

# Of Butchers and Policemen

Law, Justice and Economies of Anxiety

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## Deconstruction as Justice

The common criticism of deconstruction's 'lack of an ethics', or charges of its anti-ethical stance, could be understood in the light of an anxiety that Derrida has constantly sought to (re)introduce into and often retain in the structure of decision, into the realm of the ethical. The deconstructive enterprise, critics claim, destabilises any and every ethical stance through subjecting it to what seems like an infinite critical interrogation that makes ethical action/decision (almost) impossible.

Derrida's "The Force of Law: The Mystical Foundation of Authority",<sup>1</sup> (henceforth referred to in this essay as FL) is said to have offered "his most strenuous response to date to the charge that deconstruction is unethical or anti-ethical" (Kearney, 1993:35). He argues here that the incompatibility between deconstruction and the ethical question of justice is more apparent than real, insofar as his previous "discourses on double affirmation, the gift beyond exchange and distribution, the undecidable, the incommensurable or the incalculable or on singularity, difference and heterogeneity are also through and through, at least, *obliquely* discourses on justice" (FL, p.7). This essay seeks to explicate Derrida's notion of justice as that which *perpetually* deconstructs law insofar as it highlights the jurisprudential process as an urgent coming to decision *even and especially* without precedence, rather than as a mere calculated exercise of legal precedence.

## Origins Problematised

Rosenfeld notes that a serious engagement with deconstruction does not allow one the comforts of an "easy solution to the crisis affecting legal interpretation" (Rosenfeld, 1993:153). In fact, as Derrida shows in the "multiple protocols and detours" that characterise his own address, one cannot even *begin* to *speak about* justice without a betrayal of the very precepts of that justice, insofar as the *definitive* moment, that is, the moment that *defines*, is always one of violence (and force). Derrida finds this exemplified in Montaigne's notion of the "*mystical foundation of authority*".<sup>2</sup> The deconstructive critique of jurisprudence could be conceived thus, as centred on a problematisation and demystification of this notion of the origin/foundation (especially that of *original intent*) in legal interpretation. Deconstruction presents a two-pronged critique of this jurisprudential

reliance on the foundational/original. First, it reveals the *contamination* of the inaugural mo(ve)ment by a law-founding violence that is antithetical to the very notions of legitimacy subsequently instituted. Second, deconstruction points to “the multiple writings, erasures and intersubjective collaborations” (Rosenfeld, 1993:153), the *traces of the other*, that infuse the original law-founding moment; thus frustrating a naive jurisprudential identification of/with *original intent*.

The call to justice or the demand on one to make a legal decision marks the inaugural instance of a particular law. The beginning, the point at which something is defined as law (legal), is an inauguration instituted by a violence on its own precepts; what Benjamin characterised as law-founding violence. The sources that “justify” a particular law, however, are always extrinsic to itself in its founding moment.<sup>3</sup> As Kearney notes, “(t)he foundation of a law is always outside the law thus founded. The principle of foundation cannot found itself” (Kearney, 1993:35). The inaugural is here, as in Heidegger, a necessarily violent mo(ve)ment.<sup>4</sup>

This inaugural mo(ve)ment, for Derrida, is also a performative (*à la* Austin) mo(ve)ment: “The very emergence of justice and law, the founding and justifying moment that institutes law implies a performative force, which is also an interpretative force...of a performative and interpretative violence that in itself is neither just nor unjust and that no justice or previous law with its founding anterior moment could guarantee or contradict or invalidate” (FL, p. 13). This ‘original’ point, at which Derrida posits a limit to (justifying) discourse, is filled with (“emptied out” as) a space of silence and as the mystical (in fact, mystical because silent) – as a “violence without ground” (FL, p. 14).<sup>5</sup> A silence constituted by a silencing; a space that coheres because of its refusal to ‘hear’ what Derrida calls, the “call of the other”. A discursive coherence constituted by the muted voices of some other.<sup>6</sup>

