Chapter One

The Legal Status of the Irrational

After about 1860, the criminal body came to be taken as evidence of deviance, and the function of law was to survey and repress criminals who presented a social danger. Scientists measured and minutely detailed the deviant's physique, trying to localize deviance in physical anomalies. The criminal body and criminal behavior were conceived as transparent expressions of a deviant soul, so that the causes and symptoms of deviance were conflated in a physical mark that by its very presence testified to the perversity of the moral will and explained deviance simply by making it visible. Dr. Emile Laurent described the criminal as "a being apart," as "a vulgar type, a cool temperament, average height, a low and short forehead with a deep scar on the upper part, deep-set eyes, large and thick nostrils, the head high and narrow at the top."¹ Good Lamarckians, French psychiatrists conceived criminals as inadequately adapted organisms who transmitted their defects from generation to generation.² They labeled these so-called organisms "degenerates"—to use a term first employed in France by B. A. Morel in his Traité des dégénérescences (1857). Legislators exploited psychiatric language to justify harsh penalties, including capital punishment and the Relegation Act of 1885, which sent recidivists to New Caledonia for life.

¹ Emile Laurent, Sadisme et masochisme (Paris: Vigot Frères, 1903), pp. 183, 111. All translations herein are mine unless otherwise noted.
But despite legislators' rhetoric, the origins of the Relegation Act were political rather than medical. It was passed during a period of labor unrest, and politicians, remembering the Paris Commune, conflated political and criminal deviance and took a hard line toward both. And in spite of the denunciations of so-called degenerate populations and the harshness of the penal measures, French courts judged criminal responsibility according to a classical conception of free will. Though psychiatrists' relationship to the legal system was becoming increasingly complicated, their main task was to decide whether the delinquent was sane or insane, that is, whether the criminal could be held legally responsible for the crime.

In this context, psychiatrists began to promote a distinction between the incurable recidivist and curable criminals. They relaxed what Nye identifies as the "presumption, initiated by Morel and underscored by Valentin Magnan, that degeneration was largely an irreversible process." They advocated a positivist focus on the criminal body now in the interests of rehabilitation rather than repression. In the name of rehabilitation and hence for the "good" of the criminal, medical men sought to make punishment fit the criminal rather than the crime and hence challenged the primarily


4 For a discussion of this shift, see See Lion Murard and Patrick Zylberman, "De l'hygiène comme introduction à la politique expérimentale, 1875–1925," Revue de Synthèse 55 (July–September 1984), 313–41. The idea of rehabilitation itself was not new. In the early years of the nineteenth century, the great French alienist Philippe Pinel advocated the most humane possible treatment of the mentally ill, and between 1810 and 1840 as well, the whole prison system in France was reformed on the basis of humane techniques of punishment whose purpose was to bring the individual back to reason. The inspiration for the reforms was rooted in the Enlightenment and in particular in Cesare de Beccaria's 1764 argument in favor of the abolition of torture and capital punishment. He based his analysis on the moral duty of society toward each of its members, whether the victim or the perpetrator of crime. On the nineteenth-century reforms, see O'Brien, Promise of Punishment, pp. 48–49. On the history of nineteenth-century French psychiatry, see Jan Goldstein, Console and Classify: The French Psychiatric Profession in the Nineteenth Century (Cambridge: Cambridge University Press, 1987), esp. pp. 64–119. For an overall analysis of the penal system and the meaning of "discipline" through rehabilitation, see Michel Foucault, Discipline and Punish, trans. Alan Sheridan (New York: Vintage, 1979). For an anti-Foucauldian assessment of prison reform in France, see also Gordon Wright, Between the Guillotine and Liberty: Two Centuries of the Crime Problem in France (Oxford, Oxford University Press, 1983).

5 Nye, p. 323.
moral considerations still used to evaluate criminal behavior. As the penologist Raymond Saleilles put it in his classic work on the individualization of punishment, the punishment should correspond to the "perversity of the agent" rather than to the nature of the crime.6

Psychiatrists delineated intermediate states between sanity and insanity to permit a more refined interpretation of criminal responsibility and thus allow for a more "humane," because more scientific and studied, treatment of criminals. They thus reasoned that if responsibility were to be determined by doctors as well as by lawyers, no one who could be judged by the trained medical eye as irresponsible would be wrongfully interned, and by the same token, no responsible criminal would escape justice. As Jan Goldstein maintains, psychiatrists had their own professional interests at heart rather than those of the criminal. They sought to make these intermediate zones the province of medical expertise, to assert that "insanity and the 'intermediary' nervous pathologies shared an essential nature, making it only logical that the latter be entrusted to the already proven experts on insanity—hence the importance of the new label—demi-folie."7 But because of what one historian has called a crisis in public and judicial confidence in medical expertise, psychiatrists chose to remain on the sidelines of legal decision making. The contradiction between the increasing demands being made on psychiatrists and the increasing lack of confidence in their expertise can be partially explained by the expanding categories of mental illness—those intermediate states between sanity and insanity or normality and pathology. By the early twentieth century, psychiatric nosology had become so complex that psychiatrists were required to clarify its categories for juries trying to decide the degree of criminal responsibility, even as the complexity was overwhelming the psychiatrists themselves. Psychiatrists could not run the risk of seeing madmen everywhere, nor could they risk presenting evidence to jurors which was not empirically convincing.8

6Raymond Saleilles, L'Individualisation de la peine (Paris: Felix Alcan, 1898), p. iv. In practice, psychiatrists were committed to a peculiarly French marriage of these positivist convictions and a moral concept of liberty, which most considered necessary for social coherence. See Wright, pp. 127–28, 174–77.
7Goldstein, p. 333.
8For a more general discussion of the ins and outs of this "crisis," see Nye, pp. 227–64.
It was not until after the Great War that an increasing number of psychiatrists supported reforms aimed at replacing legal with medical diagnoses of the criminal, that is, making legal definitions of responsibility correspond to advances in psychiatry and criminology. We can speculate about the reasons for this shift. Jacques Donzelot has argued that psychiatric power expanded along with the welfare state, which transformed the relationship between individuals and public authority. Many psychiatrists saw themselves as leaders in the mission to regenerate French morals, especially by combating alcoholism, prostitution, and venereal disease—social problems that many believed the war had exacerbated. Many thought France’s psychic health was at stake. One observer wrote that “the frequency [of crime] had increased so much that it had become part of everyday life, almost . . . banal.” The legal scholar Lucien Mialane declared that the influence of economic misery on adolescent criminality was insignificant; the real cause of rising juvenile crime rates was a new psychic restlessness, which “seem[ed] to be one of the most characteristic traits of contemporary psychology.” Medical men perceived alcoholism and prostitution as the inevitable consequences of a society that rewarded egotism and the “fast life” and offered “restless youth” nothing to live for. They sought to increase their moral and professional power by facilitating, wrote Yvonne Marie Swiller, a broad “social adaptation and moral reeducation” for a people “weakened and humiliated,” as well as for “morally deficient women.”

The most zealous proponents of medical intervention were the members of the Ligue Nationale Française d’Hygiène Mentale, founded in 1920 by the eminent psychiatrists Edouard Toulouse and G. Genil-Perrin. One of its intellectual ancestors was the social hygiene movement, which was organized as early as 1902 to combat alcoholism, tuberculosis, and syphilis. It represented the exten-

10 For a discussion of these social problems and their link to female criminality, see Chapter 2.
11 Frédéric Boutet, Crime d’aujourd’hui, crime d’autrefois (Paris: Librairie des Champs-Élysées, 1928), pp. 7–8; Lucien Mialane, La Criminalité juvénile (Paris: Les Presses Modernes, 1921), p. 61. For a broader discussion of the social context of these developments, see Chapter 2.
12 Yvonne Marie Swiller, “Déficiences morales féminines,” EC (June, July, August 1930), 188–93.
sion of public health into a more comprehensive program of social discipline through which doctors sought to improve the so-called quality of the species by eliminating impediments—poor natal care, venereal disease, and so forth—to healthy procreation. Most important, doctors, Lamarckians that they were, hoped to obstruct what they presumed was hereditary transmission of diseases from generation to generation.\(^\text{13}\)

Following a model of social hygiene, the league sought to regulate deviants through a general reform of social institutions according to "scientific" criteria—by adapting institutions to the biological and neurological needs of human beings. It called on citizens to abstain from alcohol and from sex outside of marriage, but such appeals had never been taken as seriously in France as in Anglo-Saxon countries. As one advocate noted, his "hygiene manual" was an effort to adapt prophylaxis, including celibacy and temperance, to French culture, to a "Latin" and, hence, according to him, "a more or less hostile public."\(^\text{14}\) But after the Great War the league became increasingly popular, and it even had some influence on public health policy.

The league, taking its inspiration from Belgian and American models,\(^\text{15}\) also promoted penal and asylum reform, proposing a system of rehabilitation centers as a better way to combat perceived social evils. The league capitalized on the postwar political and psychic climate to encourage these reforms and tried most of all to shift mental health care away from alienism to psychiatry, from the asylum to the psychiatric hospital, and hence from repression to rehabilitation, from the treatment of the dangerous criminal to detecting and helping those individuals who occupied intermediate zones between normality and pathology. In 1922 Edouard Toulouse was officially received at the Hôtel de Ville in


\(^{15}\) According to Marie-Thérèse Lacroix-Dupouy, a National Committee for Mental Hygiene was established in the United States in 1909 to endorse a more "humanistic" treatment of prisoners. After 1920, its influence spread to Europe and Latin America. "Les Services ouverts dans les asiles" (Thèse, University of Paris, 1926), p. 16.
Paris after a conference at the Sorbonne on mental hygiene attended by eight thousand people attested to popular support for his cause. That same year, he and another activist in the league, Roger Dupouy, founded the Institut de Prophylaxie Mentale located at Sainte Anne's Hospital in Paris. Converted into the Hôpital Henri Rouselle in 1926, it included a research laboratory, an outpatient clinic, and teaching rooms.

