Deconstruction and the Possibility of Justice

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Force of Law: The "Mystical Foundation of Authority"

Jacques Derrida

C'est ici un devoir, je dois m'adresser à vous en anglais. This is an obligation, I must address myself to you in English.

The title of this colloquium and the problem that it requires me, as you say, transitively in your language, to address, have had me musing for months. Although I've been entrusted with the formidable honor of the "keynote address," I had nothing to do with the invention of this title or with the implicit formulation of the problem. "Deconstruction and the Possibility of Justice": the conjunction "and" brings together words, concepts, perhaps things that don't belong to the same category. A conjunction such as "and" dares to defy order, taxonomy, classificatory logic, no matter how it works: by analogy, distinction or opposition. An ill-tempered speaker might say: I don't see the connection, no rhetoric could bend itself to such an exercise. I'd be glad 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 taxis, this taxonomy or this syntagm.

Translated by Mary Quintance. The author would like to thank Sam Weber for his help in the final revision of this text. Except for some footnotes added after the fact, this text corresponds to the version distributed at the colloquium on "Deconstruction and the Possibility of Justice" (October 1989, Cardozo Law School), of which Jacques Derrida read only the first part to open the session. For lack of time, Derrida was unable to conclude the elaboration of the work in progress, of which this is only a preliminary version. In addition, the second part of the lecture, the part that precisely was not read but only discussed at the same colloquium, was delivered on April 26, 1990, to open a colloquium organized by Saul Friedlander at the University of California, Los Angeles on Nazism and the "Final Solution": Probing the Limits of Representation.
Such a speaker wouldn’t merely be in a bad temper, he’d be in bad faith. And even unjust. For one could easily propose an interpretation that would do the title justice. Which is to say in this case an adequate and lucid and so rather suspicious interpretation of the title’s intentions or voulou-dire. This title suggests a question that itself takes the form of a suspicion; does deconstruction insure, permit, authorize the possibility of justice? Does it make justice possible, or a discourse of consequence on justice and the conditions of its possibility? Yes, certain people would reply; no, the other party. Do the so-called 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, in the end? Isn’t it because, as certain people suspect, deconstruction doesn’t in itself permit any just action, any just discourse on justice but instead constitutes a threat to droit, to law or right, and ruins the condition of the very possibility of justice? Yes, certain people would reply, no, the other party. In this first fictive exchange one can already find equivocal slippages between law (droit) and justice. The “suffrance” of deconstruction, what makes it suffer and what makes those it torments suffer, is perhaps the absence of rules, of norms, and definitive criteria that would allow one to distinguish unequivocally between droit and justice.

That is the choice, the “either/or,” “yes or no” that I detect in this title. To this extent, the title is rather violent, polemical, inquisitorial. We may fear that it contains some instrument of torture—that is, a manner of interrogation that is not the most just. Needless to say, from this point on I can offer no response, at least no reassuring response, to any questions put in this way (“either/or,” “yes or no”), to either party or to either party’s expectations formalized in this way.

Je dois, donc, c’est ici un devoir, m’adresser à vous en anglais. So I must, this is an obligation, address myself to you in English. Je le dois . . . that means several things at once.

1. Je dois speak English (how does one translate this “dois,” this devoir? I must? I should, I ought to, I have to?) because it has been imposed on me as a sort of obligation or condition by a sort of symbolic force or law in a situation I do not control. A sort of polemos already concerns the appropriation of language: if, at least, I want to make myself understood, it is necessary that I speak your language, I must.

2. I must speak your language because what I shall say will thus be more juste, or deemed more juste, and be more justly appreciated, juste this time [in the sense of “just right,”] 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 lay down the law. “Faire la loi” (laying down the law) is an interesting expression that we shall have more to say about later.

3. I must speak in a language that is not my own because that will be more just, in another sense of the word juste, in the sense of justice, a sense which, without worrying about it too much for now, we can call juridico-ethico-political: it is more just to speak the language of the majority, especially when, through hospitality, it grants a foreigner the right to speak. It’s hard to say if the law we’re referring to here is that of decorum, of politeness, the law of the strongest, or the equitable law of democracy. And whether it depends on justice or law (droit). Also, if I am to bend to this law 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; I must be capable, up to a certain point, of understanding the contract and the conditions of the law, that is, at least minimally adopting, appropriating, your language, which from that point ceases, at least to this extent, to be foreign to me. You and I must understand, in more or less the same way, the translation of my text, initially written in French; this translation, however excellent it may be (I’ll take this moment to thank Mary Quintance) necessarily remains a translation, that is to say an always possible but always imperfect compromise between two idioms.

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

There are a certain number of idiomatic expressions in your language that have always been rather valuable to me as they have no strict equivalent in French. I’ll cite at least two of them, before I even begin. They are not unrelated to what I’d like to try to say tonight.

A. The first is “to enforce the law,” or “enforceability of the law or contract.” When one translates “to enforce the law” into French, 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. 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 (droit), of justice as it becomes droit, of the law as “droit” (for I want to insist right away on reserving the possibility of a justice, indeed of a law that not only exceeds or contradicts “law” (droit)) but also, perhaps, has no relation to law, or maintains such a strange relation to it that it may just as well command the “droit”
Since this colloquium is devoted to deconstruction and the possibility of justice, my first thought is that in the many texts considered "deconstructive", and particularly in certain of those that I've published myself, recourse to the word "force" is quite frequent, and in strategic places I would even say decisive, but at the same time always or almost always accompanied by an explicit reserve, a guardedness. I have often called for vigilance, I have asked myself to keep in mind the risks spread by this word, whether it be the risk of an obscure, substantialist, occulto-mystic concept or the risk of giving authorization to violent, unjust, arbitrary force. I won't cite these texts. That would be self-indulgent and would take too much time, but I ask you to trust me. A first precaution against the risks of substantialism or irrationalism that I just evoked involves the differential character of force. For me, it is always a question of differential force, of difference as difference of force, of force as différence (différence is a force différenciante), of the relation between force and form, between force and significations, performative force, illocutionary or perlocutionary force, of persuasive and rhetorical force, of affirmation by signature, but also and especially of all the paradoxical situations in which the greatest force and the greatest weakness strangely enough exchange places. And that is the whole history. What remains is that I've always been uncomfortable with the word force, which I've often judged to be indispensable, and I thank you for thus forcing me to try and say a little more about it today. And the same thing goes for justice. There are no doubt many reasons why the majority of texts hastily identified as "deconstructionist"—for example, mine—seem, I do say seem, not to foreground the theme of justice (as theme, precisely), or the theme of ethics or politics. Naturally this is only apparently so, if one considers, for example, I will only mention these the many texts devoted to Levinas and to the relations between "violence and metaphysics," or to the philosophy of right, Hegel's, with all its posterity in Glasc, of which it is the principal motif, or the texts devoted to the drive for power and to the paradoxes of power in Spéculer—sur Freud, to the law in Devant la loi (on Kafka's Vor dem Gesetz) or in Déclaration d'indépendance, in Admiration de Nelson Mandela ou les lois de la reflexion, and in many other texts. It goes without saying that discourses on double affirmation, the gift beyond exchange and distribution, the undecidable, the incomparable or the inrecalcitrable, or on singularity, difference and heterogeneity are also, through and through, at least obliquely discourses on justice.

