

ARTICLES : SPECIAL ISSUE
A DEDICATION TO JACQUES DERRIDA - JUSTICE

Deconstruction is Justice*

By Elisabeth Weber**

This provocative assertion, sharply contrasting with the decades-old criticism of deconstruction as an aestheticizing apolitical and ahistorical exercise, recapitulated in 1989 the stakes of an infinite task and responsibility that, in spite of and because of its infinity, cannot be relegated to tomorrow: “[...] justice, however unpresentable it may be, doesn’t wait. It is that which must not wait.”¹ It is in the spirit of such urgency, of a responsibility that cannot be postponed, that Jacques Derrida was an active and outspoken critic and commentator on issues such as South Africa’s Apartheid, the Israeli-Palestinian conflict, the bloody civil war in his native Algeria, human rights abuses, French immigration laws, the death penalty, and on what Richard Falk has termed “the great terror war”.²

In our era -- the era French historian Annette Wieviorka has called the “era of the witness”³ -- questions of answering to the other’s call, questions of responsibility have gained, within the humanities, a significance that they never had had in non-Jewish Western thought before. This development would be unthinkable without the immense contribution of Jacques Derrida’s writings. Throughout his oeuvre and his life, he witnessed to the unheard, over-shouted or silenced voices of those who have largely been excluded by the dominant currents of Western thought -- who have been, as Toni Morrison’s novel *Beloved* puts it, “disremembered and

* Jacques Derrida, *Force of Law*, (translated by Mary Quaintance), 11 CARDOZO L. REV. 920, 945 (1990).

** Professor, Department of Germanic, Slavic and Semitic Studies, University of California Santa Barbara. She has published, *inter alia*, JÜDISCHES DENKEN IN FRANKREICH: GESPRÄCHE MIT PIERRE VIDAL-NAQUET, JACQUES DERRIDA, RITA THALMANN, EMMANUEL LEVINAS, LÉON POLIAKOV, JEAN-FRANÇOIS LYOTARD, LUC ROSENZWEIG (1994). She is also the editor of JACQUES DERRIDA, LIMITED INC. (1990); and JACQUES DERRIDA, POINTS DE SUSPENSION (1992). My heartfelt gratitude goes to my friend and colleague Julie Carlson for her astute and inspiring comments and suggestions. Email: weber@gss.ucsb.edu.

¹ Jacques Derrida, *Force of Law*, (translated by Mary Quaintance), 11 CARDOZO L. REV. 920, 967 (1990).

² RICHARD FALK, THE GREAT TERROR WAR (2002).

³ ANNETTE WIEVIORKA, L’ÈRE DU TEMOIN (1998).

unaccounted for." What is more, Jacques Derrida formulated the necessity of being fully aware of the risk and aporias of this task of memory: that speaking for and remembering the other carries in itself the seed of a second betrayal. The difficulties surrounding the questions of memory and justice are "not infinite simply because they are infinitely numerous, nor because they are rooted in the infinity of memories and cultures (religious, philosophical, juridical, and so forth) that we shall never master."⁴ Rather, they are infinite in themselves, because they are inhabited by a series of "aporias" that make justice "an experience of the impossible"⁵, that is, of the incalculable and the unpredictable. Far from encouraging resignation, or a turning away from politics and history, these aporias actually render more urgent the demand of justice. One of these aporias can be found in the tension between the uniqueness of the address and the name and the necessity of the generality of the law:

"An address is always singular, idiomatic, and justice, as law (*droit*), seems always to suppose the generality of a rule, a norm or a universal imperative. How are we to reconcile the act of justice that must always concern singularity, individuals, irreplaceable groups and lives, the other or myself as other, in a unique situation, with rule, norm, value or the imperative of justice which necessarily have a general form, even if this generality prescribes a singular application in each case?"⁶

As Christoph Menke succinctly formulates it: The "deconstructive unfolding of the tension between justice and law" occurs "in the name of an experience that no political stance can capture, but that nevertheless affects any politics as its border, and therefore as its interruption."⁷

Such an "experience" is given in the name, which is why the question of the name is at the very heart of Jacques Derrida's thought. The demand for justice is not separable from the uniqueness of the gift of the name and the implications of this gift. In a reflection on the "final solution", Derrida describes how the experience of the name affects politics as its "border", and as its "interruption": "[...] one cannot

⁴ Derrida, *supra* note 1 at 947.

⁵ *Id.* at 947.

⁶ *Id.* at 949.