Many psychiatrists associated with the league thus insisted on the importance of replacing legal analyses with medical ones in order to ensure the success of rehabilitation, for the first step in a successful rehabilitation program was determining who could and who could not be cured. Along these lines, the criminologist Paul Schiff argued that the only means to reclaim criminals and psychopaths was through a "reeducative segregation based on a medical and psychiatric foundation instead of a punitive segregation based on a juridical one." As Frédéric-Jean Desthieux remarked, the league was undertaking no less than a "vast sanitary and social reorganization necessary to the regeneration of the social body" when it insisted on the substitution of medical for legal intervention in social life:

Since the individual has not been appropriately educated, rare are those sick people who will turn themselves over to psychiatric care. How can they even know they are ill? Will their entourage even allow them to seek help? Psychiatrists can predict all accidents [Dr. Dupouy affirms it]. When they are not predicted, it is because of a defect in social organization. Society accepts that 65 thousand of its curable citizens be interned each year—forever. Society does not demand that the doctor be the assistant of the sick and the defender of society.

Paul Schiff perhaps put it most bluntly when he argued that psychiatrists could not continue to claim that a criminal was both abnormal and responsible for his or her crime when legal logic had always equated abnormality with nonculpability; instead, he insisted, legal concepts had to be reformed in accord with psychi-

16 "Chronique," HM 20 [May 1925], 110–12.
17 Paul Schiff, "Les Anormaux devant la refonte du code pénal," EP no. 4 [1934], 82.
atric knowledge, moral sentiment had to give way to science.19 Whereas Raymond Saleilles had made the same argument about the inconsistency of medical attitudes toward the criminal at the turn of the century, he had insisted, as had most doctors, on a fundamental separation between medical and legal domains, a separation Schiff, Toulouse, and others during the interwar years firmly rejected.20

This insistence on replacing legal with medical diagnoses clearly manifests expanding psychiatric power. More important, it provides one window on how that power was expanded and why it took the theoretical forms it did. Of course, psychiatric expansion was linked to the relationship between psychiatry and the state. As William Schneider has argued, by the 1920s, social hygiene was indistinguishable from public health, and doctors became agents in the state’s effort to use science to regenerate a presumably declining and defective population. Moreover, the National League for Mental Hygiene was closely linked to the French Eugenics Society and had broad connections to influential legislators concerned with health questions.21 But in order to address how the medicalization of punishment shaped the reception of psychoanalysis, I want to focus instead on the efforts of psychiatrists to distinguish normal from abnormal criminals, curable from incurable ones, to define the intermediate classificatory space between normality and pathology and identify those who represented a social danger.

Identifying Criminals: Reform Proposals

The question of asylum reform was brought to the fore in 1924 when the trial of the psychiatrist and league member Roger Dupouy resuscitated the discussion of criminal responsibility which had begun at the end of the nineteenth century. Dupouy had been accused by the Tribunal of the Seine of violating the law of 1838 by admitting into his open-service clinic at Château de Fontenay a patient who should have been placed in an asylum. Dupouy was finally acquitted because the expert psychiatrists called in to judge

19 Schiff, “Les Anormaux,” p. 84.
20 Saleilles put it this way: “People can give up bread for a short time . . . [but] they cannot give up justice” (pp. 146–47).
21 Schneider, pp. 135–40, 181–86.
the patient's mental state could not agree on whether she required internment or not. The tribunal attempted to clarify earlier definitions by defining an *aliéné* as someone who could "compromise public order and who presents a danger to himself or to others," but this clarification made the psychiatrists' task no easier.22 How, after all, were they to determine whether Madame H. was dangerous? It was becoming increasingly difficult to make such a judgment with any confidence. As Dupouy himself put it, "Clinically mental illness is impossible to define. It is not an autonomous illness, characterized by an ensemble of determinant causes, of objective symptoms that can be easily perceived and controlled by any observer. It is constituted by an infinite series of the most different, the most opposed, and the most contradictory psychopathic states."23

The accusation of Dupouy and one of the rationales behind his acquittal—the confusion among psychiatrists over whether his patient was mentally ill—were part of a political struggle within the psychiatric profession which it is not my intention to discuss.24 More important for my purpose is that the rationale was in fact only a symptom of the more general dissolution within psychiatric discourse of a clearly recognizable boundary between the normal and the pathological. It was not that psychiatrists were confused about what constituted pathological behavior. The problem was that they could no longer seem to link behavior to a diagnosis of pathology in any coherent way, despite their efforts to discover a scientific basis for criminal responsibility with which to assess who could be rehabilitated and how.

In 1921 one E. Garçon commented that "the progress of experimental psychology and psychiatry had ruined the simple idea that all men who were normal could be held responsible for their crimes." He went on to note, as turn-of-the-century psychiatrists

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22 Edouard Toulouse, "A propos d'un procès récent," *L'Informateur des Aliénistes et des Neurologistes* (July–August 1924), 168–69. The imprecision of the term *aliéné* had been alluded to several times in the latter half of the nineteenth century. See Goldstein, p. 332.


24 Many psychiatrists judged Dupouy and Toulouse to be too extreme, too willing to infringe on the individual liberties of patients. See "Le Referendum sur les services ouverts et sur la situation du Dr. Toulouse," *L'Aliéniste Français* (March, 1933), 139–44.
had already argued, that there was no “precise limit between madness and reason.” While the “judge feels powerless to penetrate the mystery of conscience and calls on the alienist, the most enlightened alienists refuse to respond to these questions, which they declare beyond scientific resolution.” The solution had been sought in various theories of criminal responsibility, most of which had failed to shed much light on precisely how to detect real criminal intent, how to distinguish between normal criminals and pathological ones.25 Henri Verger put it this way: “It is impossible to establish a direct relation between [pathological anomalies of character] and the criminal act.”26

A criminal act could be explained as dementia (in which case the criminal was not responsible at all), as the product of the economic and corollary psychological situation of the subject, or as a moment of temporary insanity in an otherwise normal individual, provoked by a friend’s treachery perhaps, or a lover’s infidelity. In this way psychiatry attempted to envision all possible organic, social, and emotional causes behind a crime and to take these into consideration when asked to determine a criminal’s juridical responsibility for his or her crime. Yet it remained baffled by crimes that offered no such rationally explicable motivation.

Paul Guiraud commented in a 1931 article in L’Evoluation Psychiatrique:

Science is possible only if it admits, at least as a postulate, the rigorous determination of the phenomena that it studies. Psychiatrists must thus be convinced that all psychopathic acts, as extravagant and unexpected as they are, have causes as precise as the most normal kinds of behavior. However uncertain and hesitant, the study of apparently unmotivated murders can raise interesting problems. While conserving my entire independence from orthodox psychoanalysis, I think in cases of this type it is necessary to admit the possibility of unconscious motivating factors. . . . using the terminology of Freud, we must distinguish crimes of the ego and crimes of the id [soi]. In the first case, the individual acts of his own will and with the illusion of freedom; in the second, the organism directly

obeys the id \( \zeta a \), and the ego remains a surprised spectator, passive and sometimes resistant.\(^{27}\)

Because of the insufficiency of psychiatric categories to explain "inexplicable" criminal behavior, Guiraud, obviously no proponent of psychoanalytic method, insisted on the necessity of considering unconscious motivation. He was not alone in his frustration. Psychiatrists realized that if science could not establish a correlation between a criminal act and a specific, appropriate cause, then the entire enterprise, as Guiraud had pointed out, was seriously threatened. Henri Claude, for example, wrote in 1932 that more and more psychiatrists were having trouble deciding who was lucid at the moment of a crime and who was not.\(^{28}\) Without a relatively clear definition of what constituted normality, and hence of what kind of behavior could be expected in a given context, it was impossible to judge to what extent the criminal could be held responsible for the crime.

The psychiatrist M. G. Calbairac remarked that what was so problematic about postwar crime was that its perpetrators were often "insufficiently psychotic to intern."\(^{29}\) In 1930 a psychiatrist named Truelle wrote an inconclusive case study about an apparently well-adjusted worker who had killed his boss for no appreciable reason. "B.," he claimed, "shows no signs of pathology," and his crime is "inexplicable."\(^{30}\) Dr. Paul Chavigny acknowledged that criminals could no longer be identified by appearance alone, and he found it profoundly troubling that doctors, at least those with prolonged experience, "now know that anomalies frequently appear, even very frequently, in individuals whose family milieu, whose refined education, and whose professional, worldly status would, or so it would seem, guarantee against such accidents."\(^{31}\)

Along these lines, another psychiatrist, Paul Courbon, sought to


\(^{30}\) Truelle, "Un Cas curieux de psychologie criminelle," \textit{EC} (July–August 1929), 228.

redefine the concept of mental lucidity (with reference to the criminal act) as mental "validity" (validité) since, according to him, lucidity was only the appearance of validity (i.e., the ability to reason). He noted a frequent discrepancy between a patient's words, which might show no sign of pathology, and that patient's quite pathological acts. Several other psychiatrists corroborated Courbon's observation. Marie-Thérèse Lacroix-Dupouy warned that one must never judge a patient on the basis of his or her speech alone, for there existed a great discrepancy between speech and action, as well as between speech and writing. It was this discrepancy between speech and writing that fascinated the young Jacques Lacan.