Slavoj Žižek provides an excellent discussion of this originary complicity between violence and law in his *They Know Not What They Do: Enjoyment as Political Factor* (1991), where he arrives at insights similar to (though independent of) Derrida’s “The Force of Law” essay. Žižek notes that “any given field of symbolically structured meaning in a way always presupposes and precedes itself. Once we are within a field of meaning it is by definition impossible to adopt an external attitude towards it”, so much so that “(t)he hidden chasm of this vicious circle appears only at its purest under the guise of *tautology*: ‘law is law’, ‘God is God’” (p. 203). In a way that critically echoes Pascal, Žižek invokes this tautology as the very basis of the mystical authority of law.<sup>7</sup> He employs Pascal’s discussions of how the law functions through a careful deception of those it subjects. For Pascal, “(a)t the beginning’ of the law, there is a certain ‘outlaw’, a certain Real of violence which coincides with the act itself of the establishment of the reign of law”. However, it is “the disavowal of this violent act of foundation”, of this originary usurpation, that sustains the legitimate appeal of the law. “The illegitimate violence by which law sustains itself must be concealed at any price, because *this concealment is the positive condition of the functioning of law*: it functions insofar as its subjects are deceived, in so far as they experience the authority of law as ‘authentic and eternal’ and overlook ‘the truth about the usurpation’” (Žižek, 1991:204; emphases mine).<sup>8</sup>

It is from a sensitivity to the problematic origins of/at the institution of law that deconstruction advises caution toward the more “narrowly circumscribed and simpler jurisprudence of original intent, where the meaning of the legal texts can be precisely framed by reference to some transparent, self-present intent of the framer of a constitution, a legislator or a party to a private contract” (Rosenfeld, 1993:153). The conception of an “original intent” institutes a discursive economy of the actual historical contingencies that may have infused and informed the interpretative context at its “original” instance (instantiation). “From the standpoint of deconstruction, every writing (including the writing of laws) embodies a failed attempt at reconciling identity and difference, unity and diversity and self and other”; thus, any pretensions, as those made by much legal discourse given its “universalist aspirations”, to have achieved such a reconciliation, “can only be the product of ideological distortion, suppression of difference or subordination of the other” (ibid., 1993: 153).

For Derrida, this economy of/in law, providing calculability, constitutes its critical difference from justice. He says, “(l)aw (*droit*) is not justice. Law is the element of calculation, and it is just that there be law; but justice is incalculable, it requires us to calculate with the incalculable”. Such contention with incalculability constitutes the “aporetic experiences” which are “improbable as they are necessary, of justice” (FL, p. 16). Thus, resorting to the economizing gestures of “original intent”, legal interpretation/decision would inevitably circumvent the responsibilities and (according to Derrida) “healthy” anxieties entailed by/in the call of justice.<sup>9</sup>

The fact that law’s “ultimate foundations are by definition unfounded”, however, is for Derrida “not bad news”, as long as it does not “serve as an alibi for staying out of juridico-political battles”. He claims that “it is this deconstructible structure of law (*droit*)...that also insure(s) the possibility of deconstruction. Justice in itself, if such a thing exists, outside or beyond law, is not deconstructible”. From this fact of the essential impossibility of deconstruction with reference to justice, Derrida moves on to claim that “Deconstruction is justice” (FL, pp. 14-15).<sup>10</sup> Thus, while the programmatic structure of law makes it amenable to deconstruction, the unprogrammatic structure of justice makes it inseparable from deconstruction. This means that “deconstruction takes place in the interval that separates the undeconstructibility of justice from the deconstructibility of *droit* (authority, legitimacy, and so on)” (FL, p. 15).

For Derrida, deconstruction, which is “already engaged” in the “demand for infinite justice” (FL, p. 19), must be “*juste* with justice, and the first way to do it 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...and also knowing that this justice always addresses itself to singularity, the singularity of the other, despite or even because it pretends to universality” (FL, p. 20). Hence, deconstruction confronts issues of justice not as programme but as vigilance;<sup>11</sup> “a responsibility before the very concept of responsibility that regulates the justice and appropriateness (*justesse*) of our behaviour, of our theoretical, practical, ethico-political decisions” (ibid.). He claims that this responsibility holds one in “a moment of suspense, this period of *epoche*, without which, in fact, deconstruction is not possible”.

He also suggests that this moment is “always full of anxiety” but consoles somewhat with the rhetorical remark, “but who will claim to be just by *economizing on anxiety?*” (FL, p. 20; emphasis mine). Derrida seems to have identified such anxiety as/with the very force that moves and maintains the deconstructive enterprise with reference to the question of justice. “For in the end, where will deconstruction find its force, its movement or its motivation if not in this always unsatisfied appeal, beyond the given determinations of the what we call, in determined contexts, justice, the possibility of justice?” (ibid., pp. 20-21). Thus, Derrida conceives justice as that which lodges itself into the legal machine as an “unsurpassable aporia” (Cornell, 1992:133) that constantly de-constructs it. A careful analysis of this notion of justice as aporia is necessary before one can “judge” the ethics of responsibility (and structure of decision) Derrida derives from it.