Besides, it was normal, foreseeable, desirable that studies of deconstructive style should culminate in the problematic of law (droit), of law and justice. (I have elsewhere tried to show that the essence of law
is not prohibitive but affirmative.) Such would even be the most proper place for them, if such a thing existed. A deconstructive interrogation that starts, as was the case here, by destabilizing or complicating the opposition between nomos and physis, between thesis and physis—that is to say, the opposition between law, convention, the institution—on one hand, and nature on the other, with all the oppositions that they condition; for example, and this is only an example, that between positive law and natural law (the difference is the displacement of this oppositional logic), a deconstructive interrogation that starts, as this one did, by destabilizing, complicating, or bringing out the paradoxes of values like those of the proper and of property in all their registers, of the subject, and so of the responsible subject, of the subject of law (droit) and the subject of morality, of the juridical or moral person, of intentionality, etc., and of all that follows from these, such a deconstructive line of questioning is through and through a problematization of law and justice. A problematization of the foundations of law, morality and politics. This questioning of foundations is neither foundationalist nor anti-foundationalist. Nor does it pass up opportunities to put into question or even to exceed the possibility or the ultimate necessity of questioning, of the questioning form of thought, interrogating without assurance or prejudice the very history of the question and of its philosophical authority. For there is an authority—and so a legitimate force in the questioning form of which one might ask oneself whence it derives such great force in our tradition.

If, hypothetically, it had a proper place, which is precisely what cannot be the case, such a deconstructive “questioning” or meta-questioning would be more at home in law schools, perhaps also—this sometimes happens—in theology or architecture departments, than in philosophy departments and much more than in the literature departments where it has often been thought to belong. That is why, without knowing them well from the inside, for which I feel I am to blame, without pretending to any familiarity with them, I think that the developments in “critical legal studies” or in work by people like Stanley Fish, Barbara Herrnstein Smith, Dricilla Cornell, Sam Weber and others, which situates itself in relation to the articulation between literature and philosophy, law and politico-institutional problems, are today, from the point of view of a certain deconstruction, among the most fertile and the most necessary. They respond, it seems to me, to the most radical programs of a deconstruction that would like, in order to be consistent with itself, not to remain enclosed in purely speculative, theoretical, academic discourses but rather (with all due respect to Stanley Fish) to aspire to something more consequential, to change things and to intervene in an efficient and responsible, though always, of course, very mediated way, not only in the profession but in what one calls the cité, the polis and more generally the world. Not, doubtless, to change things in the rather naïve sense of calculated, deliberate and strategically controlled intervention, but in the sense of maximum intensification of a transformation in progress, in the name of neither a simple symptom nor a simple cause (other categories are required here). In an industrial and hyper-technologized society, academia is less than ever the monadic or monostatic ivory tower that in any case it never was. And this is particularly true of “law schools.”

I hasten to add here, briefly, the following three points:

1. This conjunction or conjuncture is no doubt inevitable between, on the one hand, a deconstruction of a style more directly philosophical or motivated by literary theory and, on the other hand, juridico-literary reflection and “critical legal studies.”

2. It is certainly not by chance that this conjunction has developed in such an interesting way in this country; this is another problem—urgent and compelling—that I must leave aside for lack of time. There are no doubt profound and complicated reasons of global dimensions, I mean geo-political and not merely domestic, for the fact that this development should be first and foremost North American.

3. Above all, if it has seemed urgent to give our attention to this joint or concurrent development and to participate in it, it is just as vital that we do not confound largely heterogeneous and unequal discourses, styles and discursive contexts. The word “deconstruction” could, in certain cases, induce or encourage such a confusion. The word itself gives rise to so many misunderstandings that one wouldn’t want to add to them by reducing all the styles of critical legal studies to one or by making them examples or extensions of Deconstruction with a capital “D.” However unfamiliar they may be to me, I know that these efforts in critical legal studies have their history, their context, and their proper idiom; in relation to such a philosophico-deconstructive questioning they are often (we shall say for the sake of brevity) uneven, timid, approximating or schematic, not to mention belated, although their specialization and the acuity of their technical competence puts them, on the other hand, very much in advance of whatever state deconstruction finds itself in a more literary or philosophical field. Respect for contextual, academico-institutional, discursive specificities, mistrust for analogies and hasty transpositions, for confused homogenizations, seem to me to be the first imperatives the way things stand today. I hope in any case that this encounter will leave us with the memory of disparities and disputes at least as much as it leaves us with agreements, with coincidences or consensus.

I said a moment ago: it only appears that deconstruction, in its
manifestations most recognized as such, hasn’t “addressed,” as one says in English, the problem of justice. It only appears that way, but one must account for appearances, “keep up appearances” as Aristotle said, and that is how I’d like to employ myself here: to show why and how what is now called Deconstruction, while seeming not to “address” the problem of justice, has done nothing but address it, if only *obliquely*, unable to do so directly. *Obliquely,* as at this very moment, in which I’m preparing to demonstrate that one cannot speak *directly* about justice, thematize or objectivize justice, say “this is just” and even less “I am just,” without immediately betraying justice, if not law (*droit*).  

But I have not yet begun. I started by saying that I must address myself to you in your language and announced right away that I’ve always found at least two of your illogodic expressions invaluable, indeed irreplaceable. One was “to enforce the law” which always reminds us that if justice is not necessarily law (*droit*) or the law, it cannot become justice legitimately or *de jure* except by withholding force or rather by appealing to force from its first moment, from its first word. “At the beginning of justice there was *logos,* speech or language,*” which is not necessarily in contradiction with another *incipit,* namely, “In the beginning there will have been force.”  