The penal and asylum reforms proposed during the early 1930s should consequently be understood in Foucauldian terms as an attempt to construct the criminal, to make the criminal "visible." Among the most far-reaching proposals were the replacement of the word dementia by états mentaux pathologiques in article 64 of the penal code—an old issue; the creation of annexes in prisons for the psychiatric study of criminals to facilitate crime prevention and determine who could or could not be rehabilitated; and the establishment, as an alternative to asylums, of open-service clinics in hospitals, for mental patients not necessarily requiring internment.

In a plea for the reform of the penal code, René Charpentier, an eminent psychiatrist, claimed that given the multiplying nuances of psychopathology as understood by modern psychiatry, the definition of criminal responsibility in the code had become obsolete. Furthermore, he argued, since the traditional concept of moral liberty had not proven demonstrable, science had to find a new criterion for judging criminal responsibility. New psychiatric discoveries had replaced the old notion of dementia, formerly used

33 Lacroix-Dupouy, pp. 25, 88-100.
35 The earliest reform of the code took place in 1832, when a measure allowing "extenuating circumstances" permitted a more nuanced conception of criminal responsibility. See Nye, p. 28.
to excuse criminals, with a panoply of diverse mental states under whose influence individuals could be held at least partially responsible for their crimes. These discoveries motivated the requested word change in article 64, which represented an attempt to modernize the conception of criminal responsibility in keeping with the recognition that dementia had been erroneously used to characterize a whole range of pathologies that were not necessarily demential.

The construction of annexes was an old idea justified in both old and new terms. In 1907 the Dubief Bill proposed special quarters for the criminally insane, which psychiatrists vigorously supported by declaring that vast numbers of social misfits were roaming the streets. In reality, according to Nye, they believed the quarters would “ensure a new flow of public appropriations and the subsidizing of the latest technology for the treatment of the mentally ill.”37 After the war, M. Blacque-Belair and others deemed new annexes in prisons necessary to control the “vagabond children” orphaned during the war, as well as to hold prostitution in check.38 But it was also hoped that long periods of individualized observation in special quarters could help clarify the relationship between motive and act, word and deed, and reality and appearance. Psychiatrists advocated “asylum-prisons” where criminals would remain for longer periods of time and yet be treated more humanely than in the past.39

The difficulty of making a clear determination of the degree of responsibility was further compounded by an apparently increasing number of “simulators”—criminals, that is, who pretended to be mentally ill in order to escape punishment. Simulation had always been a problem, but psychiatrists in the past had been able to detect it with relative ease. During the interwar years, however, increasing numbers of criminals seem to have mastered the art of deception, or more likely, simulation did not increase as much as

37 Nye, p. 244.
38 M. Blacque-Belair, “Proposition de résolution concernant l'examen des détenus et des condamnés, ainsi que la création d'annexes psychiatriques des prisons et de laboratoires d'anthropologie criminelle,” HM 26 (1931), 44.
39 Dr. André Ceillier, “Exposé d'un projet de loi concernant la création d'annexes psychiatriques dans les prisons, de laboratoire d'anthropologie criminelle, et de maisons d'observation pour enfants vagabonds,” HM 26 (1931), 22.
psychiatrists' anxiety about detecting it. One man, condemned to twenty years of hard labor for theft and murder, managed to fool psychiatrists for two years. Another woman simulated madness so effectively that psychiatrists were convinced she had been instructed by another prisoner or by her lawyer. Psychiatrists argued that simulation would be more difficult to pull off in annexes, where prolonged close observation would be possible. "It is relatively easy," wrote Blacque-Belair, "to act like a madman for half an hour a day, but it is almost impossible to keep it up for an entire week without . . . being unmasked."

Finally, the rationale behind the proposal for open services was to permit the institutional differentiation of "real" aliénés from psychopaths and criminals who did not necessarily require internment. In an open letter to the minister of health, Dr. Henri Baruk envisioned open services as a multilevel reform whose main goal was medical prevention. Open services would consist of outpatient consultations, of observation within hospitals, and of "closed" services for patients who were temporarily "antisocial." This effort to differentiate between curable and incurable patients would give psychiatrists a larger role to play outside the asylum, and it represented an attempt to work out on an institutional level all the confusion in psychiatry about how to define an aliéné. If they could study patients over long periods of time in a friendly, unthreatening atmosphere, psychiatrists hoped they could discover how to identify the psychopath.

Psychiatrists cited a number of reasons for the necessity of open services, the most frequent of which was to establish links between general practitioners and psychiatrists to avoid misdiagnosis. "Considering," one psychiatrist claimed, "that a certain number of aliénés and neurotics escape all medical expertise and that in certain cases only specialists can identify them," increased surveillance of all those detained during and after their release was absolutely necessary to ensure the liberty of all. In this way, the

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40Drs. LagriHe and N. Sengès, "Sur un cas de simulation de troubles mentaux ayant duré de novembre 1920 à janvier 1922," AMP 86 (1928), 237; E. Martimor, "Un Cas de simulation de délire systématisé," AMP 86 (1928), 68-75.


system would effect the maximum amount of social control with a minimum violation of individual rights. *Aliénés* would be seen not as criminals but as patients, and open services would offer a more constructive alternative to the asylum than prison.43

This argument was even reiterated in Georges Inman's popular *Voyage au pays des déments*, which advocated open services and drew a portrait of the ideal hospital. It included a psychiatric ward, a ward in which all patients could be observed, and an asylum for the chronically ill, subdivided into wards for incurables, "idiots," and the demented. Inman described the aim of the reforms as essentially humanitarian: "In France we have for too long considered abnormality as a rare exception, so rare that we . . . marginalized the scientific study of deviance and conceived it simply as an aberration without importance . . . too easily conceiving the abnormal individual as a monster when, in more humane terms, he is . . . a sick person."44 He only echoed Baruk's judgment that "the notion of the madman who should be isolated must make way for the notion of a nervous, ill person who should receive preventive treatment." And as we have seen, this shift from the madman to the sick person was part and parcel of another shift. Said Baruk, "Exclusively medico-legal and social psychiatry must make way for medical psychiatry."45

Thus, when they advocated open services, psychiatrists justified the extension of medical power in the name of a progressive rehabilitation platform that included an apparatus of outpatient services, home visits, and a coherent organization of centers for mental prophylaxis under the umbrella of the Office Publique d'Hygiène Sociale. Open services were implemented by the Popular Front government in 1936 because Lucien Bonnafé and others on the Left believed that such a program would wrest medical service from the "closed hospitals of the bourgeoisie." The government treated medical care as a right, not a privilege, and thus turned it into a truly public function.46

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45 Baruk, "Question des services ouverts," p. 76.

46 Jaeger, p. 85. It is also worth noting that the league's emphasis on the malleability of the organism dovetailed well with the socialists' belief that the environ-
The reforms were thus part of a process through which, in the interests of social order, psychiatrists took over the right to define who was and who was not a criminal. This new emphasis on rehabilitation—on regulating rather than exiling deviant minds and bodies—marked one more phase in a long-term transition Jacques Donzelot identifies, from "restricted psychiatric expertise to general psychiatric expertise," in which medical men conceived themselves no longer as technicians of the body but, in the words of Lion Murard and Patrick Zylberman, as "scientists of the human." But after the war, when the criminal body and the criminal act came to be seen as insufficient to determine criminal responsibility, when it became the preeminent task of the psychiatrist to determine the perversity of the agent, the agent (and hence his or her perversity) proved impenetrable. Just when psychiatrists won the right to draw a line between reason and madness according to the looser criteria permitted by the various demi-fou diagnoses, the line proved impossible to draw.

But how to reconcile the dissolution of an easily identifiable criminal character with the expansion of psychiatric power? I believe that the impenetrability of the criminal character did not challenge psychiatrists' power so much as it effected shifts in the deployment of that power (from prison to psychiatric hospitals, from asylums to outpatient clinics, from an overt hostility to psychoanalysis to an increasing tolerance of it). That is, psychiatrists' efforts to replace legal with medical diagnoses were not simply the product of an expanding disciplinary apparatus in which power is, as Michel Foucault put it, exercised rather than possessed. Rather, they were the product of a historically specific dialectic. The medical discussion and elaboration of demi-folie during the interwar years in fact provides a good example of the dialectic through which the refinement of a diagnostic category meant to

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Psychoanalysis and the Self

consolidate psychiatric power led to the reconstruction of the theoretical foundations of psychiatry (or at least opened the way for a consideration of psychoanalysis). In fact, the increasing medicalization of deviance brought about a greater reliance on psychiatric expertise and yet also revealed its fallibility. This paradox becomes clear when we examine the role French psychoanalysts played in the reevaluation of crime and the criminal.

