyce's work as a form of writing that can engage with these new problematic expressions of justice.

At the risk of brutally distorting a complex debate, it could be argued that the central importance for Valente of the work of both Derrida and Lyotard is in allowing the development of what is described as the 'ethics of the double inscription' (p20). If ethics is an attitude towards justice, it is answering to a demand that goes beyond the law and every determinable context, but at the same time, must refer back to the rejected codes and conventions to articulate itself and 'achieve' justice. The 'double inscription' is part of a general and 'perpetual legitimation crisis' (p5) which infects both 'liberal jurisprudence' (*ibid.*) and, also, at least by implication, any attempt to overthrow this order. As a writer contesting both positive English law and questions of justice in a wider social sense, Joyce's work can be read as marked by this 'double inscription'. Focusing these concerns is a feminism which has at root the logic of the double bind. It is precisely a questioning of gender in Joyce's work that opens onto his challenging of the imposition of colonial identity. Despite this radical impulse, though, his writing is that of a subject torn between two positions. As an Irishman he is both at the 'margin and the mainstream' (p225) of the British Empire and trapped in a construction of gender. Although there can be no simplistic overthrow of these impositions in the name of 'justice', this is not necessarily a cause for despair: the very attempt to imagine another justice opens the possibility

1. The key text here is Costas Douzinas and Ronnie Warrington, with Shaun McVeigh, *Postmodern Jurisprudence: The Law of Text in the Texts of Law*, Routledge, London 1991. See also Douzinas and Warrington, *Justice Miscarried: Ethics and Aesthetics in Law*, Harvester Wheatsheaf, New York and London 1994.

2. Jacques Derrida, 'The Force of Law; The "Mystical Foundations of Authority"', *The Benjamin Cardozo Law Review*, vol. 11, Nos 5-6, special issue on 'Deconstruction and the Possibility of Justice' (July/Aug 1990), pp920-1044; and Jean-François Lyotard, *The Differend*, University of Minnesota Press, Minneapolis 1988.

of developing counter positions and practices.

Plotting the problem of justice in Joyce's work necessitates a revision of the relative importance of the texts that compose the Joycean canon. Valente is very much concerned with plotting the chronological development of the problematic of justice in Joyce's work. He concentrates on a series of texts that begins with the story 'A Mother' in *Dubliners*, runs through the neglected *Giacomo Joyce* and *The Exiles* and into *Ulysses* and *Finnegans Wake*. The first three traditionally marginal texts are seen as central to an 'evolution' of Joyce's representation of the tension between narrative representation and the political and ethical concerns of the 'double bind'. Although Valente's canon represents a major broadening of focus in the consideration of Joyce and ethics, it remains blind to a more radical construction of the canon that would begin with *Finnegans Wake*, a text which is the exploding code of Joyce's work. Perhaps what Valente neglects is the centrality of this final text for Joyce's thinking and writing of justice.<sup>3</sup> These concerns will be returned to in the concluding paragraphs.

The *Dubliners* story 'A Mother' is the starting point of Valente's study as it provides the most complete articulation of the double bind of justice. The story's narrative voice is one that describes and reveals the codes of meaning, both colonial and gender based, which both define and imprison the fractured lives of the characters. At the same time as it provides a perspective and a release from 'sociosexual inscription' (p65), this disembodied voice reproduces the very notion of neutrality that is so wound up in patriarchy's blindness to gender. *Giacomo Joyce* is important because it moves away from what the earlier story reveals to be a false search for transcendence. It is a text of redefinition; Joyce's writing is no longer the impersonal recording of a situation organised around a detached narrative voice; it is now an attempt to realise the complex interaction between self and other, a realisation that the very act of judgement is structured in gendered terms. The problem that remains in *Giacomo Joyce* is the same problem that animates *The Exiles*. Richard Rowan, the central male character in this play, is caught in a double bind: his search for justice is trapped in the patriarchal codes that he is resisting. This problem is not so much resolved as redefined in Joyce's writing. *Ulysses* is a text that represents an acceleration of certain anti-representational strategies which reinscribe the problem of justice. The fragments of *Ulysses* do not allow the reader to rest with any construction of gender or justice and provoke a realisation not of a 'particular model of sexual justice' but the 'ethico-juridical condition itself'. (p244), the very problem that the demand for justice must exceed any means of expression.