### **Aporetic Justice**

It has been shown thus far that, for Derrida, illegitimacy lurks at the origins of every law, insofar as nothing that precedes it could lend it legitimacy. “The foundation of any and every law is marked by an originary contamination” (Kearney, 1993:35).<sup>12</sup> His deconstructive stance as justice demands a recognition of this originary contamination; a recognition that helps prevent the justification of and reverential adherence to some present norm as justice. Derrida attempts to effect this deconstructive attitude as justice by identifying aporia as fundamental to the constitution and operation of justice. For Derrida, a proper contention with the call of justice should be based upon a “working through” of these aporias “between law and justice” with reference to which “deconstruction finds its privileged site – or rather its privileged instability” (FL, p. 21).<sup>13</sup>

Derrida identifies “three examples of the operational force of Justice as aporia” (Cornell, 1992:133). First, he introduces the aporia between *epoche* and rule. The one who is called to judge always confronts an aporetic between the law/rule, which unambiguously prescribes what the decision ought to be and the demands of justice that advise/necessitate a “fresh” interpretation of the prescribed law vis-à-vis the specificities of the case at hand. Derrida claims that “(t)o be just, the decision of a judge, for example, must not only follow a rule of law but must also assume it, approve it, confirm its value, by a reinstating act of interpretation, as if ultimately nothing previously existed of the law, as if the judge himself invented the law in every case”. This “reinstating act of interpretation” is one that coheres with the pre-scribed rule without conforming to it insofar as it “suspends” it “enough to reinvent it in each case, rejustify it, at least reinvent it in the reaffirmation and the new and free confirmation of its principle” (FL, p. 23).

The second aporia issues from what Derrida calls the “ghost of the undecidable”. 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...to give itself up to the impossible decision while taking account of law and rules” (FL, p. 24). Here, the similarities and affinities with the first aporia seem obvious. Legal prescription/decision is always problematised and even defined by some reference or other to issues of justice that defy calculability and/or universalisability. Similarly, these very notions of justice operate as, and are articulated through, some form

of rule determination or legal system. Derrida claims that "(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 is not just" (FL, p. 24). However, Derrida should not be mistaken, as he has been by many of his critics, to be pointing to the impossibility of decisions/judgements. It is useful to see the "undecidable" as the space/spacing of justice that punctuates legal interpretation/decisions with an "other" that is otherwise suppressed. It is an "acknowledgement of otherness in sameness, of the extralegal in the legal" (Kearney, 1993:38). For Derrida, in fact, justice is this spacing that allows for the "other".

Thus, "(t)here 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". This nudges Derrida to claim that "the ordeal of the undecidable...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...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 the decision" (Derrida, 1993:24-25). However, Derrida notes that this "infinite call to justice" is caught in constant conflict with the urgency demanded of just/ethical action. While the infinite call to justice involves one in some (necessary?) period of 'waiting', justice itself "cannot wait" insofar as "a just decision is always required immediately, right away" (FL, p. 26).

The third aporia is the urgency that always frustrates and interrupts the cognitive/ethical deliberations entailed in matters of justice. Since the decision makes immediate demands for justice, Derrida claims, it "cannot furnish itself with infinite information and the unlimited knowledge of conditions, rules or hypothetical imperatives that could justify it". In fact, even if all the necessary information could be gathered and be at one's disposal, "the moment of decision, as such, always remains a finite moment of urgency and precipitation, since it must not be the consequence or the effect of this theoretical or historical knowledge, of this reflection or this deliberation, since it always marks the interruption of the juridico-or-ethico-or-politico-cognitive deliberation that precedes it, that must precede it...a decision of urgency and precipitation, acting in the night of non-knowledge and non-rule" (FL, p. 26).<sup>14</sup>

Borrowing from Kierkegaard, Derrida asserts that the "instant of decision is a madness" (FL, p. 26), where the "madness" suggests not the lack but the impossibility of cognitive reference in the decision.<sup>15</sup> The moment of decision thus infused by this "overflowing of the performative" (*ibid.*, p. 27) advances urgently and where its relationship to knowledge is heterogenous, toward "a future which is not known, which cannot be anticipated" (Derrida, 1994:38). Thus "(j)ustice remains, is yet to come, it is a *venir*, the very dimension of events irreducibly to come" (*ibid.*). For Derrida, it is excess and/or heterogeneity that characterises the horizons of one's knowledge with reference to some decision that ensures justice as a *venir*, as always-yet-to-come.