_Autopunition_

Psychanalysts supported the gradual transformation of juridical verdicts into vehicles permitting more thorough scientific study of criminals. Yet for them, such reforms offered less a resolution to the problem raised by the discovery of new kinds of deviants than a recognition that the problem did indeed exist. The psychoanalyst René Allendy argued that a medicalized form of punishment might reduce the crime rate but that only a psychoanalytic study of criminal behavior could resolve the problem criminals had raised. Referring to a criminal who risked the death penalty by murdering a man from whom he had stolen only two hundred francs, Allendy remarked:

In this case the problem remains without a real response until these last few years, since physical or [conscious] mental motives were sought to explain the crime. That is why criminological theories offer no real solution. We have seen that even when theft is involved, murder cannot be entirely explained by material gain. More often than not, material gain is not an issue at all. . . . The number of murders committed for their own sake remain the majority.

Allendy went on to cite the crimes of Sylvestre Matuschka and the Papin sisters, celebrated criminal cases of 1931 in which the murderers seemed to have no motives for their crimes.49 Matuschka was a Hungarian who derailed trains for pleasure. Though prone to religious ravings, he was an ideal husband and father whom the tribunal declared normal and hence responsible for his crime. The

Papin sisters brutally murdered their employer and her daughter for no apparent reason. The scientific inexplicability of these crimes, as well as other less dramatic examples, became the point of departure for a psychoanalytic reinterpretation of psychiatric discourse that made inroads into French criminology even when psychoanalysis was neglected or theoretically repudiated in virtually every other area of study.\textsuperscript{50}

The study of madness and crime led psychoanalysts to question the epistemological foundations of positivist analysis. Psychoanalysts claimed that the study of unconscious processes was the only means by which to relate the symptoms to the causes of pathological behavior. They believed the notion of criminal responsibility should be redefined according to the mode and degree of the ego's participation in the criminal act. Crime could therefore be seen as symptomatic of a particular structural relationship among the id, the ego, and the super ego.\textsuperscript{51}

As Paul Guiraud's statement about the necessity of considering unconscious forms of motivation indicates, such an explanation...

\textsuperscript{50}In France psychoanalysis was so marginalized that, as Jean-Pierre Mordier claims, a psychoanalytic perspective was not even considered in the postwar discussion of neurosis. In England, however, it was a war issue, shell shock, that opened the medical profession to psychoanalysis. It is difficult to explain why the French reacted differently. Perhaps the refusal to use psychoanalysis to understand shell shock may simply testify to the strength of the resistance to Freud among medical professionals. On the other hand, it is worthwhile to recall that it was André Breton's encounter with victims of shell shock that inspired his interest in psychoanalysis. During the First World War, Breton worked as an intern at the psychiatric center of the French Second Division. Mordier, p. 132; Roudinesco, \textit{Lacan and Co.}, p. 21.

had a great deal of power in view of the relative failure of positivist methodology to decipher criminal motivation. Nevertheless, psychoanalytic studies of crime were vigorously attacked. When psychoanalysts proposed basing criminology on psychological categories, psychiatrists believed they planned to take over the entire judicial process and that they hoped to reorient it along psychoanalytic lines. Jules Romains, who had published an important introductory article about psychoanalysis in the *Nouvelle Revue Française* in 1922, remarked that the psychoanalytic "cure" was unacceptable from a legal point of view; its prescription that we liberate ourselves from repression by killing our fathers and marrying our mothers was simply unrealistic.\(^{52}\)

G. Genil-Perrin, doctor in chief of the asylums of the Seine and cofounder of the Ligue Nationale Française d'Hygiène Mentale, spent a tremendous amount of energy combating the perceived threat of psychoanalytic intervention in criminology. He wrote an article (and later, a book) questioning the value of analysis in the aftermath of the seventeenth Congrès de Médecine Légale de Langue française, held in 1932 on the topic of psychoanalysis in legal medicine.\(^{53}\) A psychiatrist identified only as Dide expressed the opinion that "psychoanalysis has a tendency to challenge social order." It was not an isolated opinion, but it is important that he felt he had to state it, for French psychiatrists had never before bothered to take psychoanalysis so seriously.\(^{54}\)

Genil-Perrin was most concerned by what he considered the surreptitious infiltration of psychoanalysis into areas where, in his opinion, it really had no business being. One of the areas he identified was the legislature. He cited a report presented by a legislator to the Chamber of Deputies about the creation of psychiatric annexes in prisons which demonstrated a surprisingly sophisticated grasp of psychoanalysis and included a reference to a work by the Austrian analysts Franz Alexander and Hugo Staub, *Le Criminel et ses juges*. He also noted the use of psychoanalysis in at least two prominent legal cases. In one, which involved a woman who had shot her lover, the psychiatrist who testified noted that the woman was someone in whom "acts of reflex predominated over acts re-


\(^{54}\) Dide, "Psychanalyse et criminalité," *Paris Médical* [July–August 1932], 41.
flected on, and psychoanalysis would no doubt reveal the complex ideas dormant in her subconscious."\^55

Genil-Perrin expressed surprise that psychoanalysis had been taken seriously enough to guide politicians in drafting legislation. Nevertheless, he and other psychiatrists recognized, however reluctantly, that Freud’s work at least had the merit of drawing attention to the psychological aspect of criminality, a tendency already marked within French criminology. They recognized that Freud had dared to confront the conceptual problems from which psychiatrists had recoiled. According to the criminologist Paul Provent, the concept of the unconscious, if used judiciously, could help psychiatry to distinguish more accurately between the normal and the pathological and to systematize its knowledge of criminal behavior.\^56

But the most influential psychoanalytic study of any criminal, and the second legal case cited by Genil-Perrin, was Marie Bonaparte’s analysis of the pseudonymous Mme Lefebvre, whose trial became a cause célèbre. It appeared in the first issue of the *Revue Française de Psychanalyse* in 1927.

Mme Lefebvre had killed her pregnant daughter-in-law for no apparent reason, and Bonaparte’s attempt to make sense of her incomprehensible crime was seen as tantamount to excusing its gravity. Bonaparte claimed that “Mme Lefebvre belongs to that category of the insane whom the public refuses to consider mad because they have fully conserved their lucidity, their memory, and their reason.”\^57 From a psychoanalytic perspective, she maintained, the appearance of sanity is a poor indicator of a criminal’s interior mental lucidity, and it was wrong to assume that the absence of symptoms could be taken as evidence of culpability. Bonaparte felt that the progress of science depended on doing away entirely with the “archaic” notion of criminal responsibility by replacing verdicts with psychoanalytic (i.e., medical) diagnoses,


\^57Marie Bonaparte, “Le Cas de Mme Lefebvre,” *RFP* 1 (1927), 193.
and in stating this view, she articulated an affinity between the orthodox Freudians in the Société Psychanalytique de Paris and the hygiene movement. She went on to claim that the important question concerned not the criminal's responsibility but whether he or she was internable. Yet even Bonaparte conceded that this type of legal innovation presented an unresolvable problem from a practical point of view. Mme Lefebvre, she argued, should be treated in an asylum, not imprisoned, and yet she could not justifiably be retained in an asylum when she manifested no chronic symptoms of mental illness. While the penal system had to be reformed to eliminate the outmoded conception of criminal responsibility and to replace punishment with medical treatment, such a reform could not accommodate the paradox that, according to Bonaparte, Mme Lefebvre had killed her daughter-in-law precisely *in order to be punished*. Such a diagnosis in fact precluded any conceivable legal resolution.58

By shifting the object of study away from clinical symptoms to unconscious processes, psychoanalysts reversed the psychiatric conception of penal reform. Crime was no longer the problem that needed to be explained but was itself the resolution of a deeper, usually unconscious problem—the need for self-punishment. In the concept of what the French called *autopunition* psychoanalysts thought they had found a way to establish a scientifically grounded relationship between psychic motivation and clinical (or lack of clinical) symptoms. In so doing, they believed they had resolved the mystery of criminal behavior.

In an article published in the *Revue Française de Psychanalyse* in 1930–1931, Angelo Hesnard and René Laforgue wrote:

> Among the recent acquisitions of psychoanalysis, it is the incontestable importance of . . . autopunition in human life that has been most seriously echoed in our psychological comprehension in general and

58 Ibid., pp. 194–98. For a different point of view from Bonaparte's, see Paul Voivenel, *Les Belles-Mères tragiques* (Paris: La Renaissance du Livre, 1927). In his book, Voivenel discusses the disagreements among psychiatrists over Mme Lefebvre's responsibility for her crime. As late as 1935, a doctor writing in *L'Esprit Médical* remarked that psychiatrists should not be permitted to testify in criminal cases and cited Mme Lefebvre's case as an example of why their testimony was unadvisable: three psychiatrists claimed she was responsible and two claimed she was not. M. Coulon, “Psychologie et psychiatrie,” *EM* [January 1935].
in our therapeutic attitude in particular. The study [of autopunition] has even appeared so capital to some of us that we expect of it . . . a veritable transformation . . . of our young science, of a nature that will profoundly modify the teachings of the psychology of neuroses, of psychiatry, of criminology, and of pathology in general.59

While they warned against the overuse of autopunition as a catchall diagnosis, their enthusiasm was widespread among French analysts. Hesnard and Laforgue’s article was expanded into a book in 1931 titled *Les Mécanismes de l’autopunition*, and many other articles helped diffuse the concept.60 An entire issue of *Revue Française de Psychanalyse* was devoted to explaining human society in terms of the psychic paradoxes of autopunition (in the context of explaining the origins of artistic and religious inspiration, termed “magic thought”), and Sophie Morgenstern claimed: “At present, analysts are giving birth to new ideas that suggest that the pervert commits criminal acts because of an exaggerated sentiment of culpability; he seeks in this way to punish himself and thereby seeks the moral satisfaction that comes with his own guilt.”61

