

ARTICLES : SPECIAL ISSUE
A DEDICATION TO JACQUES DERRIDA - INTRODUCTION

Introductory Editorial - Jacques Derrida: Before, Through, Beyond (the) Law

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On the 8th of October 2004, Jacques Derrida died. By all accounts, whether sympathetic or unsympathetic to the philosopher, and understanding or not of his work, Derrida had, by the time of his death, gained the status of one of the most influential thinkers of the second half of the 20th century. He combined an essentially philosophical endeavour with an affinity for literary criticism, and a commitment to the venerable French tradition of the public, and, thus, political, intellectual. Unlike Habermasian and post-Habermasian critical theorists, he was not a self-conscious bridge-builder, though his thought nevertheless came to occupy sizeable and highly articulate niches across the world's academies, and most notably in North America, thereby "disseminating" his always quintessentially francophone word far beyond the French and European scene.

Even though he was not a self-declared legal thinker, Derrida professed to a career-long fascination with law, which is duly reflected in many of his intellectual engagements. From such early travails as *Violence and Metaphysics*, the *The Laws of Reflection: Nelson Mandela. In Admiration, or Before the Law* to the seminal *Force of Law: the "Mythical Foundation of Authority,"* and such subsequent ruminations as *The Other Heading: Reflections on Today's Europe*, or *Specters of Marx: The State of the Debt, the Work of Mourning, and the New International*, Derrida strove to bring to the fore the multifaceted character, not so much of *the* law, but rather of law as both an epiphenomenon of language, and the necessary, but always violently founded language of politics.

The positional force, the force of positioning is at issue here, where law and language coincide. And as the editors of this special issue we are from the very

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beginning involved in that force. We were in the position of giving a title to the issue and by that positioned Derrida before, through and beyond. He is all over the place, the lawyers' place, which is the Law, or is it simply law? Derrida is known for being the theoretician of this move towards capitalization. Simultaneously Derrida is known to be the greatest challenger of this capitalization process. Not that he is cancelling the Law as such, he is undoing it in bits. And after all, a deconstructed law, a law which is literally "worked down," leaves its traces in the letters such as in the article of speech in the title, which we have deliberately deleted by striking through the word with a line (e.g. "~~the~~"). The *gramme* or sign of this deletion is this line or "bar." So we find ourselves positioned at the bar, where one usually expects to find lawyers, and from there we started our call for papers for this special issue of *German Law Journal*.

With its transnational and multidisciplinary character, *German Law Journal* would appear to be a particularly apt forum for a homage to this difficult but momentous thinker and his particular engagement with law. Indeed, *German Law Journal* has already featured Derrida in innovative and forward-looking ways, most notably in Martti Koskeniemi's review of Giovanna Borradori's attempt to create a dialogue between Derrida and Habermas,¹ as well as in articles by Saul Newman,² and Michael Bothe and Andreas Fischer-Lescano.³

In line with the best *German Law Journal* practice, our homage aimed to steer away from the unconditional applause of those considering themselves the keepers of the Derridian graal, as well as the instinctive and unreflected rebuff of his harshest critics (who, without usually ever having seriously read him, were always quick to dismiss him as obscure and non-sensical). Instead, we have attempted to collect critical-constructive reflections, from those who feel enduringly inspired by Derrida's ideas and by those who have been struggling with them. They have reflected on Derrida the person, his theory, and his notion of justice within the contemporary state of the world.

¹ Martti Koskeniemi, *Book Review – Giovanni Borradori (ed.), Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida*, 4 GERMAN LAW JOURNAL 1087 (2003), at http://www.germanlawjournal.com/pdf/Vol04No10/PDF_Vol_04_No_10_1087-1094_Legal_Culture_Koskeniemi.pdf.

² Saul Newman, *Terror, Sovereignty and Law: On the Politics of Violence*, 5 GERMAN LAW JOURNAL 569 (2004), at http://www.germanlawjournal.com/pdf/Vol05No05/PDF_Vol_05_No_05_569-584_special_issue_Newman.pdf.

³ Michael Bothe and Andreas Fischer-Lescano, *Protego et obliquo. Afghanistan and the Paradox of Sovereignty*, 3 GERMAN LAW JOURNAL No. 9 (1 September 2002), at <http://www.germanlawjournal.com/article.php?id=187>.

The editors' call for papers was met by an overwhelmingly enthusiastic response. In the weeks that followed, a true logistical and intellectual camaraderie unfolded between authors with short deadlines and the editorial team, working in the United States, Germany, Brazil and Canada. We would like to express our deep gratitude to the authors for making this wonderful issue possible and to our readers who, throughout the first five years of the *German Law Journal's* publication, have been encouraging us to undertake such initiatives. The Editors-in-Chief and all the members of the Editorial Board of the *German Law Journal* remain grateful, if sometimes mesmerized, by the continued support and interest of the *Journal's* readers from around the world. We wish you, our readers and authors, another rich and inspiring half-decade with the *German Law Journal* – starting with this very special issue.