⁷ Christoph Menke, *Für eine Politik der Dekonstruktion*, in *GEWALT UND GERECHTIGKEIT* 286 (Anselm Haverkamp ed., 1994).

think the uniqueness of an event like the final solution, as extreme point of mythic and representational violence, within its *own* system. One must try to think it beginning with its other, that is to say, starting from what it tried to exclude and to destroy, to exterminate radically, from that which haunted it at once from without and within. One must try to think it starting from the possibility of singularity, the singularity of the signature and of the name, because what the order of representation tried to exterminate was not only human lives by the millions, natural lives, but also a demand for justice; and also names: and first of all the possibility of giving, inscribing, calling and recalling the name."⁸ One must try to think it starting from the possibility of singularity not only because "there was a destruction or project of destruction of the name and of the very memory of the name, of the name as memory,"⁹ but also because this name is in fact indissociable from "bare life."¹⁰

The ability to give a name is only given to those who have been called themselves. Naming is intrinsically marked by the fact and the conscious and, more importantly, unconscious recognition that we have been called ourselves, by the inscription, in other words, of a call that, as Emmanuel Levinas put it, preceded our ability to answer. This is the law at the "origin" of all laws: we have been called, and, to use Jean-François Lyotard's formulation, we are hostages to this call, whether we know and affirm it or not. Now more than ever in the era of the witness, one of our tasks is to bear witness to the uncanny strangeness of this call that emanates as much from the Other as from myself, "the bearer of an internal alterity."¹¹ The fact that naming the irreplaceable 'you' is in its very core marked by what Derrida calls "iterability" inscribes the institution in this unique event. It is only in its iterability (in other words, recognizability) that the address can be heard. But this iterability, this paradoxical repetition at the origin, does not contradict unicity: It makes it possible in the first place. It is what could be called the excess of the institution within the call. We can exhaust the call as little as we can exhaust the fact that we were born. It has called us into a life of relation and infinite contingency and makes itself heard as the radical openness and vulnerability that is ours, and that is called being alive. This infinite finitude could be called the excess of the call within the institution (the institution of language as well as the institution of laws and rights). Derrida's thought untiringly probes these two

⁸ Derrida, *supra* note 1 at 1042.

⁹ *Id.*

¹⁰ On the concept of the "bare life," see GIORGIO AGAMBEN, *HOMO SACER. SOVEREIGNTY AND THE BARE LIFE* (1998).

¹¹ ERIC SANTNER, *ON THE PSYCHOTHEOLOGY OF EVERYDAY LIFE* (2001), at 9.

“excesses,” the excess of the institution within the call, within singularity, and the excess of the call and its singularity within the institution. Put otherwise, it explores a logic of the phantom, a “hauntology” that has far-reaching consequences for a political theory. The reflection on the ‘final solution’ is here again exemplary: “I ask myself whether a community that assembles or gathers itself together in order to think what there is to be thought and gathered of this nameless thing that has been called the ‘final solution’ does not have to show, first of all, its readiness to welcome the law of the phantom, the spectral experience and the memory of the phantom, of that which is neither dead nor living, more than dead and more than living, only surviving, the law of the most commanding memory, even though it is the most effaced and the most effaceable, but for that very reason the most demanding.”¹²

The necessity of welcoming the ‘memory of the phantom’ marks Derrida’s commitment to justice in its entirety and finds its philosophical counterpart in concepts, introduced already in Derrida’s earliest writings, such as the “trace”, “différance”, and the “supplement”. If “deconstruction’s affair”, in Anselm Haverkamp’s words, is not “the proven validity of results, nor the cutting of Gordian knots”; if, rather, deconstruction sets out to find the “most complicated interlacement”¹³ of these knots, then one locus of a particularly complicated interlacement visited by Derrida over and over again is the question of memory, as memory of the phantom. The question is not so much how to “address the phantom,” and whether one can question or address it, as whether “one can *address oneself in general* if some phantom does not already return.”¹⁴ And, referring to Shakespeare’s *Hamlet*, Derrida continues: “If, at least, he loves justice, the ‘scholar’ of the future, the ‘intellectual’ of tomorrow would need to learn it [to address himself to the other], and of him [the phantom].” In order to address oneself to the other in the search for justice, one has *first of all* “to welcome the law of the phantom,” precisely because this “law of the phantom” is the “most effaced and effaceable” and, for that very reason, “the most demanding,” the most urgent.

“Beloved” is, in Morrison’s novel, the name on the tombstone of a dead girl, of whom the reader never learns the living name. The violence of her death and the brutality of slavery that caused it make her haunt the lives of her mother, her brothers, and of all their relations. It is of her, the returned and disappeared ghost, that Morrison writes: “Disremembered and unaccounted for, she cannot be lost because no one is looking for her, and even if they were, how can they call her if

¹² Derrida, *supra* note 1 at 973.