### Anxious Justice

For Derrida, thus, an aporetic sensibility toward justice demands a responsibility that is incalculable, heterogeneous and infinite, and which frustrates closure and stability. It is an ethics of responsibility that is constituted by twin responsibilities to history and to alterity.<sup>16</sup> Justice as *aporia* allows the space within which the historical transformation and reinstatement of law can be carried out. He characterises this responsibility toward history as one “without limits, and so necessarily excessive, incalculable, before memory” which involves “the task of recalling the history, the origin and subsequent directions, thus the limits, of concepts of justice, the law and right, of values, norms, and prescriptions that have been imposed and sedimented there, from then on remaining more or less readable or presupposed”. Thus for him, “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 a heritage of an imperative or of a sheaf of injunctions” (FL, p. 19).<sup>17</sup>

This stance, Derrida asserts, is not only one toward what is given as one’s heritage but also with reference to what is yet to come as one’s future. As Beardsworth notes, the aporetic experience “allows the future to arrive as a future (and not as a future present), and so it allows for the future of decision (a future in which decisions can ‘take place’ and decisions in which the future is not anticipated)” (Beardsworth, in Derrida, 1994:40).

Derrida has also asserted elsewhere that deconstruction is an “openness towards the other” (Derrida, 1984:125), and insofar as this is true, the deconstructive stance that is justice is equally an openness and responsibility towards the other. In “The Politics of Friendship”, Derrida examines the nature of responsibility through the notion of “response” which it derives from. “Responding always supposes the other in the relation to oneself...” (Derrida, 1988:639), and as such contains within itself the trace of the other, which discursively frames every response as a response to and/or from the other. Kearney argues that Derrida’s ethics of responsibility is “decidedly Levinasian”, especially drawing from Levinas’ notion of “*difficile liberté*”, which conceives the subject as hostage, constantly “beholden to the summons of the other” (Kearney, 1993a:8). Derrida claims that “(w)e are already caught surprised in a certain responsibility...(which) assigns us our freedom without leaving it with us...It is assigned to us by the other, from the other, before any hope of reappropriation permits us to assume this responsibility in the space of what could be called autonomy” (Derrida, 1988:634). It is thus a responsibility that forever defies one’s assumption of an autonomous realm of subjective freedom.<sup>18</sup>

This “primordial indebtedness to the other” (Kearney, 1993:38) is justice that “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” (FL, p. 25). The stress on “infinity”, obviously deriving from Levinas, is posited as an antithesis to “totality”, whereby the (metaphysical) closure entailed (effected) by the latter is subverted by the “openness” of the former. It is this infinity that constitutes the aporetic that is justice, that is deconstruction, which thus allows for transformation and movement within/of the legal machine.

He claims that such constant interrogation of the “origins, 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”; for “on the contrary, it hyperbolically raises the stakes of exacting justice”.<sup>19</sup> Deconstruction thus assumes a (re)new(ed) sensitivity to an “essential disproportion that must inscribe excess and inadequation in itself” and “strives to denounce not only theoretical limits but also concrete injustices...in the good conscience that dogmatically stops before any inherited determination of justice” (FL, p. 20). This “stopping before” some (any?) “inherited” notion of justice, before that which otherwise (in fact, being not wise to/of “the other”) threatens to reduce decision to “nothing but the mechanical application of a rule” (Derrida, 1994:38), forces one to pass through an experience of the aporetic, of the undecidable in the coming to a decision. For Derrida, the responsibilities of just action and decision are necessarily antithetical to an economising on this anxiety, since decision derives from a passage through and constant contention with the singularity of those anxiety-ridden moments always co-implicated in/by it.

### **Butchers and Policemen**

While recounting his encounter with Kurtz, an errant agent of the Belgian colonial regime in the Congo (who had in his dealings with the natives moved “beyond the bounds of permitted aspirations”), in utter frustration with the empty stares of his audience, Marlow, the narrator in Joseph Conrad’s *Heart of Darkness* (p. 85) cries:

“You can’t understand. How could you? With solid pavement under your feet, surrounded by kind neighbours ready to cheer you or to fall on you, stepping delicately between the butcher and policeman, in the holy terror of scandal, gallows and lunatic asylums...These little things make all the great difference. When they are gone you must fall back on your own innate strength, upon your own capacity for faithfulness”.