Pascal says it in a fragment I may return to later, one of his famous “*pensées,*” as usual more difficult than it seems. It starts like this: “*Justice, force.*—Il est juste que ce qui est juste soit suivi, il est nécessaire que ce qui est le plus fort soit suivi.” (*Justice, force.*—It is just that what is just be followed, it is necessary that what is strongest be followed* frag. 298, Brunschvicg edition) The beginning of this fragment is already extraordinary, at least in the rigor of its rhetoric. It says that what is just must be *followed* (followed by consequence, followed by effect, applied, *enforced*) and that what is strongest must also be followed (by consequence, effect, and so on). In other words, the common axiom is that the just and the strongest, the most just as *or as well as* the strongest, *must* be followed. But this “must be followed,” common to the just and the strongest, is “right” (“*juste*”) in one case, “necessary” in the other: “It is just that what is just be followed”—in other words, the concept or idea of the just, in the sense of justice, implies analytically and *a priori* that the just be “*suivi,*” followed up, enforced, and it is just—also in the sense of “just right”—to think this way. “It is necessary that what is strongest be enforced.”  

And Pascal continues: “*La justice sans la force est impuissante*” (“Justice without force is impotent”)—in other words, justice isn’t justice, it is not achieved if it doesn’t have the force to be “enforced,” a powerless justice is not justice, in the sense of *droit*—“*la force sans la justice est tyrannique.* La justice sans force est contre terrible, parce qu’il y a toujours des méchants; la force sans la justice est accablée. Il faut donc mettre ensemble la justice et la force; et pour cela faire que ce qui est juste soit fort, ou que ce qui est fort soit juste” (“force without justice is tyrannical. Justice without force is contradictory, as there are always the wicked; force without justice is accused of wrong. And so it is necessary to put justice and force together; and, for this, to make sure that what is just be strong, or what is strong be just.”) It is difficult to decide whether the “it is necessary” in this conclusion (“And so it is necessary to put justice and force together”) is an “it is necessary” prescribed by what is just in justice or by what is necessary in force. But that is a pointless hesitation since justice demands, as justice; recourse to force. The necessity of force is implied, then, in the “*juste*” in “justice.”  

This *pensée,* what continues and concludes it (“And so, since it was not possible to make the just strong, the strong have been made just”) deserves a longer analysis than I can offer here. The principle of my analysis (or rather of my active and anything but non-violent interpretation), of the interpretation at the heart of what I will indirectly propose in the course of this lecture, will, notably in the case of this Pascal *pensée,* run counter to tradition and to its most obvious context. This context and the conventional interpretation that it seems to dictate, runs, precisely, in a conventionalist direction toward the sort of pesimistic, relativistic and empiricist skepticism that drove Arnaud to suppress these *pensées* in the Port Royal edition, alleging that Pascal wrote them under the impression of a reading of Montaigne, who thought that laws were not in themselves just but rather were just only because they were laws. It is true that Montaigne used an interesting expression, which Pascal takes up for his own purposes and which I’d also like to reinterpret and to consider apart from its most conventional and conventionalist reading. The expression is “*fondement mystique de l’autorité,*” “mystical foundation of authority.” Pascal cites Montaigne without naming him when he writes in *pensée* 293:  

“... l’un dit que l’essence de la justice est l’autorité du législateur, l’autre la commodité du souverain, l’autre la coutume présente; et c’est le plus sûr: rien, suivant la seule raison, n’est juste de soi; tout braille avec le temps. La coutume fait toute l’équité, par cette seule raison qu’elle est reçue; c’est le fondement mystique de son autorité. Qui la ramène à son principe, l’anéanti.” (“... one man says that the essence of justice is the authority of the legislator, another that it is the con-
venience of the king, another that it is current custom; and the latter is closest to the truth: simple reason tells us that nothing is just in itself; everything crumbles with time. Custom is the sole basis for equity, for the simple reason that it is received; it is the mystical foundation of its authority. Whoever traces it to its source annihilates it.)

Montaigne was in fact talking about a "mystical foundation" of the authority of laws: "Or les lois," he says, "se maintiennent en crédit, non parce qu'elles sont justes, mais parce qu'elles sont lois: c'est le fondement mystique de leur auctorité, elles n'ont point d'autre . . . Quiconque leur oseit parer qu'elles sont justes, ne leur oseit pas jus-

tement par où il doibt" ("And so laws keep up their good standing, not because they are just, but because they are laws: that is the mystical foundation of their authority, they have no other . . . Anyone who obeys them because they are just is not obeying them the way he ought to.")

Here Montaigne is clearly distinguishing laws, that is to say droit, from justice. The justice of law, justice as law is not justice. Laws are not just as laws. One obeys them not because they are just but because they have authority.

Little by little I shall explain what I understand by this expression "mystical foundation of authority." It is true that Montaigne also wrote the following, which must, again, be interpreted by going beyond its simply conventional and conventionalist surface: "(notre droit même a, dit-on des fictons légitimes sur lesquelles il fonde la vérité de sa justice);" "(even our law, it is said, has legitimate fictons on which it founds the truth of its justice). I used these words as an epigraph to a text on Vor dem Gesetz. What is a legitimate fiction? What does it mean to establish the truth of justice? These are among the questions that await us. It is true that Montaigne proposed an analogy between this supplement of a legitimate fiction, that is, the fiction necessary to establish the truth of justice, and the supplement of artifice called for by a deficiency in nature, as if the absence of natural law called for the supplement of historical or positive, that is to say, fictional, law (droit), just as—to use Montaigne's analogy—"les femmes qui emploient des dents d'ivoire ou les leurs naturelles leur manquent, et, au lieu de leur vrai teint, en forgent un de quelque matière étrangère . . ." (Livre II, ch. XII, p. 601 Pléiade); ("women who use ivory teeth when they’re missing their real ones, and who, instead of showing their true complexion, forge one with some foreign material . . .").

Perhaps the Pascal pensée that, as he says, “puts together” justice and force and makes force an essential predicate of justice (by which he means “droit” more than justice) goes beyond a conventionalist or utilitarian relativism, beyond a nihilism, old or new, that would make the law a “masked power,” beyond the cynical moral of La Fontaine’s “The Wolf and the Sheep,” according to which “La raison du plus fort est toujours la meilleure” (“ Might makes right”).