The speeding polyvalent fragments of *Ulysses* reach a terminal velocity in *Finnegans Wake*. Although the most daringly experimental of Joyce's works, this text does not appear to be central to Valente's thesis. His reading is an elaboration of Bakhtin's notion of parody, an expansion of both the notion of doubleness and indecidability read in *Ulysses*. The relationship between

3. See James McMichael, *Ulysses and Justice*, Princeton University Press, Princeton 1991. The only full length study of justice in Joyce's work before Valente's book.

texts in parody depends on both subversion and an equal respect for their hierarchical importance. Thus *Finnegans Wake* both reproduces notions of justice and opens them to ridicule, a 'vehicle for enforcing [Joyce's] recognition that the political as the pursuit of justice is inevitable doubly inscribed ... authorising the law it transgresses' (p251). Again, this is not to be read as a rejection of the quest for justice, rather its utter provocation. Precisely because justice can never be definitively stated, the demand for justice is a demand that has to be repeated 'endlessly' (p256).

Here is the book's most exciting resonance. With this cryptic closing comment, Valente touches upon the endlessly repetitious nature of *Finnegans Wake*. Not only does *Finnegans Wake* recycle itself, but its call for justice demands a reinvention of those fragments of legal and philosophical texts, the Bible and the Church Fathers which compose its textual body. *Finnegans Wake* prompts a reinvention of the tradition that was central to the construction of legal identity and the thinking of justice in the West. Valente's book moves towards the possibility of reading Joyce's work as a postmodern jurisprudence that contends with the fates of Christianity. *James Joyce and the Problem of Justice* will be an essential text for this project, a kingdom to come.<sup>4</sup>

4. See Adam Gearey, 'The Law of Love in *Finnegans Wake*', Vol VIII, No 2 (forthcoming).

# LITERATURE WITHIN THE LAW

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*Piyel Haldar*

Ian Ward, *Law and Literature: Possibilities and Perspectives*, Cambridge University Press, Cambridge 1995, 264pp, £32.50 cloth.

For Ian Ward, law and literature ought not to be an overtly political enterprise. Lessons, he suggests, may be drawn from the recent history of the critical legal studies movement in which the politicisation of law has led to a multitude of internecine wars and to the invention of a 'pretentious and ultimately useless language which, rather than educating, serves only to mystify and then to alienate' (p22). To be sure, literature's concern with, or even role in, freeing the subject from forms of alienation is a theme which runs throughout the book. For, as well as teaching the future lawyer to take on board responsibility for the language of law, literature can break the barrier between student and teacher (p24). The irony of this, however, is that such freedom can be gained only through the *educative* potential of literature as if education were possible without falling into the language and culture of alienation and without resorting to some form of pedagogical hierarchy.

It is thus difficult to comprehend how, on Ward's terms, the incorporation of literature into the study of law manages to release the subject from the 'evils' of an alienating language. Certainly, it is possible to agree with Ward's other major point that literature teaches one to bear responsibility for language. Yet, this itself implies that we, and our responsibilities, are further limited and corrected by language. Our condition, and our responsibilities, are determined by our position as legal subjects which in itself is determined through a given language. The major flaw in this work is that, whilst Ward is concerned with profound issues (responsibility, alienation and language), and whilst he attempts to describe the work of as many major theorists as possible (Piaget, Derrida, Foucault, Wittgenstein, Lacan, Eco, Irigaray and many others), he does not himself put forward any real theory of responsibility. Theory merely becomes a matter for description and exposition. Indeed, for all his bravado, Ward explicitly shies away from theorising simply because it forms an 'intellectual pretentiousness [that] is the pervasive evil in so much contemporary legal scholarship, and law and literature must seek to avoid falling into this particular trap' (px).

It is surprising that Ward does not theorise the overall alienating effects of language upon the subject given that he seeks to re-establish the functional role of the author in determining the responsibility of the reader. In contrast to the work of those such as Barthes, whose reification of the position of the reader attempts to sever the text of its filiation to authorial intent, Ward re-

introduces the function of the author back into an understanding of literature as a mode of existence which inevitably impedes the free circulation of the text. Nevertheless the author constructs a model reader and it is in this sense that, through authorial control and reader response, both author and reader bear the responsibility for the continuation of discourse. Accordingly, there are three categories of texts which are deemed appropriate and which are defined by their author-function. First, there are those written by legal theorists for a specifically legal audience (p34). Second, there are literary texts not written for a specifically legal audience yet which comment upon law and society. This category would contain a significant group of excluded or marginalised figures whose author-function has to be recognised. Women writers, black writers, Asian writers, or gay writers, for example, have all resorted to storytelling in order to voice inequalities inherent in the law, and to articulate their experience of exclusion. The third category of authors consists of those, such as Kafka or Camus, who use law in order to talk about the alienation of the human condition.

