existentialism (22). Women—and all people—need not relegate nurturing to mothering.

The core of *Refusal*'s *Bacchae* is the tragic clash of Agave's relational identities: mother (to the eventually murdered king), daughter (to Cadmus, founder of Thebes), sister, and polis member. Agreeing with Peter Euben, Honig believes "the breaks necessitated by equality tear us apart, rip apart loved ones, and destroy the conjugal and communal bonds we value even though they make us unequal" (13), though equality is clearly worth this sacrifice per *Refusal*. Tragedy does not mean a *wrong* choice has been made; it means that pain attends *all* choices. As Arendt would say, to act is to suffer. Honig's reading intimates that Agave's immense grief for Pentheus would differentiate her from Rousseau's citizen-mother, who cares only for Sparta's victory after hearing that she has lost all five sons in battle. Her choice to refuse her son-cum-leader's orders also differentiates Agave from Homer's Penelope, who obeys Telemachus's order to be silent before laboring alone to preserve Ithaca's paternal monarchy. The bacchants' partial revolution is an enlightenment-esque attempt to displace Thebes's ancien régime. Whatever admixture of "giddiness and nausea" mighty sorority induces when it slays sons alongside kings, its goal is *res publica*: a political community meant to guarantee freedom and equality through rights (11). Now that the United States has officially entered its post-*Roe* reality, Honig's clarity about feminism's normative and civic demands rings all the louder. Only in a world without patriarchs could feminist citizenship be claimed without so much bloody sacrifice.

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Steven D. Smith: *Fictions, Lies, and the Authority of Law*. (Notre Dame, IN: University of Notre Dame Press, 2021. Pp. xvi, 273.)

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We take it for granted that law determines important segments of human activity. A statute is enacted and motorists slow down; a court issues a judgment and money changes hands. When you think about it, this relationship is remarkable. Making law always involves the utterance of language. But any utterance is, as Hobbes observed, something that is "but words and breath" and has "no force to oblige, contain, constrain or protect" (*Leviathan*, chap. 18). There must be something about the circumstances in which legal

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rules are uttered that elicits submission from the law's subjects. We call that "something" authority.

In *Fictions, Lies, and the Authority of Law*, Steven Smith provides an intensive and rigorous analysis of this phenomenon. Its intelligence, clarity, and candor make it a fine example of what a work of legal theory ought to be. Although legal authority has been much studied, Smith sheds new light on it. He examines a series of familiar and unfamiliar explanations for the authority of law, but finds each one problematic. He pays particular attention to a central understanding of the source of authority in American law. Working from traditional liberal premises, he concludes that, in this society, application of the coercive power of the state may be justified only by showing that, one way or another, its use was agreed to by its potential and actual subjects. Legal authority, that is, must rest on the belief that the state and its lawmaking institutions have been consented to by its subjects. Thus, we have the almost universal notion that the United States Constitution is the work of the American "people." The problem, as Smith demonstrates, is that in fact, the Constitution was never assented to by any collection of human beings having any plausible claim to act for the "people of the United States." The Constitution drafted in the Philadelphia convention of 1787 became law when it was ratified by "conventions" meeting in nine of the thirteen states. The members of these conventions were chosen in elections that excluded women, nonwhites, and, at least in some of the states, propertyless males. In addition, the participants in their selection have all been dead for a very long time. Shouldn't the people whose assent supports the authority of lawmakers be the people who will be constrained by the resulting law?

Smith concludes that the presumed "social contract" assenting to the Constitution and underlying its authority must be a "fiction," something based on a false belief. This alone need not be a reason for alarm. Smith quotes Yuval Harari that any complex social organization must be "rooted in common myths that exist only in people's collective imagination" (18). Of course, not every fiction can be successful in supporting authoritative law. The suitability of one or another fiction will be a function of the structure, history, and prevailing values of a given society. Furthermore, a successful fiction must assume facts which, if not perfectly accurate, are "close enough" to the actual facts of lawmaking that belief in its legitimating character is plausible. If not true, the received story must be at least "truish" (45). (Some readers will be disappointed that Smith did not adopt Stephen Colbert's "truthiness.")

The standard origin story of the United States Constitution, its creation by "the people," is truish enough. The Philadelphia convention's draft only became law when it was approved by the states. It is significant that such ratification was committed not to established state governmental institutions but to special conventions. At the time, such conventions were understood to be the principal way in which "the people" might express themselves. They "acted upon [the Constitution] in the only manner in which they can safely,

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effectively and wisely on such a subject, by assembling in Convention" (McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316, 403 (1819)). Smith convincingly lays out the defects in this claim, and we might expect those defects to have become increasingly obvious over time. In fact, regard for the Constitution's "popular" basis has not significantly diminished up to the present moment.

