

to add another aporia to those he explores throughout "Force of Law," a pedagogical aporia: "I do not know whether from this nameless thing that one calls the 'final solution' one can draw something that still deserves the name of a lesson. But if there were a lesson to be drawn, a unique lesson among the always singular lessons of murder, from even a single murder, from all the collective exterminations of history (because each individual murder and each collective murder is singular, thus infinite and incommensurable), the lesson that we could draw today—and if we can do so then we *must*—is that we must think, know, represent for ourselves, formalize, judge the possible complicity among all these discourses and the worst (here the 'final solution')."

The 1989 translation by Mary Quaintance has been revised here mostly in order to include the changes made in the latest French edition of the text, published in 1994 (revisions include translator's notes).

G. A.

5

A Note on "Force of Law"

Since at least "Force and Signification" ("the creativity of the classical God appears all too poor") and "Violence and Metaphysics" ("God, therefore, is implicated in war"), and by way of "Signature, Event, Context," *Of Spirit*, and "Ce qui reste à force de musique" (in *Psyche*) and still other texts, Derrida has read the theological threads that are woven by and around force and violence, violence and authority, force and law. "Force of Law" renews these considerations with a scrupulous reading of Walter Benjamin's "Critique of Violence." Published in its final form in the same year as *Politics of Friendship*, "Force of Law" is an explicit rethinking of the notion of force, a rethinking that radically reconfigures the threads that link force and violence to language, law, and the theologico-political. As in *Politics*, Carl Schmitt's argument is furthered that law (*loi* and *droit*, *Gesetz* and *Recht*)—the juridical—constitutes the site where the complex history of the theologico-political comes to the fore. Derrida alters this history, however, by reading "into it" the impossible "force of weakness," the "experience of the impossible" that is justice.

Justice, however, is not "in" the course of history: "Its very moment of foundation or institution, besides, is never a moment inscribed in the homogeneous fabric [*tissu*] of a story or history, since it rips it apart with one decision. Yet, the operation that amounts to founding, inaugurating, justifying law, to *making law*, would consist of a *coup de force*, of a performative and therefore interpretative violence that in itself is neither just nor unjust and that no justice and no earlier and previously founding law, no preexisting foundation, could, by definition, guarantee or contradict or invalidate." This lack of foundation is the "mystical foundation of authority," and it directs us further toward Derrida's notion of the "mystical," toward "a silence walled up in the violent structure of the founding act. Walled up, walled in because this silence is not exterior to language."

But "Force of Law" is, perhaps, first of all, a reading—a reading of Walter Benjamin. It is a reading that extends Derrida's thinking of the name (God, violence [Germ. *Gewalt*], and Walter) as well as Derrida's insistent preoccupation with the Holocaust and with the "final solution." In his conclusion, Derrida may be said

I: OF THE RIGHT TO JUSTICE/FROM LAW TO JUSTICE

C'est pour moi un devoir, je dois m'adresser à vous en anglais. This is for me a duty, I must address myself to you in English.

The title of this colloquium and the problem that I must—as you transitively say in your language—address, have had me dreaming for months. Although I have been entrusted with the formidable honor of the “keynote address,” I had nothing to do with the invention of this title, nor with the implicit formulation of the problem. “Deconstruction and the Possibility of Justice”: The conjunction “and” brings together words, concepts, perhaps things that do not belong to the same category. A conjunction such as *and* dares to defy order, taxonomy, and classificatory logic, no matter how it operates—by analogy, distinction or opposition. An ill-tempered speaker might say, “I do not see the connection; no rhetoric could bend itself to such an exercise. I am quite willing to try to speak of each of these things or these categories (‘deconstruction,’ ‘possibility,’ ‘justice’) and even of these syncategoremata (‘and,’ ‘the,’ ‘of’), but not at all in this order, this taxonomy or this syntagm.”