In *La Justice intérieure*, René Allendy argued that “from one end of pathology to the other, from organic illnesses to psychic troubles, we find, hidden insidiously behind all suffering, the guilt complex that implies an unconscious consent to suffering . . . and it seems finally that this paradoxical masochism is the most prevalent, the most constant of all human tendencies.”62 It is no coincidence that Marie Bonaparte diagnosed Mme Lefebvre’s crime as motivated by a need to punish herself, and Lacan, inspired by Freud’s writings on paranoia, explained the inexplicable murder committed by the Papin sisters in 1931 as a form of autopunition linked to their repressed homosexuality.63

Freud had developed the concept of autopunition in order to explain various obsessional neuroses. He used it to evaluate the

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60 See note 51.
61 *RFP* 7 (1934), including articles by René Laforgue, Adrien Borel, and others; Sophie Morgenstern, “La Prophylaxie infantile et son rôle dans l’hygiène mentale,” *RFP* 4 (1930–31), 140.
“moral masochism” of the supremely “sensitive conscience” as well as to explain the desire to fall ill, to fail, or to commit crime. The origin of self-punishment (Freud called it a “need for punishment”) was the introjection of a sadistic impulse:

It might be said that the death-instinct active in the organism—the primal sadism—is identical with masochism. After the chief part of it has been directed outward towards objects, there remains as a residuum within the organism the true erotogenic masochism, which on the one hand becomes a component of the libido and on the other still has the subject itself for an object. . . . under certain conditions the sadism or destruction instinct which has been directed outward can be introjected, turned inward again. . . . It then provides that secondary masochism which supplements the original one.

Freud went on to distinguish between the normal moral conscience and moral masochism:

In the first, the accent falls on the heightened sadism of the super-ego to which the ego subjects itself; in the last, it falls instead on the masochism in the ego itself, which seeks punishment, whether from the super-ego within or from parental authorities without: . . . the sadism of the super-ego is for the most part acutely perceived consciously, while the masochistic impulse of the ego as a rule remains hidden from the person and must be inferred from his behavior.

Furthermore, moral masochism eroticizes guilt, makes it a source of libidinal pleasure: “Conscience and morality arose through overcoming, desexualizing, the Oedipus-complex, in moral masochism morality becomes sexualized afresh. The Oedipus-complex is reactivated, a regression from morality back to the Oedipus-complex is under way.”

The subject thus unconsciously desires to be guilty, “craves” an unconscious and eroticized “punishment and suffering,” and this desire manifests itself in various ways and in various neuroses. For example, referring to obsessional neuroses, Freud remarked:

If it is asked why the ego does not also attempt to withdraw from the tormenting criticism of the super-ego, the answer is that it does man-

age to do so in a great number of instances. There are obsessional neuroses in which no sense of guilt whatever is present. In them, as far as can be seen, the ego has avoided becoming aware of it by instituting a fresh set of symptoms, penances, or restrictions of a self-punishing kind.65

Here, self-punishment suspends the ego's fear of the superego and manifests an unconscious desire to be guilty which is at once fulfilled (through masochistic pleasure) and repressed (because the pangs that accompany a conscious sense of guilt are absent).

Marie Bonaparte introduced Freud's concept in France in her study of Mme Lefebvre, but it was not until Henri Codet and René Laforgue published an article on autopunition in 1929 that it became the topic of much theoretical debate in France.66 Hesnard and Laforgue's 1931 book summarized the positions of Ernest Jones, Freud, Sandor Ferenczi, and Wilhelm Stekel on autopunition and its relation to the formation of the superego. All these positions represented variations on or elaborations of Freud's original idea that the self-punitive impulse was the socialized form of an unconscious, introjected sadistic or aggressive drive.

What was most important for French psychoanalysts such as Hesnard, Laforgue, Allendy, and Schiff was that autopunition answered all the questions raised by the psychiatric study of crime which framed the conceptual context of their investigation. It often manifested itself without clinical symptoms and was sometimes recognizable only in expressions of remorse, in strong resistance to clinical treatment, in sexual or nonsexual masochistic fantasies, or in slightly exaggerated quirks of behavior that could not be clearly designated as pathological.67

Paul Schiff noted that autopunition was especially valuable in the study of paranoia and claimed that Alexander and Staub's and Paul Guiraud's psychoanalytically oriented studies of criminals had permitted him to analyze a perpetrator of "these incomprehensible crimes" with fruitful results.68 Hesnard and Laforgue boldly claimed that the psychological diagnosis was more useful than the psychiatric diagnosis, which was helpful only when doctors had to

66Codet and Laforgue, “Echecs sociaux.”
deal with real psychopaths. They argued that psychoanalysis could substitute a “judgment of self-punishment for vague and uncertain notions of attenuated responsibility” and that hereafter judges and juries would see the benefit of sending criminals to “special establishments” and emphasizing social defense through prevention, “la prophylaxie du crime.”

At the same time, in a debate reviewing Alexander and Staub’s psychoanalytic study of criminal behavior all the analysts present agreed that the main problem with the book was the incompatibility of its theoretical proposals with its practical propositions. How could its insistence on psychoanalytic cure be reconciled with the necessity of punishing criminals? The important contribution of the book was to offer an original explanation of the unconscious motives behind criminal behavior. But because those motives were sought in unconscious forces over which the criminal had little control, he or she could not be held responsible in traditional legal terms for the crime. The criminal, in other words, was normal and yet not responsible. Charles Odier noted that Alexander and Staub claimed that penal justice was necessary to assure “social equilibrium” and yet insisted that the punishment of criminals was “irrational” because it in fact encouraged crime. The analyst Edouard Pichon declared that as much as psychoanalysts wanted to do away with the concept of free will in the context of criminal justice, their insistence that a criminal could be held responsible after being psychoanalyzed only reinforced the idea of free will in new terms. After all, on what grounds could one argue that the criminal exercised free will after he or she had been cured? If psychiatrists were committed to the concept of unconscious motivation, they could not claim that only criminals were subject to its tyranny. The question here was thus not, as Jules Romains and others surmised, whether the criminal should or should not be held responsible for the specific crime committed. The question was how to distinguish between responsible and irresponsible criminals.

Crime, furthermore, represented what analysts called a nonsymbolic attempt to resolve an internal conflict. The passage à l’acte,

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as they called it, was a symptom of a self-punitive drive that could not be represented in symbolic form like other obsessions. In the latter, unconscious guilt could be "seen" (as an image literally perceived by the patient in some forms of obsessional neurosis) or was symbolized in some way by the patient's behavior. Franz Alexander, Hesnard and Laforgue noted, "has demonstrated that a large number of criminals execute the crime with the unconscious purpose of resolving some serious internal conflict, because their mental constitution does not permit them to achieve this aim imaginatively or symbolically, as does that of [other] neurotics." 71

According to Freud, neuroses, unlike psychoses, transpose repressed desire into symbols or behavior symbolic of the original desire. For example, Alexander and Staub diagnosed a young man who took taxis without being able to pay the fare as fleeing symbolically from unconscious desire for his mother. They argued that he unconsciously sought legal retribution (not to mention the taxi driver's wrath) and that his obsession with aimless taxi rides was a form of autopunition linked to an unresolved Oedipus complex. 72

Crime, however, was nonsymbolic. In the self-punitive drive, as Marie Bonaparte discovered in reference to Mme Lefebvre, and as all the analysts recognized in their debates about the efficacy of traditional forms of criminal justice, pleasure and punishment cannot be differentiated from each other, so that pleasure always refers only to the punishment that makes it possible. That is, because autopunition fulfills desire by punishing it, because the crime frees the perpetrator from guilt by sustaining the desire to be guilty, its motive or origin has no referent. The desire to be guilty—the motive behind the crime—becomes transparent only at the moment the guillotine blade falls; its "reason" could be understood only when the patient, paradoxically, lost his or her head.

If the motive behind apparently unmotivated crime was self-punishment, then the conceptual problem confronting both psychiatrists and psychoanalysts who tried to make punishment more efficacious could not be resolved on a practical (i.e., legal) or—though this was not an issue until Lacan redefined the problem— theoretical (i.e., epistemological) level. How could society effectively punish criminals who unconsciously wanted to be

72 Alexander and Staub, p. 209.
punished? How could society "cure" criminals without encouraging their pathology? Crime, like Mme Lefebvre’s act of murder, could not be accommodated by any medico-legal discourse or legal solutions.

Lacan’s Interpretation

In a 1950 lecture, “Theoretical Introduction to the Functions of Psychoanalysis in Criminology,” Jacques Lacan claimed that “the calamities of the First World War having marked the end of [its] pretensions, Lombrosian theory was obsolete [rendue aux vieilles lunes] and the simplest respect for the proper conditions of any human science, those which we believe to have invoked in our exordium, were applied to the study of the criminal.” He remarked that criminology throughout the nineteenth century could not accommodate crimes whose nature “escaped a utilitarian register,” whereas psychoanalysis could explore such crimes—apparently unmotivated ones—without dehumanizing the criminal.73 This lecture about the insights with which psychoanalysis had provided criminology had roots in Lacan’s long-standing interest in criminal behavior, which he had explored in depth in his medical thesis, De la psychose paranoiàque dans ses rapports avec la personnalité (1932).