The Pascalian critique, in its principle, refers us back to original sin and to the corruption of natural laws by a reason that is itself corrupt. ("Il y a sans doute des lois naturelles; mais cette belle raison a tout corrompu," section IV, 294; “There are, no doubt, natural laws; but this fine thing called reason has corrupted everything,” and elsewhere: “Notre justice s’induit devant la justice divine,” 263; “Our justice comes to nothing before divine justice.” I cite these pensées to prepare for our reading of Benjamin.)

But if we set aside the functional mechanism of the Pascalian criti-

cue, if we dissociate it from Christian pessimism, which is not impossible, then we can find in it, as in Montaigne, the basis for a modern critical philosophy, indeed for a critique of juridical ideology, a desecretization of the superstructures of law that both hide and re-

fect the economic and political interests of the dominant forces of socie-

ty. This would be both possible and always useful.

But beyond its principle and its mechanism, this Pascalian pensée perhaps concerns a more intrinsic structure, one that a critique of juridical ideology should never overlook. The very emergence of justice and law, the founding and justifying moment that institutes law implies a performative force, which is always an interpretative force: this time not in the sense of law in the service of force, its docile instru-

tment, servile and thus exterior to the dominant power, but rather in the sense of law that would maintain a more internal, more complex relation with what one calls force, power or violence. Justice—in the sense of droit (right or law)—would not simply be put in the service of a social force or power, for example an economic, political, ideologi-

cal power that would exist outside or before it and which it would have to accommodate or bend to when useful. Its very moment of foundation or institution (which in any case is never a moment inscribed in the homogeneous tissue of a history, since it is ripped apart with one decision), the operation that amounts to founding, inaugurating, justifying law (droit), 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 previous law with its founding anterior moment could guarantee or contradict or invalidate. No justificatory discourse could or should insuire the role of metalinguage in relation to the performativity of institutive lan-

guage or to its dominant interpretation.

Here the discourse comes up against its limit: in itself, in its per-
formative power itself. It is what I here propose to call the mystical. Here a silence is walled up in the violent structure of the founding act. Walled up, walled in because silence is not exterior to language. It is in this sense that I would be tempted to interpret, beyond simple commentary, what Montaigne and Pascal call the mystical foundation of authority. One can always turn what I am doing or saying here back onto—or against—the very thing that I am saying is happening thus at the origin of every institution. I would therefore take the use of the word “mystical” in what I’d venture to call a rather Wittgensteinian direction. These texts by Montaigne and Pascal, along with the texts from the tradition to which they belong and the rather active interpretation of them that I propose, could be brought into Stanley Fish’s discussion in “Force” (Doing What Comes Naturally) of Hart’s Concept of Law, and several others, implicitly including Rawls, himself criticized by Hart, as well as into many debates illumined by certain texts of Sam Weber on the agnostic and not simply intra-institutional or mono-institutional character of certain conflicts in Institution and Interpretation.

Since the origin of authority, the foundation or ground, the position of the law can’t by definition rest on anything but themselves, they are themselves a violence without ground. Which is not to say that they are in themselves unjust, in the sense of “illegal.” They are neither legal nor illegal in their founding moment. They exceed the opposition between founded and unfounded, or between any foundationalism or anti-foundationalism. Even if the success of performatives that found law or right (for example, and this is more than an example, of a state as guarantor of a right) presupposes earlier conditions and conventions (for example in the national or international arena), the same “mystical” limit will reappear at the supposed origin of said conditions, rules or conventions, and at the origin of their dominant interpretation.

The structure I am describing here is a structure in which law (droit) is essentially deconstructible, whether because it is founded, constructed on interpretable and transformable textual strata (and that is the history of law [droit], its possible and necessary transformation, sometimes its amelioration), or because its ultimate foundation is by definition unfounded. The fact that law is deconstructible is not bad news. We may even see in this a stroke of luck for politics, for all historical progress. But the paradox that I’d like to submit for discussion is the following: it is this deconstructible structure of law (droit), or if you prefer of justice as droit, that also insures the possibility of deconstruction. Justice in itself, if such a thing exists, outside or beyond law, is not deconstructible. No more than deconstruction itself, if such a thing exists. Deconstruction is justice. It is perhaps because law (droit) (which I will consistently try to distinguish from justice) is constructible, in a sense that goes beyond the opposition between convention and nature, it is perhaps insofar as it goes beyond this opposition that it is constructible and so deconstructible and, what’s more, that it makes deconstruction possible, or at least the practice of a deconstruction that, fundamentally, always proceeds to questions of droit and to the subject of droit. (1) The deconstructibility of law (droit), of legality, legitimacy or legitimation (for example) makes deconstruction possible. (2) The undeconstructibility of justice also makes deconstruction possible, indeed is inseparable from it. (3) The result: deconstruction takes place in the interval that separates the undeconstructibility of justice from the deconstructibility of droit (authority, legitimacy, and so on). It is possible as an experience of the impossible, there where, even if it does not exist (or does not yet exist, or never does exist), there is justice. Wherever one can replace, translate, determine the x of justice, one should say: deconstruction is possible, as impossible, to the extent (there) where there is (undeconstructible) x, thus to the extent (there) where there is (the undeconstructible).

In other words, the hypothesis and propositions toward which I’m tentatively moving here call more for the subtitle: justice as the possibility of deconstruction, the structure of law (droit) or of the law, the foundation or the self-authorization of law (droit) as the possibility of the exercise of deconstruction. I’m sure this isn’t altogether clear; I hope, though I’m not sure of it, that it will become a little clearer in a moment.

I’ve said, then, that I have not yet begun. Perhaps I’ll never begin and perhaps this colloquium will have to do without a “keynote,” except that I’ve already begun. I authorize myself—but by what right?—to multiply protocols and detours. I began by saying that I was in love with at least two of your idioms. One was the word “enforceability,” the other was the transitive use of the verb “to address.” In French, one addresses oneself to someone, one addresses a letter or a word, also a transitive use, without being sure that they will arrive at their destination, but one does not address a problem. Still less does one address someone. Tonight I have agreed by contract to address, in English, a problem, that is to go straight toward it and straight toward you, thematically and without detour, in addressing myself to you in your language. Between law or right, the rectitude of address, direction and uprightness, we should be able to find a direct line of communication and to find ourselves on the right track. Why does deconstruction have the reputation, justified or not, of treating things
the primary addressees of this discourse, but at the same time toward the place of essential decision for said problems. Address—as direction, as rectitude—says something about droit (law or right); and what we must not forget when we want justice, when we want to be just, is the rectitude of address. Il ne faut pas manquer d’adresse, I might say in French, but above all il ne faut pas manquer l’adresse, one mustn’t miss the address, one mustn’t mistake the address and the address always turns out to be singular. 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? If I were content to apply a just rule, without a spirit of justice and without in some way inventing the rule and the example for each case, I might be protected by law (droit), my action corresponding to objective law, but I would not be just. I would act, Kant would say, in conformity with duty, but not through duty or out of respect for the law. Is it ever possible to say: an action is not only legal, but also just? A person is not only within his rights but also within justice? Such a man or woman is just, a decision is just? Is it ever possible to say: I know that I am just? Allow me another detour.