Marlow’s is a frustration born not only from his own incapacity to adequately articulate his extraordinary experiences, but also from a realisation that the life situations and experiences of his audience made his own experiences almost incommensurable. The comfort, coherence and happy complacency of his audience’s (as of our) ‘civilised’ lives, where the daily anxieties and responsibilities of killing what was to become food at one’s table, and of handling social relationships not always free from conflict, had been ‘handed over’ to the butcher and the policeman respectively, were for Marlow the very things that made his experiences inscrutable to them. In fact, ‘civilisation’ and ‘culture’ are, it seems, nothing but the *institutionalised circumvention and/or deferral of responsibilities*; an economising on the anxieties that constantly problematise life’s many decisions/actions. A deferral and displacement of responsibilities to the other; *other occasions and other vocations*. The challenges of an aporetic justice are to be ever vigilant to the comforts afforded by the economy of anxiety that *is* law; that defers justice.

## NOTES

1. Note that I have chosen here to critically engage only the first part of this essay which Derrida conceived for and presented at the colloquium “Deconstruction and the Possibility of Justice” in October 1989. The second part, where Derrida engages Benjamin’s “Critique of Violence” essay, will not be discussed here. Though the substantive relevance of Derrida’s arguments there for my discussion here is acknowledged, the thematic focus I choose to adopt here places any lengthy critical engagement with this second part well beyond the scope of the present essay.
2. Derrida notes that for Montaigne, “...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” (Montaigne, cited in FL, p. 12).
3. Hamacher, in his critically acclaimed review of Benjamin’s “Critique of Violence”, notes that “(w)hile all that is law rest on a law-making, law-positing, law-imposing violence, and such law-imposing violence is represented in all law-preserving or administrative violence, the idea of justice cannot depend on the law’s powers of imposition. Justice must therefore belong to a sphere equally distant from the law on the one hand and from the violence of its imposition and enforcement on the other”. (Hamacher, 1994:110) Hamacher presents the extrinsic nature of justice as some ‘logical’ necessity, as is exemplified in his use of the words “cannot” and “must”, when in fact, it is more accurate to perceive this ‘necessity’ as one that has been historically constructed.
4. It is noteworthy also that for both Heidegger and Derrida, the inaugural is retrospectively reinforced by/in its repetition; in fact, it is this repetition that inaugurates the inaugural as inaugural, and thus as violent. The question remains, however, about how one actually (re)cognises something as violent as and when it happens if it is its repetition (only?) that marks it as inaugural/violent. Derrida seems to recognise this difficulty of recognition at various points of his essay, but fails to adequately address the ethical issues that it entails.
5. A worthwhile interjection here would be to ask if this silence that is co-implicated in the inaugural is one of muffled voices and/or gagged mouths, i.e., deriving from an inaugural violence, which is not merely discursive? Even the silence of the audience that listens to, even allows the displacement of its silence by, the voice (and accompanying presence) of the speaker, Derrida, is based on a significant violence.
6. Derrida’s analysis of the force of/in law had been anticipated in Hegel’s *Phenomenology of Spirit*. There Hegel argues that force “posits a difference that is not only not a difference for us, but one that the movement itself cancels as a *differance*...What is present here is not merely bare unity in which no difference would be posited, but rather a movement in which a distinction is certainly made but because it is no distinction, is again cancelled” (Hegel, 1977:95). In Hegel’s dialectics, difference is an “ever-to-be-subsumed”. Taylor succinctly presents this place of difference as “a second moment in a three-part dialectic that begins and ends in unity” (Taylor, 1993:85). However, unlike Hegel who sublates difference, Derrida presents difference as a *differance* that constantly eludes and even defies the forceful dialectical reappropriation. While for Hegel “(l)aw relates opposites that appear to be different in a dialectic of mutual constitution in which each is posited through the other”, Derrida questions whether the Hegelian dialectic truly engages difference as difference (Taylor, 1993:86).
7. Pascal provides in his *Pensées*, a discussion of how the tautologous structure of the law helps perpetuate what his predecessor, Montaigne, had described as “the mystical foundation of authority”. Pascal notes that, “(m)erely according to reason, nothing is just in itself, everything shifts with time. Custom is the whole

of equity for the sole reason that it is accepted. That is the mystical basis of its authority. Anyone who tries to bring it back to its first principle destroys it...Anyone obeying them because they are just is obeying an imaginary justice, not the essence of law, which is completely self-contained: it is law and nothing more" (Pascal, 1966:46). From this fact that the basis of law is mystical, Pascal goes on to say that legitimacy relies on the continual deception of those subjected to the law, which is "why the wisest of legislators used to say that men must often be deceived for their own good, and another sound politician: 'When he asks about the truth that is to bring him freedom, it is a good thing that he should be deceived'". Pascal warns that the originary usurpation, which "came about without reason and has become reasonable", should not be "made apparent" to ensure that "it is regarded as authentic and eternal" for "its origins must be hidden if we do not want it soon to end" (Pascal, 1966:47).