In all these cases, literature can educate and present a socio-political agenda. Authors and readers, writers and reviewers, need to take responsibility for this, to bear in mind the significance of the role of the author because the reconstitution of society through language is the primary task of law and literature. However, in pleading for social change through language, do we presuppose that readers ought to share a unified agenda? What prevents the law and literature movement from dissolving into the plurality of internecine factions which characterises much of critical legal studies and which Ward was so quick to distance himself from at the start of the book? Does a particular text disseminate a meaning which unites, and which can be shared by the readership? In order to answer such questions Ward chooses, from the growing cluster of debates, the one between Gadamer and Derrida. For Gadamer, whilst a text might disseminate a multitude of possible interpretations, the inter-relationship between text and reader manages to constrain meaning. It is possible for a community of readers to share meaning, for a community of lawyers to determine a legal text. For Derrida, on the other hand, texts remain radically indeterminate. There is, of course, always the possibility of 'destinerrancy', of an intended meaning which never arrives at its destination. With supposed irony the author deliberately resists concluding as to which side of the hermeneutic/deconstructive divide he favours. Rather, it is up to the reader to provide the conclusion, to take on board an interpretative responsibility which would transform the community. And such responsibility is only imposed upon us by virtue of the fact that there can be no origin of meaning. It is clear that, for Ward, the issue of responsibility lies precisely in this fluidity of textual interpretation. Citing the recent work of Drucilla Cornell, it is suggested that every act of interpretation demands that we are responsible, not toward the text, but toward fellow readers. The tales of Beatrix Potter, or Lewis Carroll, can thus be read as a 'despecialised' mode of presenting

jurisprudential debates to a particular set of readers who are able to develop their own concepts of law and justice, free from parental imposition. Similarly, feminist literature has to be read with a sense of responsibility toward the intended readership. Ward uses such texts in order to supplement the jurisprudential approaches to rape and to suggest that literature can be used to address the very language of rape. Language defines women and legal language defines the legal personality of women (p131). Whilst that language has been defined 'by men', feminist literature can help women recapture a feminine voice in law, and thereby with real consequences, redefine the laws of rape.

It is worrying, however, that Ward reduces the status of literature, feminist or otherwise, to the level of merely being supplementary to jurisprudence. Throughout the book, Ward claims, without resorting to the post-structuralist reworking of the status of the supplement, that jurisprudence can gain important insights from literature. As the author puts it: 'Even if literature cannot, or perhaps should not, replace the learned text, at least it can complement and illustrate' (p132). Consider, for example, Ward's brief reading of what he calls the 'complexities' inherent in *The Tale of Ginger and Pickles*: 'The story of the cat and the terrier, who go broke because they try to run a shop without ever being paid, says precisely what the law and economics movement has been suggesting for decades, and is as jurisprudential a tale as Posner's *Economic Analysis of Law*, though certainly more fun to read and, some might suggest, truer to life' (p101). A short chapter on the themes of existence, hope, self-assertion, responsibility, alienation, law and justice in the works of Camus and Kafka, via Nietzsche, Blanchot, Derrida, Heidegger, Foucault, Marcuse, Sartre, Kant, Arendt, and Unger, concludes rather glibly that modern literature should form part of the legal canon alongside the more respected texts. Another chapter on Shakespeare reduces three key plays to the status of 'educative supplements' to the study of legal history.

The problem with treating literature as something which ought to be incorporated into the larger corpus of the legal canon as a supplement is that, if a transformative ethics is on the agenda, nothing is done in order to interrupt the conservatism of the legal institution. A literary analysis of law would not seek to broaden but to interrupt. Literature, as Ward notes (particularly in his discussion of Lewis Carroll), is indeterminate and contingent. In so being, surely literature has a much stronger purpose to interrupt the unitary determinacy of law. Ward's analysis, however, is merely a symptom of the dream of legal discourse to colonise every other discourse and reduce them to the level of the extraneous. A literary analysis of law must operate differently in order to deconstruct the difference between legal and literary language and in order to recuperate a set of literary values locked within legal history itself. For, within such a history lies a disturbing counter definition of law as a poetic genre. There are whole histories, forgotten traditions, other cultures, minor jurisprudences, forbidden texts

and feminised voices which, having developed alternative poetic approaches to the language of law, have been jettisoned from modern law in favour of a masculinised and unemotive prose. Even after the changes in the practices of common law made during the seventeenth century, we may still discern the continuation of the use of aesthetic and literary practices (ritualised speeches and performances, or the use of narrative in the delivery of judgment). Such a literary analysis provides for a better understanding of the manner in which the legal subject has always been held in thrall, captivated and captured by the linguistic and philological practices of the legal institution. At the very least, such approaches suggest that the relationship between law and literature is not an enforced outcome of a process of reducing literary texts to jurisprudence, but that law has always owed a particular debt to philology and literature. This in itself would necessitate some form of theorising in order to really open up the possibilities for the current interest in law and literature.