To address oneself to the other in the language of the other is, it seems, the condition of all possible justice, but apparently, in all rigor, it is not only impossible (since I cannot speak the language of the other except to the extent that I appropriate it and assimilate it according to the law of an implicit third) but even excluded by justice as law (droit), inasmuch as justice as right seems to imply an element of universality, the appeal to a third party who suspends the unilaterality or singularity of the idioms.

When I address myself to someone in English, it is always an ordeal for me. For my addressees, for you as well, I imagine. Rather than explain why and lose time in doing so, I begin in medias res, with several remarks that for me tie the agonizing gravity of this problem of language to the question of justice, of the possibility of justice.

First remark: On the one hand, for fundamental reasons, it seems just to us to “vendre la justice,” as one says in French, in a given idiom, in a language in which all the “subjects” concerned are supposedly competent, that is, capable of understanding and interpreting—all the “subjects,” that is, those who establish the laws, those who judge and those who are judged, witnesses in both the broad and narrow sense,
all those who are guarantors of the exercise of justice, or rather of droit. It is unjust to judge someone who does not understand the language in which the law is inscribed or the judgment pronounced, etc. We could give multiple dramatic examples of violent situations in which a person or group of persons is judged in an idiom they do not understand very well or at all. And however slight or subtle the difference of competence in the mastery of the idiom is here, the violence of an injustice has begun when all the members of a community do not share the same idiom throughout. Since in all rigor this ideal situation is never possible, we can perhaps already draw some inferences about what the title of our conference calls "the possibility of justice." The violence of this injustice that consists of judging those who don't understand the idiom in which one claims, as one says in French, that "justice est faite," ("justice is done," "made") is not just any violence, any injustice. This injustice supposes that the other, the victim of the language's injustice, is capable of a language in general, is man as a speaking animal, in the sense that we, men, give to this word language. Moreover, there was a time, not long ago and not yet over, in which "we, men" meant "we adult white male Europeans, carnivorous and capable of sacrifice."

In the space in which I'm situating these remarks or reconstituting this discourse one would not speak of injustice or violence toward an animal, even less toward a vegetable or a stone. An animal can be made to suffer, but we would never say, in a sense considered proper, that it is a wronged subject, the victim of a crime, of a murder, of a rape or a theft, of a perjury—and this is true a fortiori, we think, for what we call vegetable or mineral or intermediate species like the sponge. There have been, there are still, many "subjects" among mankind who are not recognized as subjects and who receive this animal treatment (this is the whole unfinished history I briefly alluded to a moment ago). What we confusedly call "animal," the living thing as living and nothing else, is not a subject of the law or of law (droit). The opposition between just and unjust has no meaning in this case. As for trials for animals (there have been some) or lawsuits against those who inflict certain kinds of suffering on animals (legislation in certain Western countries provides for this and speaks not only of the rights of man but also of the rights of animals in general); these are considered to be either archaisms or still marginal and rare phenomena not constitutive of our culture. In our culture, carnivorous sacrifice is fundamental, dominant, regulated by the highest industrial technology, as is biological experimentation on animals—so vital to our modernity. As I have tried to show elsewhere, carnivorous sacri-

face is essential to the structure of subjectivity, which is also to say to the founding of the intentional subject and to the founding, if not of the law, at least of law (droit), the difference between the law and law (droit), justice and law (droit), justice and the law remaining open over an abyss. I will leave these problems aside for the moment, along with the affinity between carnivorous sacrifice, at the basis of our culture and our law, and all the cannibalisms, symbolic or not, that structure intersubjectivity in nursing, love, mourning and, in truth, in all symbolic or linguistic appropriations.

If we wish to speak of injustice, of violence or of a lack of respect toward what we still so confusedly call animals—the question is more topical than ever, and so I include in it, in the name of deconstruction, a set of questions on carmo-phallogocentrism—we must reconsider in its totality the metaphysico-anthropocentric axiomatic that dominates, in the West, the thought of just and unjust.

From this very first step we can already glimpse the first of its consequences, namely, that a deconstructionist approach to the boundaries that institute the human subject (preferably and paradigmatically the adult male, rather than the woman, child or animal) as the measure of the just and the unjust, does not necessarily lead to injustice, nor to the effacement of an opposition between just and unjust but may, in the name of a demand more inassignable than justice, lead to a reinterpretation of the whole apparatus of boundaries within which a history and a culture have been able to define their criteria. Under the hypothesis that I shall only touch lightly upon for the moment, what is currently called deconstruction would not correspond (though certain people have an interest in spreading this confusion) to a quasi-nihilistic abdication before the ethico-political juridical question of justice and before the opposition between just and unjust, but rather to a double movement that I will schematize as follows:

1. The sense of a responsibility without limits, and so necessarily excessive, inassignable, before memory; and so the task of recalling the history, the origin and subsequent direction, thus the limits, of concepts of justice, the law and right, of values, norms, prescriptions that have been imposed and sedimented there, from then on remaining more or less readable or presupposed. As to the legacy we have received under the name of justice, and in more than one language, the task of a historical and interpretative memory is at the heart of deconstruction, not only as philologico-etymological task or the historian's task but as responsibility in face of a heritage that is at the same time the heritage of an imperative or of a sheaf of injunctions. Deconstruction is already engaged by this infinite demand of justice, for justice,
which can take the aspect of this “mystique” I spoke of earlier. One must be just with justice, and the first way to do it justice is to hear, read, interpret it, to try to understand where it comes from, what it wants of us, knowing that it does so through singular idioms (Diké, Jus, justitia, justice, Gerechtigkeit, to limit ourselves to European idioms which it may also be necessary to delimit in relation to others: we shall come back to this later) and also knowing that this justice always addresses itself to singularity, to the singularity of the other, despite or even because it pretends to universality. Consequently, never to yield on this point, constantly to maintain an interrogation of the origin, grounds and limits of our conceptual, theoretical or normative apparatus surrounding justice is on deconstruction’s part anything but a neutralization of interest in justice, an insensitivity toward injustice. On the contrary, it hyperbolically raises the stakes of exacting justice; it is sensitivity to a sort of essential disproportion that must inscribe excess and inadequacy in itself and that strives to denounce not only theoretical limits but also concrete injustices, with the most palpable effects, in the good conscience that dogmatically stops before any inherited determination of justice.