Having established the fictional bases of deference to constitutional authority, it is not clear why Smith decides, in later chapters, to raise the bar for identifying authority with additional criteria. Thus, he accepts the argument that someone can have "genuine authority" only "if 'you have to do what they say just because they said so'" (171). Submission to a command is not a case of this "just because" authority if the addressee had some other, independent reason to comply. H. L. A. Hart's famous gunman secures obedience because the victim wants to save his life, not "just because" the mugger demanded it. More problematically, a citizen who has sworn to support a government is obliged to follow its orders not "just because" of the fact of the command but because there is an independent obligation to "keep promises" (175). Similarly, the idea that people should submit to official rules as part of some tacit obligation they have taken on by continuing to accept the benefits of an organized society (the "co-ordination" or "fair play" explanations of authority) is dismissed because such behavior follows from obligations "that we owe not to the rules or the rulers but rather to our co-venturers" (183).

Smith acknowledges the main problem with this kind of argument, its potential to swallow every case of putative authority. There is always *some* other underlying reason why individuals conform to socially produced norms, be it fear, patriotism, inertia, or something else. When Smith searches for holders of "genuine" authority, adding an additional criterion, that it must be "normatively attractive" (190), he is left with very few cases, namely, parents, teachers, coaches . . . and God. But in "the realm of law and government" authority "has vanished quite unambiguously" (213). Yet, as Smith has already shown, people do respect official norms of behavior even if that respect is often premised on erroneous beliefs.

Given the fact of general compliance with legal rules, it is possible that the trouble is not the scarcity of "real" authorities but the insistence on "just because" authority. As Smith asks, "If the reasons for compliance do not add up to genuine 'authority,' so what?" (186). Or we might take a more liberal view of what makes authority "genuine." That is, we might not insist that such authority rely for its force on provable facts. This does not mean that practical authority can arise from beliefs that are drastically and obviously divorced from historical fact. Modern constitutions usually depend on two widely shared attitudes about legitimate power. First, the original process of lawmaking must take place with the consent of the subject population. Second, the resulting law must be consistent with the welfare of the governed population. These contestable beliefs appear to provide

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sufficient basis for the authority of the United States Constitution and the law made pursuant to the Constitution. This is possible without regard to the "real" truth or falsity of the facts assumed in the formation of those beliefs. In fact, as the American example illustrates, as a practical matter, once these convictions have put down sufficiently deep roots in society, they may cease to be examined for their truth or falsity. No system of norms, legal or otherwise, can survive if the assumptions about its origin are subject to continuous, self-consciously critical scrutiny. Effective legal authority is thus a textbook example of what Neil MacCormick called a "thought object," something that "exist[s] by being believed in, rather than being believed in by virtue of [its] existence" ("The Ethics of Legalism," *Ratio Juris* 2, no. 2 [1989]: 191).

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Caroline Ashcroft: *Violence and Power in the Thought of Hannah Arendt*. (Philadelphia: University of Pennsylvania Press, 2021. Pp. 278.)

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The question of violence and its role in public life sits at the heart of Hannah Arendt's work on "the political." Yet, as Caroline Ashcroft argues in *Violence and Power in the Thought of Hannah Arendt*, this influential thinker's understanding of the relationship between violence and power has been largely misinterpreted. In particular, Ashcroft suggests that standard accounts of Arendt's political theory—interpretations typically predicated on the understanding that acts of violence have no place in the political realm—do not capture accurately how violence can sometimes be political. Whereas scholars like John McGowan and Patricia Owens (the former of whom outlines how violence is either nonpolitical or antipolitical and the latter how it can be prepolitical), Ashcroft maintains that certain forms of violence, specifically those she contends are both based in power and that serve a thoroughly public/political end (77, 158, 211), can be considered political in Arendtian terms. This is a theoretically daring thesis that challenges readers of Arendt's work to think about violence politically—a conceptual framing that has historically been understood as a contradiction in terms. If followed to its end, it also asks us to consider how acts of violence might be seen as a politically legitimate means both to (re)make and, as Arendt writes in *Men in Dark Times* (Harcourt, Brace & World, 1968, 14), to "care for the world."

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