At that time Lacan was at the beginning of his medical career, which he had initiated in 1926 in Paris at Sainte Anne’s Hospital under the direction of Gaston de Clérembault and Henri Claude. Lacan was from a traditional, Catholic, well-to-do background, though, unlike most of his colleagues, he had nontraditional interests: He began frequenting avant-garde circles in 1931 and had contributed to the surrealist periodical Minotaure, founded in 1933 by Georges Bataille and André Masson.74 His connections to sur-

74 Bataille and Masson were dissident surrealists who hoped Minotaure might become a forum for those disillusioned with Breton and his followers. Bataille’s biographer Michel Surya notes, however, that from the first issue its direction was taken out of their hands by Breton and others, including Picasso. Bataille and Masson did, however, remain occasional contributors. Lacan was also a participant in Bataille’s group Acéphale and married Bataille’s ex-wife Sylvie. Michel Surya, Georges Bataille: La Mort à l’oeuvre (Paris: Librarie Séguiier, 1987), pp. 238–39, 347–
realists such as Salvador Dali and to more shadowy avant-garde figures such as Bataille shaped his interest in madness, particularly in mad women, and rendered him sympathetic to Freud's ideas; his thesis represented the first sophisticated use of Freud in any major French study of mental illness.\textsuperscript{75}

Lacan's thesis was an effort to understand what motivated a young woman in full possession of her intellectual faculties and with no explicable reason to try to murder an actress with whom she had never had any personal contact. His 1933 article titled "Motifs du crime paranoïaque" similarly concerned the incomprehensible crime of the celebrated Papin sisters, who had mutilated and murdered their patronne and her daughter: "To the judge, they gave no comprehensive motive to explain their act: they expressed no hatred, no grief toward their victims; their only concern was to share entirely the responsibility for the crime. To three medical experts, they manifested no signs of psychic or physical disturbance."\textsuperscript{76} By analyzing the questions posed by apparently unmotivated crime in \textit{De la psychose}, Lacan approached the more general epistemological problem in psychiatric study created by the absence of a necessary correlation between what he called a specific "characterology" (i.e., clinical symptoms) and the subject's "personality" (i.e., broader psychological makeup). He argued that all psychiatric discourse concerning paranoia had been primarily descriptive, classifying paranoid delirium according to clinical symptoms and explaining its causes in terms of a particular "morbid constitution" that marked an individual's organic predisposition to paranoia.\textsuperscript{77}

While the notion of a constitution corresponded to clinical reality, it described only the symptoms of the delirium without explaining how its content was organized. For example, Aimée, the subject of Lacan's case study in \textit{De la psychose}, had no clinically observable memory problems, and yet memory loss was an impor-


tant component of her delirium. As long as proponents of “constitutionalist” theories could not explain the actual structure of the delirium, it would be impossible to define a specific set of symptoms as paranoid except on a superficial, descriptive basis lacking empirical rigor and explanatory power. Constitutionalists, in short, could not explain what motivated the apparently fortuitous crimes of paranoids because they conceived those crimes as secondary, as the consequences of organic factors that provoked psychological “errors.”

Lacan claimed that while constitutional factors had to be taken into account in understanding the origin of any psychopathology, only psychoanalysis, which understood delirium as a complicated projection of the subject’s personality (instead of as an impoverished form of normality), could demonstrate the relationship between the causes and symptoms of paranoia. Only psychoanalysis could further the psychiatric study of paranoia because it explored the delirium as a structure, as a complex of psychic resistances to a specific psychological context, and hence conceived the paranoid as a person rather than as an ideal “type.”

Lacan thus merged a phenomenological interest in lived experience with a psychoanalytic emphasis on unconscious structures. He argued that Aimée’s crime was caused by her relation to a particular familial context and explained both her and the Papin sisters’ crimes in terms of a “self-punishment paranoia.”

In keeping with his theoretical convictions, his analysis recounted Aimée’s personal life in detail. She had already manifested erratic or disturbed behavior in the early months of her marriage. She was pathologically jealous of her husband and was herself apparently “frigid.” Her delusions began to be systematic when her first child was stillborn and were increasingly pronounced after the birth of her second infant, a boy. Aimée’s elder sister, a recent widow who had no children, came to live with the couple not long after they had been married and eventually took over the household tasks as well as the care of Aimée’s son. After her sister’s arrival, Aimée’s delusions worsened. She imagined her coworkers whispering behind her back, believed she could identify veiled slanderous references to herself in newspaper articles, and insisted that all her persecutors were engaged in a conspiracy to end her

78 Ibid., pp. 74–75.
son's life. Most of Aimée's persecutors were individuals who had successfully achieved goals Aimée had set for herself but not attained. Her female persecutors were successful society women, often actresses, and Aimée imagined herself as having the requisite if as yet unrealized talent.

Lacan argued that Aimée in fact both hated and loved her persecutors because they represented the woman Aimée wanted to be but knew unconsciously she would never become. Such feelings of inadequacy, furthermore, were rooted—as Freud had argued in his own analysis of paranoia—in Aimée's unconscious, unacceptable homosexual desire, which she transposed into hatred of her real love objects. As in Freud's schema, homosexual desire also implied the narcissistic inability to distinguish between self and other. Her delusions were the product of identification with a projected other—Aimée's sister, who represented Aimée's mother—for whom her persecutors were symbolic substitutes:

The image that represents her ideal is also the object of her hatred. Aimée strikes in her victim her externalized ideal, just as the passionnelle strikes the sole object of her hatred and her love. But the object attacked by Aimée had no more than a purely symbolic value, and her deed brought her no sense of relief. And yet with the same blow which had made her guilty before the law, Aimée had struck herself, and when she understood as much, she experienced the satisfaction of a wish fulfilled. The delusion no longer serving any purpose, disappeared. The nature of her cure demonstrates, we believe, the nature of her illness.79

Aimée's crime therefore represented an unconscious desire for self-punishment. In trying to kill the actress, she both expressed and punished her intolerable love for her sister, for the persecuting other in whom Aimée also saw her ideal self.

The concept of autopunition explained Aimée's cure as well as Lea and Christine von Papin's tranquillity after committing their crimes, cures that expressed a form of psychic relief inexplicable in constitutionalist terms. Furthermore, such crimes did not fall into the category of crimes passionnels because neither Aimée nor the

von Papin sisters were plagued by the remorse that usually weighed so heavily on the perpetrator of a single crime of passion. By showing how the crime functioned as a form of self-punishment, as the "arrested development of the personality at the genetic stage of the superego," Lacan noted, psychoanalysis could resolve the cause-and-effect problem raised by supposedly inexplicable crimes: "What is original and precious in such a theory [autopunition] is that it has permitted us to establish the determinants in certain psychological phenomena of social origin and meaning, those we define as phenomena of the personality . . . such a hypothesis . . . explains the meaning of the delirium." Using the psychoanalytic concept of self-punishment, Lacan reconceived the relationship between cause and effect in psychiatry and in fact supported the penal and asylum reforms proposed at the time to remedy overzealous and often misapplied punishment. 80

But Lacan did not just use autopunition to introduce a more sophisticated version of Freud into France, nor did he resolve the medico-legal problem created by the psychoanalytic study of unmotivated crime. Instead, he used autopunition to recast Freud's concept of ego formation in a new light. Aimée's self-punitive drive not only described the "hidden" or "other" (repressed)81 self that explained her otherwise inexplicable behavior but also structured Lacan's innovative concept of "self" development—of ego formation and hence of what he later termed the imaginary structure of the self. In short, Lacan did not seek to cure the pathology but used the pathology as a sort of cure, as a means of redefining the structure of human (and hence criminal) motivation tout court. Thus, on one level, he used autopunition to structure human behavior in a new way, but on another level, he replicated its paradoxical structure (using pathology as a cure) in his own method. I will take each of these levels in turn.

In his thesis, Lacan reiterated Freud's concepts of ego and superego formation in order to demonstrate that Freud's theory made possible a structural and relational rather than functionalist analysis of psychic development. He linked Aimée's apparently unmotivated...
vated crime in particular to her early, narcissistic (and hence imaginary) identification with others. According to Freud, narcissistic identification is characterized by a lack of differentiation between ego and id, and secondary narcissism describes the process by which the ego (which is a mental projection of the body's surface) differentiates itself from the id through identification with others whom the ego wants "to be" (the subject's ego-ideals, such as Aimée's sister).

In "Mourning and Melancholia" (1916) and "Group Psychology and the Analysis of the Ego" (1921), Freud began to link identification with introjection, and in *The Ego and the Id* (1923) he defined the superego in terms of "a setting up of the object inside the ego."82 The ego and superego are formed through a process of identifying with and introjecting love objects, the superego, through introjecting authority figures (the incest interdiction represented by the father) in particular. Ego formation is congruent with and organized by a "reality principle," and the ego's function is to mediate between the id and the external world, to avoid unpleasure by defending the id from external interference. The reality principle thus develops to promote pleasure but resorts to delayed gratification and other tactics in order to achieve it. The ego for Freud was thus, above all, an agency of adaptation centered on consciousness and perception, on "reality."