2. This responsibility toward memory is a responsibility before the very concept of responsibility that regulates the justice and appropriateness (justesse) of our behavior, of our theoretical, practical, ethico-political decisions. This concept of responsibility is inseparable from a whole network of connected concepts (property, intentionality, will, freedom, conscience, consciousness, self-consciousness, subject, self, person, community, decision, and so forth) and any deconstruction of this network of concepts in their given or dominant state may seem like a move toward irresponsibility at the very moment that, on the contrary, deconstruction calls for an increase in responsibility. But in the moment that an axiom’s credibility (crédit) is suspended by deconstruction, in this structurally necessary moment, one can always believe that there is no more room for justice, neither for justice itself nor for theoretical interest directed toward the problems of justice. This moment of suspense, this period of époché, without which, in fact, deconstruction is not possible, is always full of anxiety, but who will claim to be just by economizing on anxiety? And this anxiety-ridden moment of suspense—which is also the interval of spacing in which transformations, indeed juridico-political revolutions take place—cannot be motivated, cannot find its movement and its impulse (an impulse which itself cannot be suspended) except in the demand for an increase in or supplement to justice, and so in the experience of an inadequacy or an incalculable disproportion. For in the end, where will deconstruction find its force, its movement or its motiva-

tion if not in this always unsatisfied appeal, beyond the given determinations of what we call, in determined contexts, justice, the possibility of justice? But it is still necessary to interpret this disproportion. If I were to say that I know nothing more just than what I today call deconstruction (nothing more just, I’m not saying anything more legal or more legitimate), I know that I wouldn’t fail to surprise or shock not only the determined adversaries of said deconstruction or of what they imagine under this name but also the very people who pass for or take themselves to be its partisans or its practitioners. And so I will not say it, at least not directly and not without the precaution of several detours.

As you know, in many countries, in the past and in the present, one founding violence of the law or of the imposition of state law has consisted in imposing a language on national or ethnic minorities regrouped by the state. This was the case in France on at least two occasions, first when the Villers-Cotteret decree consolidated the unity of the monarchic state by imposing French as the juridico-administrative language and by forbidding that Latin, the language of law and of the Church, allow all the inhabitants of the kingdom to be represented in a common language, by a lawyer-interpreter, without the imposition of the particular language that French still was. It is true that Latin was already a violent imposition and that from this point of view the passage from Latin to French was only the passage from one violence to another. The second major moment of imposition was that of the French Revolution, when linguistic unification sometimes took the most repressive pedagogical turns, or in any case the most authoritarian ones. I’m not going to engage in the history of these examples. We could also find them in this country, today, where this linguistic problem is still acute and will be for a long time, precisely in this place where questions of politics, education and law (droit) are inseparable (and where a debate has been recently begun on “national standards” of education).

Now I am moving right along, without the least detour through historical memory toward the formal, abstract statement of several aporias, those in which, between law and justice, deconstruction finds its privileged site—or rather its privileged instability. Deconstruction is generally practiced in two ways or two styles, although it most often grafts one on to the other. One takes on the demonstrative and apparently ahistorical allure of logico-formal paradoxes. The other, more historical or more anamnesic, seems to proceed through readings of texts, meticulous interpretations and genealogies. I will devote my attention to these two practices in turn.

First I will drily, directly state, I will “address” the following apo-
rias. In fact there is only one aporia, only one potential aporetic that
ininitely distributes itself. I shall only propose a few examples that
will suppose, make explicit or perhaps produce a difficult and unstable
distinction between justice and droit, between justice (infinite, incal-
culable, rebellious to rule and foreign to symmetry, heterogeneous and
heterotopic) and the exercise of justice as law or right, legitimacy or
legality, stabilizable and statutorial, calculable, a system of regulated
and coded prescriptions. I would be tempted, up to a certain point, to
compare the concept of justice—which I'm here trying to distinguish
from law—to Levinas's, just because of this infinity and because of
the heteronomic relation to others, to the faces of otherness that gov-
ern me, whose infinity I cannot thematize and whose hostage I remain.
In Totalité et Infini ("Vérté et Justice," p. 62), Levinas writes: "... la
relation avec autrui—c'est à dire la justice" ("... the relation to
others—that is to say, justice")—which he defines, moreover, as
"droiture de l'accueil fait au visage" (p. 54) ("equitable honoring of
faces"). Equity (la droiture) is not reducible to right or law (le droit),
course, but the two values are not unrelated.
Levinas speaks of an infinite right: in what he calls "Jewish human-
ism," whose basis is not "the concept of man," but rather the other;
the extent of the right of the other" is that of "a practically infinite
right"; "l'étendue du droit d'autrui [est] un droit pratiquement infini"
("Un droit infini," in Du Sacré au Saint, Cinque Nouvelles Lectures Tal-
mudiques, pp. 17-18). Here equity is not equality, calculated propor-
tion, equitable distribution or distributive justice but rather absolute
dissymmetry. And Levinas's notion of justice might sooner be com-
pared to the Hebrew equivalent of what we would perhaps translate as
"sanctity." But since Levinas's difficult discourse would give rise to
other difficult questions, I cannot be content to borrow conceptual
moves without risking confusions or analogies. And so I will go no
further in this direction. Everything would still be simple if this dis-
tinction between justice and droit were a true distinction, an opposi-
tion whose functioning was logically regulated and permitted mastery.
But it turns out that droit claims to exercise itself in the name of justice
and that justice is required to establish itself in the name of a law that
must be "enforced." Deconstruction always finds itself between these
two poles. Here, then, are some examples of aporias.
1. First aporia: épôkhè of the rule.
Our common axiom is that to be just or unjust and to exercise
justice, I must be free and responsible for my actions, my behavior,
my thoughts, my decisions. We would not say of a being without free-
dom, or at least of one without freedom in a given act, that its decision
is just or unjust. But this freedom or this decision of the just, if it is
one, must follow a law or a prescription, a rule. In this sense, in its
very autonomy, in its freedom to follow or to give itself laws, it must
have the power to be of the calculable or programmable order, for
example as an act of fairness. But if the act simply consists of applying
a rule, of enacting a program or effecting a calculation, we might say
that it is legal, that it conforms to law, and perhaps, by metaphor, that
it is just, but we would be wrong to say that the decision was just.
To be just, the decision of a judge, for example, must not only fol-
low a rule of law or in a general law but must also assume it, approve it,
confirm its value, by a reinsituting act of interpretation, as if ultimate-
ly nothing previously existed of the law, as if the judge himself in-
vanted the law in every case. No exercise of justice as law can be just
unless there is a "fresh judgment" (I borrow this English expression
from Stanley Fish's article, "Force," in Doing What Comes Naturally).
This "fresh judgment" can very well—must very well—conform to a
preexisting law, but the reinsituting, reinterpreting and freely decisive
interpretation, the responsible interpretation of the judge requires that
his "justice" not just consist in conformity, in the conservative and
reproductive activity of judgment. In short, for a decision to be just
and responsible, it must, in its proper moment if there is one, be both
regulated and without regulation: it must conserve the law and also
destroy it or suspend it enough to have to reinvent it in each case,
rejustify it, at least reinvent it in the reaffirmation and the new and
free confirmation of its principle. Each case is other, each decision is
different and requires an absolutely unique interpretation, which no
existing, coded rule can or ought to guarantee absolutely. At least, if
the rule guarantees it in no uncertain terms, so that the judge is a
calculating machine, which happens, and we will not say that he is
just, free and responsible. But we also won't say it if he doesn't refer
to any law, to any rule or if, because he doesn't take any rule for
granted beyond his own interpretation, he suspends his decision, stops
short before the undecidable or if he improvises and leaves aside all
rules, all principles. It follows from this paradox that there is never a
moment that we can say in the present that a decision is just (that is,
free and responsible), or that someone is a just man—even less, "I am
just." Instead of "just," we could say legal or legitimate, in conformity
with a state of law, with the rules and conventions that authorize cal-
culation but whose founds origin only defers the problem of justice.
For in the founding of law or in its institution, the same problem of
justice will have been posed and violently resolved, that is to say bu-
ried, dissimulated, repressed. Here the best paradigm is the founding
of the nation-states or the institutive act of a constitution that establishes what one calls in French l'état de droit.