Such a speaker would not merely be in a bad temper, he would be in bad faith. And even unjust. For one could easily propose a just interpretation, that is to say in this case an adequate and lucid—and so rather suspicious—interpretation, of the title’s intentions or of its *vouloir-dire*. This title suggests a question that itself takes the form of a suspicion: Does deconstruction ensure, permit, authorize the possibility of justice? Does it make justice possible, or a discourse of consequence on justice and on the conditions of its possibility? Yes, some would reply; no, would the other party. Do the “deconstructionists” have anything to say about justice, anything to do with it? Why, basically, do they speak of it so little? Does it interest them, finally? Is it not, as some suspect, because deconstruction does not in itself permit any just action, any valid discourse on justice but rather constitutes a threat to law, and ruins the condition of possibility of justice? Yes, some would reply; no, replies the adversary.

With this first fictive exchange one can already find equivocal slippages between law and justice. The suffering of deconstruction, what makes it suffer and what makes suffer those who suffer from it, is perhaps the absence of rules, of norms, and definitive criteria to distinguish in an unequivocal manner between law and justice. It is therefore a matter of these concepts (normative or not) of norm, of rule or criteria. It is a matter of judging what permits judgment, of what judgment itself authorizes.

Such would be the choice, the “either/or,” “yes or no” that one can suspect in this title. To this extent, the title would be virtually violent, polemical, inquisitorial. One can fear that it contains some instrument of torture, a manner of interrogation that could not be the most just. Needless to say already, I will not be able to offer

FORCE OF LAW

The “Mystical Foundation of Authority”

Note: The first part of this text, “Of the Right to Justice/From Law to Justice [*Droit à la justice*],”¹ was read at the opening of a colloquium organized by Drucilla Cornell at the Cardozo Law School in October 1989 under the title “Deconstruction and the Possibility of Justice,” which gathered philosophers, literary theorists and legal scholars (notably representatives of the movement called, in the U.S., “Critical Legal Studies”). The second part of the text, “First Name of Benjamin [*Prénom de Benjamin*],” was not read aloud, but the text itself was distributed among the participants.

On April 26, 1990, the second part of the same lecture was read at the opening of another colloquium organized at the University of California-Los Angeles by Saul Friedlander under the title “Nazism and the ‘Final Solution’: Probing the Limits of Representation.”² To this second part were added a foreword and a postscript that are here reproduced. This version adds a few developments and some notes to the prior versions published in prior editions and foreign languages in the form of article or book.

1. *Translator’s note:* The translation of the word *droit* into English is notoriously difficult, as this subtitle makes clear. The word carries the sense of “law” and “code of law,” and the sense of “right” (as “the philosophy of right” but also of course as in the “right to strike” or “human rights”). The word has seemed here the most economical translation, even if not entirely appropriate in all instances. One should also keep in mind that this choice for translation does raise the problem of differentiation between law (*droit*) and law (*loi*). To indicate this difference, and since the word *droit* is used with much greater frequency in Derrida’s text, I have included the French *loi* in brackets only when relevant. In other cases, when the words “law” (in the singular) or “right” appear in the present translation, it is consistently as a translation of *droit*.

2. *Translator’s note:* Cf. *Probing the Limits of Representation: Nazism and the ‘Final Solution,’* ed. Saul Friedlander (Cambridge, Mass.: Harvard University Press, 1992).

This question of language and idiom will doubtless be at the heart of what I propose for discussion tonight.

There are a certain number of idiomatic expressions in your language that have always appeared precious to me as they have no strict equivalent in French. I will cite at least *two* of them, even before I begin. They are not unrelated to what I would like to try to say tonight.

A. The first is “to enforce the law,” or “the enforceability of the law or contract.” When one translates “to enforce the law” into French,—as by *appliquer la loi*, for example—one loses this direct or literal allusion to the force that comes from within to remind us that law is always an authorized force, a force that justifies itself or is justified in applying itself, even if this justification may be judged from elsewhere to be unjust or unjustifiable. No law without force, as Immanuel Kant recalled with the greatest rigor. Applicability, “enforceability,” is not an exterior or secondary possibility that may or may not be added as a supplement to law. It is the force essentially implied in the very concept of *justice as law*, of justice as it becomes law, of the law as law [*de la loi en tant que droit*].