Lacan, however, claimed the "reality principle is in no way separable from the pleasure principle."83 Freud's 1923 topography, in which the ego appeared as an agent of synthesis and adaptation—of reality—was abstract, he said, and did not account for the concrete terms of ego development. The genesis of autopunition, however, clearly reveals the concrete structure, imitative in nature, of one of the vital foundations of cognition. . . . the question arises of knowing if all knowledge is not originally knowledge of a person before it is knowledge of an object, if the notion of an object may be, for humanity, a secondary acquisition. . . . this exposé of Freudian doctrines of the ego and the superego brings out the scientific accessibility of all research into a concrete tendency . . . in opposing it to the confusion

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born of all efforts to resolve in genetic terms a problem of a gnosological [gnoséologique] order such as that of the ego, if it is considered as a locus of conscious perception, that is, as the subject of knowledge.84

Thus, to the extent that Lacan elaborated precisely how his analysis of Aimée’s self-punishment paranoia helped explain ego formation, he suggested that the narcissistic identification structuring the autopunitive tendency is best characterized as an imbrication of ego and id. That is, in Aimée’s case, reality and pleasure could not be easily distinguished. Her reality as it was constituted through identification was always an illusion about reality, a projection of narcissistic desire onto an other. In ego formation, he suggested, the ego is not clearly differentiated from the id; instead, as in autopunition, identification involves a misrecognition (Aimée’s imposition of her own distorted reality on the world) of reality which constitutes what is real, a repression of the truth about the self (that it is inadequate, guilty, homosexual, etc.) which fulfills its narcissistic desire. But Lacan has not yet distinguished himself from Freud. He simply suspects that the master may have begged the question of ego formation, and he developed and sharpened this suspicion in his work with Aimée.

The Mirror Stage

Lacan developed his insights into ego formation most fully in his innovative and unpublished paper on the mirror stage, delivered at a conference in Marienbad in 1936 and in revised form in 1949 at the Psychoanalytic Congress in Zurich.85 Lacan argued, as had

84 Ibid., p. 326. Borch-Jacobsen has also pointed out to what extent Lacan’s analysis of Aimée was indebted to Hegel, though he expressed that indebtedness only in veiled terms. I am, however, more interested in how Aimée’s crime simply cannot be accommodated by a Hegelian schema (the Aufhebung of self and other) and, further, how the context for Lacan’s analysis is broader than his reading of German philosophy. Borch-Jacobsen, pp. 26-29.

85 The 1936 paper was delivered at the International Psychoanalytic Congress at Marienbad. Its contents were reiterated in Lacan’s 1938 article on the family (see Chapter 2) and Lacan delivered another, definitive version in 1949 at the Zurich International Psychoanalytic Congress. The paper was published in Ecrits in 1966 as “Le Stade du miroir comme formateur de la fonction du je,” Ecrits, pp. 93–100. The
Freud, that the ego was formed through identification, but he gave a different account of the process by which that formation occurred. As some critics have noted, the paper was influenced by Lacan’s early interest in Aimée’s méconnaissance (misrecognition) and also by psychologist Henri Wallon’s work on child development.86 In 1931, three years before publishing his celebrated work Les Origines du caractère chez l’enfant, Wallon had published an article in the Journal de Psychologie titled “Comment se développe chez l’enfant la notion du corps propre,” in which he argued that infants take their mirror images for themselves.

Lacan’s originality, however, derives from his use of Kojèveian terms to revise Freudian concepts. We may recall that Kojève gave a series of celebrated lectures at the Ecole des Hautes Études between 1933 and 1939, attended by prominent intellectuals, Lacan among them. As Elisabeth Roudinesco and Martin Jay note, he looked to Kojève’s stress on man’s primordial lack in order to turn Wallon’s emphasis on specular self-identification into a negative dialectic in which human consciousness is formed through interaction with the desire of the other.87

After Marx, Kojève transformed Hegel’s analysis of the master-slave relationship into a metaphor for class struggle, but he defined the struggle for freedom in existentialist rather than Marxist

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86 Benvenuto and Kennedy, p. 44; Roudinesco, Lacan and Co., p. 158; and Macey, p. 111 indicate the link with Aimée’s case history but do not explain it. For a discussion of Wallon, see Roudinesco, Lacan and Co., pp. 66–71. Lacan was also influenced by Elsa Köhler and Charlotte Bühler’s work on transitivism, in which children’s identities were thought to be shaped through empathizing with others. Lacan refers to them in Écrits: A Selection, pp. 1, 5.

terms, as a struggle for recognition by the other (for the desire of the other) in which the slave is willing to risk his life for an essentially imaginary gain. Koève maintained that class struggle would pass only when the desire for the desire of the other was satisfied. At the same time, he also implied that history was propelled by an ever-unsatisfied desire for recognition by the other, and thus in fact he refused Hegel’s emphasis on the ultimate Aufhebung of the difference between self and other, subject and object. As Elisabeth Roudinesco has so aptly put it, “Koève was thus condemned to read Marx into Hegel and Hegel with Heidegger.”

But why did Lacan read Koève the way he did? How can we explain the relationship between his early criticism of Freud and his later use of Koève? In his article on the mirror stage, Lacan (quite characteristically) mentioned everyone from whose ideas he borrowed except Koève and Wallon. Instead, he returned to his own early discussion of Freud. We should not, he claimed, regard the ego as centered on the perception-consciousness system, or as organized by the ‘reality-principle’—a principle that is the expression of a scientific prejudice most hostile to the dialectic of knowledge. Our experience shows us that we should start instead from the function of méconnaissance that characterizes the ego in all its structures.”

According to Lacan, the mirror stage occurs when the infant is between six and eighteen months old and constitutes one of the formative events in human development. During this period, the infant begins to recognize and to identify with its image in the mirror and to derive from it an imaginary sense of wholeness, totality, which it experiences with jubilation. At the same time, this identification with its own body as an other constitutes the subject as his own rival, so that its very unity is permeated with distress, fragmentation, and aggressiveness that the subject later projects onto other, usually sibling, rivals.

The infant’s “self,” or ego, is thus not innate but constructed, as Koève had asserted about human consciousness, through its identification with an other, in this case, through the reified gaze in whose reflection it (like Aimée) misrecognizes its self. It is this misrecognition (the taking of itself for a unified entity) that constitutes identity, this fantasy of wholeness that constitutes the

reality of selfhood, this self-alienation that, paradoxically, constitutes the self. The self is not, as Freud had contended, constituted by an increasing adaptation to reality facilitated by the ego's mediating, repressive function; instead, as in the structure of autopunition, the self is constructed through a misrecognition of reality which is always repressed, a misrecognition of truth (the truth about the real fragmentation, helplessness, and lack that defines human identity), whose repression constitutes pleasure (the infant's jubilation before its image). It was this moment, in which the self's truth was always already alienated, that Lacan later termed the imaginary.

Lacan's concept of the imaginary represented the subversion of conventional boundaries between normality and pathology implicit in autopunition, the subversion represented by the conflation of reality and pleasure. But Lacan reconceived those boundaries in terms of a repression that was always experienced as pleasure, in terms of a pathology (autopunition) always structured into the normal self. The imaginary structure of the self was thus both a reflection of and a response to the dissolution of any clear line of demarcation between the normal and the pathological effected by incomprehensible or "unmotivated" crime, albeit a response mediated by Lacan's absorption of other texts—of Wallon and Kojève in particular. He used Aimée's crime as a metaphor for an ego that is always an illusion trapped within the mirrors of its own making, and he used the logic of a "self-punishment paranoia" to structure the collapse of the id and ego into an imaginary moi conceived as the site of a repression that is always already pleasurable.90

90Lacan thus placed object relations at the center of ego formation itself: "This form [imaginary identifications] would have to be called the Ideal-I, if we wished to incorporate it into our usual register, in the sense that it will also be the source of secondary identifications, under which term I would place the functions of libidinal normalization. But the important point is that the form situates the agency of the ego, before its social determination, in a fictional direction, which will always remain irreducible for the individual alone" [Écrits: A Selection, p. 2]. Ellie Ragland-Sullivan notes along these lines that "the pre-mirror, fantasmatic merging with images is what Lacan has called primary identification; his secondary identification is the mirror-stage fusion with others as objects [Freud's secondary narcissism]. Lacan therefore views Freud's secondary narcissism, with its attributes of permanence as manifest in ego-ideals [others], as the basic process of humanization, as well as the cornerstone of human interrelations." Ragland-Sullivan, p. 35.
Or, going further, we could say that Lacan used Kojève’s discourse about the constitution of human consciousness to transform what was already implicit in Aimée’s crime into a theory of human development in which the struggle for freedom, for autonomy and subjecthood, is inseparable from an ever-unsatisfied desire for recognition. The crime propelled by the desire for the other’s desire reveals that the struggle will never cease, because no “other” desire will ever compensate for the primordial lack at the heart of human consciousness. Aimée’s crime, in other words, dramatizes the tragic human struggle to be free of others, whose recognition human beings always desire: the struggle to be free of the mirrors that are at once the source of human slavery and human pleasure.

Aimée Revisited

When Lacan returned to Aimée in a 1946 lecture later reprinted in *Ecrits*, he sought to illustrate the relationship of the imaginary to paranoid psychoses in new terms that reflected his increasing interest in language (though not yet linguistics). He also made the “desire of the other” more explicit. Lacan returned to the problem of “psychical causality” and criticized the inadequacies of behaviorist and functionalist theories of psychic development. He stressed the importance of phenomenological insights and the contribution of Maurice Merleau-Ponty in particular.91 Lacan brought up Aimée’s case again in order to develop his earlier argument that madness was not evidence of an impoverished mind, of a falling away from reality, but of an irreparable self: “Madness, far from being an accident befalling an organism because of its frailties, is the permanent virtuality of a rift opened in its very essence”).92 Paranoids are mad not because their selves are irreparable but because they seek to mend the inevitable rift between the real, irreparable and the ideal or imaginary self. Their effort to blur the essentially permanent discord between who they are and the ideal to which they aspire constitutes the motive behind unmotivated or inexplicable crime, its “cause.” The crime may liberate Aimée

92 Ibid., p. 176.
from her guilt, may “cure” her, but at the same time it reinforces the discrepancy between who she is and who she wants to be which is at the origin of her paranoia (it sustains the desire to be guilty).