2. Second aporia: the ghost of the undecidable.

Justice, as law, is never exercised without a decision that cuts, that divides. This decision does not simply consist in its final form, for example a penal sanction, equitable or not, in the order of proportional or distributive justice. It begins, it ought to begin, by right or in principle, with the initiative of learning, reading, understanding, interpreting the rule, and even in calculating. For if calculation is calculation, the decision to calculate is not of the order of the calculable, and must not be.

The undecidable, a theme often associated with deconstruction, is not merely the oscillation between two significations or two contradictory and very determinate rules, each equally imperative (for example respect for equity and universal right but also for the always heterogeneous and unique singularity of the unsubsumable example). The undecidable is not merely the oscillation or the tension between two decisions; it is the experience of that which, though heterogeneous, foreign to the order of the calculable and the rule, is still obliged—it is of obligation that we must speak—to give itself up to the impossible decision, while taking account of law and rules. A decision that didn't go through the ordeal of the undecidable would not be a free decision, it would only be the programmable application or unfolding of a calculable process. It might be legal; it would not be just. But in the moment of suspense of the undecidable, it is not just either, for only a decision is just (in order to maintain the proposition “only a decision is just,” one need not refer decision to the structure of a subject or to the propositional form of a judgment). And once the ordeal of the undecidable is past (if that is possible), the decision has again followed a rule or given itself a rule, invented it or reinvented, reaffirmed it, it is no longer presently just, fully just. There is apparently no moment in which a decision can be called presently and fully just: either it has not yet been made according to a rule, and nothing allows us to call it just, or it has already followed a rule—whether received, confirmed, conserved or reinvented—which in its turn is not absolutely guaranteed by anything; and, moreover, if it were guaranteed, the decision would be reduced to calculation and we couldn’t call it just. That is why the ordeal of the undecidable that I just said must be gone through by any decision worthy of the name is never past or passed, it is not a surmounted or sublated (aufgehoben) moment in the decision. The undecidable remains caught, lodged, at least as a ghost—but an essential ghost—in every decision, in every event of decision. Its ghostliness deconstructs from within any assurance of presence, any certitude or any supposed criteriology that would assure us of the justice of a decision, in truth of the very event of a decision. Who will ever be able to assure us that a decision as such has taken place? That it has not, through such and such a detour, followed a cause, a calculation, a rule, without even that imperceptible suspense that marks any free decision, at the moment that a rule is, or is not, applied?

The whole subjectal axiomatic of responsibility, of conscience, of intentionality, of property that governs today’s dominant juridical discourse and the category of decision right down to its appeals to medical expertise is so theoretically weak and crude that I need not emphasize it here. And the effects of these limitations are massive and concrete enough that I don’t have to give examples.

We can already see from this second aporia or this second form of the same aporia that the deconstruction of all presumption of a determinate certitude of a present justice itself operates on the basis of an infinite “idea of justice,” infinite because it is irreducible, irreducible because owed to the other, owed to the other, before any contract, because it has come, the other's coming as the singularity that is always other. This “idea of justice” seems to be irreducible in its affirmative character, in its demand of gift without exchange, without circulation, without recognition or gratitude, without economic circulation, without calculation and without rules, without reason and without rationality. And so we can recognize in it, indeed accuse, identify a madness. And perhaps another sort of mystique. And deconstruction is mad about this kind of justice. Mad about this desire for justice. This kind of justice, which isn’t law, is the very movement of deconstruction at work in law and the history of law, in political history and history itself, before it even presents itself as the discourse that the academy or modern culture labels “deconstruction.”