¹³ Anselm Haverkamp, *Kritik der Gewalt und die Möglichkeit von Gerechtigkeit: Benjamin in Deconstruction*, in *GEWALT UND GERECHTIGKEIT* 7 (Anselm Haverkamp ed. 1994).

¹⁴ JACQUES DERRIDA, *SPECTRES DE MARX* 279 (1993).

they don't know her name?"¹⁵ *Beloved's* memory is, indeed, "the most effaced and effaceable", and, as Morrison's book powerfully shows, "the most demanding." So unbearably demanding that, in the end, her apparition is chased back into invisibility: "It was not a story to pass on."¹⁶ The challenge that Derrida's thought addresses to us is to realize the need to "learn," from the other, from the nameless, from the phantom, how to address ourselves to her; how to learn her name with the keen awareness that looking for that name and learning it bears in itself the risk of "losing," forgetting, betraying it in its singularity.

Such "learning" is all but confined to a philosophical or literary meditation. It requires a wide-awake political awareness of which the following quotes, from more recent texts by Derrida, give a first, and by no means exhaustive, impression:

"In our 'wars of religion', violence has two ages. The one [...] appears 'contemporary', in sync or in step with the hypersophistication of military tele-technology - of 'digital' and cyberspaced culture. The other is a 'new archaic violence', if one can put it that way. It counters the first and everything it represents. [...] A *new cruelty* would thus ally, in wars that are also wars of religion, the most advanced technoscientific calculability with a reactive savagery that would like to attack the body proper directly, the sexual thing, that can be raped, mutilated or simply denied, desexualized - yet another form of the same violence."¹⁷

"The dominant power is the one that manages to impose and, thus, to legitimate, indeed to legalize (for it is always a question of law) on a national or world stage, the terminology and thus the interpretation that best suits it in a given situation." In the contemporary context of politics, religion, and the "war against terror", more than ever, "radical changes in international law are necessary [...] I would be tempted to call philosophers those who, in the future, reflect in a responsible fashion on these questions and demand accountability from those in charge of public discourse, those responsible for the language and institutions of international law. A 'philosopher' (actually I would prefer to say 'philosopher-

¹⁵ TONI MORRISON, *BELOVED* 274 (1998).

¹⁶ *Id.* at 274- 275. See DERRIDA, *supra* note 14 at 165 ("The specter, as its name indicates, is the *frequency* of a certain visibility. But the visibility of the invisible. And visibility, by essence, is not seen, which is why it remains *epekeina tes ousias*, beyond the phenomenon or being.").

¹⁷ Jacques Derrida, *Faith and Knowledge*, in *RELIGION* 52 (J. Derrida and G. Vattimo eds., 1998).

deconstructor') would be someone who analyzes and then draws the practical and effective consequences of the relationship between our philosophical heritage and the structure of the still dominant juridico-political system that is so clearly undergoing mutation."¹⁸ Derrida writes:

"We would have to analyze every mutation in the structure of public space, in the interpretation of democracy, theocracy, and their respective relations with international law (in its current state, in that which compels or calls it to transform itself and, thus, in that which remains largely to come within it), in the concepts of the nation-state and its sovereignty, in the notion of citizenship, in the transformation of public space by the media, which at once serve and threaten democracy, and so on. Our acts of resistance must be, I believe, at once intellectual and political. We must join forces to exert pressure and organize ripostes, and we must do so on an international scale and according to new modalities, though always while analyzing and discussing the very foundations of our responsibility, its discourses, its heritage, and its axioms."¹⁹

"Deconstruction is justice," since it calls for an untiring, in principle infinite, because never "finished," analysis of the philosophical heritage and its juridico-political systems, an analysis that is inseparable from an equally infinite responsibility. If hasty critics construe this doubly "infinite" call as condemning us to paralyzed inaction, they are merely acknowledging that this call is unbearably demanding, so unbearably demanding that its fidelity to the most effaced and effaceable ones should be chased back into invisibility, illegibility, inaudibility. But that is their problem. Any careful reader of Derrida's texts knows that the work waiting to be done cannot wait.

¹⁸ Jacques Derrida, *Autoimmunity: Real and Symbolic Suicides*, in *PHILOSOPHY IN A TIME OF TERROR* 105-6 (Giovanna Borradori ed., 2003).

¹⁹ *Id.* at 126 (translation slightly modified).