As Lacan put it, crime describes a paradoxical movement toward liberty which, because it is itself a form of madness, is always a prison. Madness is a form of liberty and yet also marks its limits. The megalomania symptomatic of paranoid behavior, we recall, is actually part of a dialectic of self-glorification and self-punishment, a form of compensation for feelings of inadequacy vis-à-vis expected social roles: Aimée felt inadequate as a wife and mother. The paranoid thus tries to resolve the discrepancy between her real and ideal selves by constructing an illusory ideal that is a symbolic inversion of real feelings of guilt and inadequacy in a psychic operation that liberates her from those feelings (functions as a defense against them) at the same time as it drives her to crime in order to sustain her illusion.

Yet we know that the criminal act necessarily fails to reconcile the paranoid with her ideal, though within the psychological structure of paranoia that reconciliation is its “purpose”. While the crime liberates the paranoid from the unconscious guilt at the origin of her delirium, while it “cures” her, it reveals the absence at the heart of the ego which constitutes her selfhood, since selfhood can be defined only in terms of an imaginary self, in terms of a series of failed attempts to identify with an ideal. Her self, then, is a hollow, empty structure, an absence perpetually replenished by the delirium, by an illusion that disguises the painful lack that is really there. Hence Aimée felt unburdened after her crime but remained trapped in a world of mirrors in which she would misrecognize herself again and again.

Crime thus designates what Lacan called the “limits of signification” (or, in Aimée’s case, what he calls the limits of “resistance”—the limits, that is, of the various representational structures that constitute the self. The cause of crime is an attempted cure that is always a form of pathology, always a slippage of the subject into the open rift of madness, which, in her endless attempts to reconcile reality and ideal, endlessly re-presents the

93 Ibid., p. 176.
95 Ibid., p. 168.
self. This desire to create a self when in fact no original self exists forms the crux of an epistemology that questions the very possibility of epistemology; an incurable madness paradoxically constitutes the rationale behind criminal action. The criminal act marks the limits of knowledge, of signification; it reveals that the self is an illusion (or, better yet, only a reflection in the mirror) and yet convinces its perpetrator that something is really there.

For Lacan, then, the criminal act was not just symbolic of our “deeper being.” It did not suggest an unconscious underneath consciousness, a hidden self to be discovered by perspicacious analysts. Instead, the criminal act symbolized a self whose truth could not be represented because it was perpetually displaced, because the criminal act was a form of pathology that was always also a cure, a liberation from guilt that sustained the desire to be guilty. The ego was now an imaginary structure whose function was to resist at all costs the absence at its origins, and it was the criminal act that marked that absence.

Lacan thus argued in his 1950 article on criminology that the quest for the objective, comprehensible motives of crime was but a pathological attempt to construct a coherent individual, a self, when no such entity existed. He condemned the penal reforms he had tacitly approved in 1932 as part of a “sanitary penology” aimed at “affirming the individualistic ideal.” In fact, he claimed, all of human history (particularly the history of the human sciences) was but a repetition of Aimée’s tragic, pathological gesture (analogous to the one that “drove the old revolutionary of 1917 to the bench of the accused in the Moscow trials”). History thus repeated Aimée’s gesture because it might be said that at every moment [man] constitutes his world by his suicide, the psychological experience of which Freud had the audacity to formulate, however paradoxical its expression in biological terms, as the “death instinct.”

In the “emancipated” man of modern society, this splitting reveals, right down to the depths of his being, a neurosis of self-punish-

96Ibid., pp. 138–39, 145, 175. Lacan’s account of the shift from the theological subject to the bourgeois subject is remarkably similar to the one Michel Foucault developed later. Lacan also argued that positivist reforms aimed at humanizing the criminal in fact represented a new deployment of bourgeois power through a new representation of the self from the eighteenth century on.
ment . . . with the psychasthenic forms of its derealizations of others and of the world, with its social consequences in failure and crime. It is this pitiful victim, this escaped, irresponsible outlaw, who is condemning modern man to the most formidable social hell . . . ; it is our daily task to open up to this being of nothingness the way of his meaning . . . a task for which we are always too inadequate.97

Psychoanalysis promises a devastating critique of this "social hell," which the criminal symbolizes but which all human beings live; it can demonstrate to what extent this splitting exposes the construction of the social order as illusory or imaginary. But because the basic process of humanization is not just symbolized but structured by self-punishment (the conflation of pleasure and repression), human beings will necessarily keep plunging themselves into a hell from which psychoanalysis will never be adequate to rescue them. In 1975 Lacan explained his reluctance to publish his thesis after so many years by claiming that there was no relationship between paranoid psychosis and the self: They are the same thing. The self is always a figment of the imagination; "the core of our being," Lacan said, "does not coincide with the ego."98 That core is always someplace else.

This perpetually displaced self, as I have argued, represented Lacan's reconstruction of the self's boundaries in terms of a repression that is always a pleasure and, hence, represented a new and compromised subject: one whose actions are necessarily driven by illusions, generated by an other within. His "solution" to the theoretical problems raised by unmotivated crime thus made its motives explicable (and hence, presumably, curable) and at the same time conceived them as a permanent dimension of the human psyche, as motives, then, for which there was no cure. That is, he insisted that criminal behavior had to be explained—that it was indeed other—at the same time as he defined the self in terms of an other. While Lacan thus hopelessly compromised the concept of rehabilitation (how can one cure a pathology that structures human development?), while the analyst lost his or her position as expert, one could by no means dispense with analysts, pursuing tasks for which they will always be inadequate.

98 Lacan, quoted in Macey, p. 212.
But how to have it both ways? That is, how to envision crime as pathological and at the same time identify psychosis with the self and hence obliterate the crime, which becomes but another attempt to escape from or acknowledge the social hell into which we are all plunged? And how then to legitimate expertise—the need for and privileged position of the analyst—while eroding its foundations, while refusing a normative concept of psychic health?

This paradox is rooted in the history of the imaginary. As I have argued, autopunition was the structure Lacan used to organize other intellectual influences—Koêve, Wallon—and the aporia to which it leads was already implicit in psychoanalysts' attempts to solve the epistemological problem posed by unmotivated crime. Autopunition served to legitimate psychoanalysis. It proved the novelty and worthiness of psychoanalytic insights into an issue that psychiatrists were finding increasingly difficult to resolve in positivist terms. Lacan, however, spelled out its full implications, which Marie Bonaparte and those present at the colloquium reported by Charles Odier had explored only tentatively. Lacan's concept of ego formation served at once to define, to "recognize" the self's structure in new terms (and hence privilege psychoanalysis as an instrument of recognition, if not of knowledge in the sense of truth), and to insist on the fundamental méconnaissance of all attempts at recognition. Or to use Paul Bercherie's terminology, the imaginary is "Lacanianism's blind-spot." The imaginary both describes a blind spot, a lacuna that is the core of the self, and is itself the blind spot of Lacan's theory; it describes on two levels a recognition that must always also be a misrecognition.

Lacan's imaginary thus must be seen as the culmination of psychiatrist's and psychoanalysts' attempts to deal with the dissolving boundaries between the normal and the pathological symbolized by the criminal, as the culmination of an effort to assert the power of science, which comes, dialectically, to restructure the foundations of science, of psychoanalysis. The blind spot (the lack of a dialectical resolution) implicit in the structure of autopunition became Lacan's primary insight and the point past which his theory of knowledge could not "see." As I have argued thus far, the dialectic of self-punishment which structures self-formation describes a truth that is at once revealed and lost. To repeat the

99 Bercherie, p. 58.
argument more precisely: the passage à l’acte is the moment when an unconscious drive to self-punishment paradoxically gives the self its form, when the desire to be an other whom one cannot be is satisfied because unsatisfied, repressed. The dialectic of self-punishment thus suggests that the self can be known only when it is repressed, the self’s truth (its pleasure) is accessible only when it is lost.

But Lacan, good doctor and psychoanalyst, did not so much want structures in ruin as he wanted to ruin certain cherished structures. Lacan was no celebrant of the imaginary—and hence no celebrant of criminals—even though he believed that Aimée’s pathological gesture was the structuring metaphor of the self. He viewed the imaginary as a trap. And it is perhaps not surprising that it was through a devaluation of mothers—after all, Aimée’s psychosis entailed an overidentification with a strong mother, transferred to her sister—and a reevaluation of fathers that Lacan began to theorize a way out.

Many critics have suggested that Lacan’s fascination with Aimée’s psychosis went hand in hand with a more general fascination with the female as well as the criminal other. It is not clear, however, precisely how female otherness was structured into his concept of the self in historical and cultural terms—how, that is, criminality, and hence otherness, was gendered feminine (apart from the fact that Aimée is a woman)—until he began working on the social role of fathers. In the next chapter, I turn to female deviants, to fathers, and to another dimension of self-formation for which fathers prove to be indispensable. How successful, then, was Lacan’s own effort to see beyond the blind spot he found at the heart of the self, and why would fathers necessarily be a privileged locus of sight?