I would hesitate to assimilate too quickly this “idea of justice” to a regulative idea (in the Kantian sense), to a messianic promise or to other horizons of the same type. I am only speaking of a type, of this type of horizon that would have numerous competing versions. By competing I mean similar enough in appearance and always pretending to absolute privilege and irreducible singularity. The singularity of the historical place—perhaps our own, which in any case is the one I’m obscurely referring to here—allows us a glimpse of the type itself, as the origin, condition, possibility or promise of all its exemplifications (messianism of the Jewish, Christian or Islamic type, idea in the Kantian sense, eschatological of the neo-Hegelian, Marxist or post-Marxist type, etc.). It also allows us to perceive and conceive the law of irreducible competition (concurrency), but from a brink where
be performatives that institute something or derived performatives supposing anterior conventions. A constative can be juste (right), in the sense of justesse, never in the sense of justice. But as a performative cannot be just, in the sense of justice, except by founding itself on conventions and so on other antefor performatives, buried or not, it always maintains within itself some irruptive violence, it no longer responds to the demands of theoretical rationality. Since every constative utterance itself relies, at least implicitly, on a performative structure (“I tell you that, I speak to you, I address myself to you to tell you that this is true, that things are like this, I promise you or renew my promise to you to make a sentence and to sign what I say when I say that, tell you, or try to tell you the truth,” and so forth), the dimension of justesse or truth of the theorectico-constatie utterances (in all domains, particularly in the domain of the theory of law) always thus presupposes the dimension of justice of the performative utterances, that is to say their essential precipitation, which never proceeds without a certain dissymmetry and some quality of violence. That's how I would be tempted to understand the proposition of Levinas, who, in a whole other language and following an entirely different discursive procedure, declares that: “La vérité supposer la justice” (“Truth supposes justice”) (Vérité et justice,” in Totalité et infini 3, p. 62). Dangerously parodying the French idiom, we could end up saying: “La justice, y a qu’ça de vrai.” This is not without consequence, needless to say, for the status, if we still can call it that, of truth.

Paradoxically, it is because of this overflowing of the performative, because of this always excessive haste of interpretation getting ahead of itself, because of this structural urgency and precipitation of justice that the latter has no horizon of expectation (regulative or messianic). But for this very reason, it may have an avenir, a “to-come,” which I rigorously distinguish from the future that can always reproduce the present. Justice remains, is yet, to come, à venir, it has an, it is à-vienir, the very dimension of events irreducibly to come. It will always have it, this à-vienir, and always has. Perhaps it is for this reason that justice, insofar as it is not only a juridical or political concept, opens up for l’avenir the transformation, the recasting or refounding of law and politics. “Perhaps,” one must always say perhaps for justice. There is an avenir for justice and there is no justice except to the degree that some event is possible which, as event, exceeds calculation, rules, programs, anticipations and so forth. Justice as the experience of absolute alterity is unrepresentable, but it is the chance of the event and the condition of history. No doubt an unrecognizable history, of course, for those who believe they know what they’re talking about when they
use this word, whether it's a matter of social, ideological, political, juridical or some other history.

That justice exceeds law and calculation, that the unrepresentable exceeds the determinable cannot and should not serve as an alibi for staying out of juridico-political battles, within an institution or a state or between institutions or states and others. Left to itself, the incalculable and giving (donatrice) idea of justice is always very close to the bad, even to the worst for it can also be reappropriated by the most perverse calculation. It's always possible. And so incalculable justice requires us to calculate. And first, closest to what we associate with justice, namely, law, the juridical field that one cannot isolate, within sure frontiers, but also in all the fields from which we cannot separate it, which intervene in it and are no longer simply fields: ethics, politics, economics, psycho-sociology, philosophy, literature, etc. Not only must we calculate, negotiate the relation between the calculable and the incalculable, and negotiate without the sort of rule that wouldn't have to be reinvented there where we are cast, there where we find ourselves; but we must take it as far as possible, beyond the place we find ourselves and beyond the already identifiable zones of morality or politics or law, beyond the distinction between national and international, public and private, and so on. This requirement does not properly belong either to justice or law. It only belongs to either of these two domains by exceeding each one in the direction of the other. Politicization, for example, is interminable even if it cannot and should not ever be total. To keep this from being a truism or a triviality, we must recognize in it the following consequence: each advance in politicization obliges one to reconsider, and so to reinterpret the very foundations of law such as they had previously been calculated or delimitized. This was true for example in the Declaration of the Rights of Man, in the abolition of slavery, in all the emancipatory battles that remain and will have to remain in progress, everywhere in the world, for men and for women. Nothing seems to me less outdated than the classical emancipatory ideal. We cannot attempt to disqualify it today, whether cruelly or with sophistication, at least not without treating it too lightly and forming the worst complications. But beyond these identified territories of juridico-politicization on the grand geopolitical scale, beyond all self-serving interpretations, beyond all determined and particular reappropriations of international law, other areas must constantly open up that at first can seem like secondary or marginal areas. This marginality also signifies that a violence, indeed a terrorism and other forms of hostage-taking are at work (the examples closest to us would be found in the area of laws on the teaching and practice of languages, the legitimization of canons, the military use of scientific research, abortion, euthanasia, problems of organ transplant, extra-uterine conception, bio-engineering, medical experimentation, the social treatment of AIDS, the macro- or micro-politics of drugs, the homeless, and so on, without forgetting, of course, the treatment of what we call animal life, animality. On this last problem, the Benjamin text that I'm coming to now shows that its author was not deaf or insensitive to it, even if his propositions on this subject remain quite obscure, if not quite traditional).

If I have not exhausted your patience, let us now approach, in another style, the promised reading of a brief and disconcerting Benjamin text. I am speaking of Zur Kritik der Gewalt (1921), translated as Critique of Violence. I will not presume to call this text exemplary. We are in a realm where, in the end, there are only singular examples. Nothing is absolutely exemplary. I will not attempt to justify absolutely the choice of this text. But I could say why it is not the worst example of what might be exemplary in a relatively determined context such as ours.

1. Benjamin's analysis reflects the crisis in the European model of bourgeois, liberal, parliamentary democracy, and so the crisis in the concept of droit that is inseparable from it. Germany in defeat is at this time a place in which this crisis is extremely sharp, a crisis whose originality also comes from certain modern features like the right to strike, the concept of the general strike (with or without reference to Sorel). It is also the aftermath of a war and a pre-war that saw the European development and failure of pacifist discourse, antimilitarism, the critique of violence, including juridico-police violence, which will soon be repeated in the years to follow. It is also the moment in which questions of the death penalty and of the right to punish in general are painfully current. Change in the structures of public opinion, thanks to the appearance of new media powers such as radio, begins to put into question this liberal model of parliamentary discussion or deliberation in the production of laws and so forth. Such conditions motivated the thoughts of German jurists like Carl Schmitt, to mention only him. And so I was also interested by several historical indices. For example, this text, at once "mystical" (in the overdetermined sense that interests us here) and hypercritical, this text which, in certain respects, can be read as neo-messianical Jewish mysticism (mystique) grafted onto post-Sorelian neo-Marxism (or the reverse), upon its publication won Benjamin a letter of congratulations from