I want to insist at once to reserve the possibility of a justice, indeed of a law [*loi*] that not only exceeds or contradicts law but also, perhaps, has no relation to law, or maintains such a strange relation to it that it may just as well demand law as exclude it.

The word “enforceability” recalls us therefore to the letter. It literally reminds us that there is no law that does not imply *in itself, a priori, in the analytic structure of its concept*, the possibility of being “enforced,” applied by force. Kant recalls this as early as the *Introduction to the Theory of Right* (paragraph E, which concerns law “in its strict sense, *das stricte Recht*”).⁴ There are, to be sure, laws [*lois*] that are not enforced, but there is no law [*loi*] without enforceability and no applicability or enforceability of the law [*loi*] without force, whether this force be direct or indirect, physical or symbolic, exterior or interior, brutal or subtly discursive—even hermeneutic—coercive or regulative, and so forth.

How to distinguish between this force of the law [*loi*], this “force of law [*force de loi*]” as one says in English as well as in French, I believe, and the violence that one always judges unjust? What difference is there between, *on the one hand*, the force

4. This exteriority distinguishes right from morality but it is insufficient to found or justify it. “This right is certainly based on each individual’s awareness of his obligations within the law; but if it is to remain pure, it may not and cannot appeal to this awareness as a motive which might determine the will to act in accordance with it, and it therefore depends rather on the principle of the possibility of an external coercion which can coexist with the freedom of everyone in accordance with universal laws” (Immanuel Kant, “Introduction to the Theory of Right,” trans. H. B. Nisbet, in *Political Writings* [Cambridge: Cambridge University Press, 1991], 134). On this point, I allow myself to refer the reader to *Du droit à la philosophie* (Paris: Gallilée, 1990), 77ff.

any response, at least no reassuring response, to any questions put in this way (“either/or,” “yes or no”), to either of the two expectations formulated or formalized in this way.

Je dois, donc, c’est ici un devoir, m’adresser à vous en anglais. So I must, it is here a duty, address myself to you in English. *Je le dois*—this means several things at once:

1. *Je dois parler anglais* (how does one translate this “*dois*,” this duty? I must? I should, I ought to, I have to?) because one has made this for me a sort of obligation or condition by a sort of symbolic force or law [*loi*] in a situation I do not control. A sort of *pólemos* already concerns the appropriation of language: if, at least, I want to make myself heard and understood, it is necessary [*il faut*] that I speak your language; *je le dois*, I have to do it.
2. I must speak your language because what I shall say will thus be more *juste*, or will be judged more *juste*, and be more justly appreciated, that is to say, this time, *juste* in the sense of *justesse*, in the sense of an adequation between what is and what is said or thought, between what is said and what is understood, indeed between what is thought and said or heard and understood by the majority of those who are here and who manifestly make the law [*loi*]. “Faire la loi” (“making the law”) is an interesting expression about which we shall have to speak again.
3. I must speak in a language that is not my own because it will be more just, in another sense of the word *juste*, in the sense of justice, a sense which, without thinking about it too much for now, one could call *jurídico-ético-political*: it is more just to speak the language of the majority, especially when, through hospitality, it grants speech to the stranger or foreigner. We are referring here to a law [*loi*] of which it is hard to say whether it is a rule of decorum, politeness, the law of the strongest [*la loi du plus fort*], or the equitable law [*loi*] of democracy. And whether it depends on justice or on law. Still, in order for me to bend to this law [*loi*] and accept it, a certain number of conditions are necessary: for example, I must respond to an invitation and manifest my desire to speak here, something that no one apparently has constrained me to do; then, I must be capable, up to a certain point, of understanding the contract and the conditions of the law [*loi*]—that is to say, of at least minimally appropriating to myself your language, which then ceases, at least to this extent, to be foreign to me. It must be the case [*il faut*] that you and I understand, in more or less the same fashion, the translation of my text, initially written in French; this translation, however excellent it may be,³ necessarily remains a translation—that is to say an always possible but always imperfect compromise between two idioms.

3. *Translator’s note:* In the previous English version, Derrida here thanks the translator, Marjorie Constance.