8. It is noteworthy here that Zizek merely notes Pascal's claim about the deception that sustains the law, and, in fact, does not espouse to it. Zizek's discussion about what constitutes the 'force' of law will be discussed later in this essay.
9. "(B)y isolating a particular writing and by elevating it above all other writings in such a way as to sever the intertextual links that constitute an indispensable precondition to the generation of meaning, the jurisprudence of original intent both promotes blind worship of the arbitrary and the unintelligible and blocks the discovery of the intertextual connections necessary to endow legal acts with meaning" (Rosenfeld, 1993:153).
10. As he says elsewhere, "...that in the name of which one deconstructs is not in the last instance deconstructible. I call this irreducibility, 'justice'" (Derrida, 1994:35).
11. This notion of vigilance would be examined at greater length later, but suffice it now to note that an 'ethic of vigilance', almost, seems to have been operative in the Continental philosophical tradition since the time of Kierkegaard. The recent postmodernist temperament also reflects a similar 'vigilance'.
12. The notion or law of contamination, as he referred to it in a recent interview, plays a central role in Derrida's conception of responsibility. He says in a recent interview with Beardsworth, "I defy anyone to show a political discourse or posture today which escapes (this) law of contamination". Conceiving contamination as "inevitable", Derrida claims, "one cannot side-step its law whatever one attempts to do" since "responsibility cannot consist in denying or (de)negating contamination, in trying to 'save' a line of thought or action from it. On the contrary, it must consist in assuming this law, in recognising its necessity, in working from within the machine, by formalising how contamination works and by attempting to act accordingly. Our very first responsibility is to recognise that this terrifying programme is at work everywhere and to confront the problem head-on; not to flee it by denying its complexity, but to think it as such" (Derrida, 1994:42).
13. There is a certain validation of the aporetic that is characteristic not only of Derrida's work, but of the postmodernist temperament as a whole. The aporetic especially is a continuing theme and concern of Derrida's work. For example, even in the more recent "The Other Heading", he defends the need to maintain the aporetic in any responsible political action through a tolerance toward/of the antinomies that characterise ethical-political decisions. He says that, "(t)o have at one's disposal, already in advance, the generality of the rule as a solution to the antinomy...would be the surest, the most reassuring definition of responsibility as irresponsibility, of ethics confused with juridical calculation..." (Derrida, 1992:72). He goes even further when he says, "I will even venture to say that ethics, politics and responsibility, if there are any, will only ever begin with the experience and the experiment of aporia. When the path is clear and given, when a certain knowledge opens up the way in advance, the decision is already made, it might as

well be said that there is none to make..." (ibid., p. 41).

14. Here, while it is true that the moment of decision is in its urgent execution separate(d) from the cognitive/ethical deliberations that precede it, Derrida's claim that the decision "must not be the consequence...or effect" of these deliberations is problematic. The structural finitude of the decision and the suspension of the deliberations that precede it during the decisive moment do not provide enough justification for Derrida to render peripheral the role of deliberation in decision-making.
15. Derrida has not elaborated on or clarified this notion of "madness" of/in decision, in this essay. However, his explanation of the relationship between knowledge and decision found in his recent interview with Beardsworth sheds some light of/on the nature of this "madness". He says, "...if I know, for example, what the causes and effects of what I'm doing are, what the programme is for what I'm doing, then there is no decision; it's a question, at the moment of judgment, of applying a particular causality...For there to be a decision, the decision must be heterogeneous to knowledge as such" (Derrida, 1994:37). Seeming to read "madness" as indicating its operation at some "prereflective level", Kearney (1993:38) is mistaken in that Derrida does not posit the decision to be prior to reflection but only devoid of reflection at the moment of decision.
16. In fact, it is useful to consider this twin responsibility as really a single responsibility to "history-as-alterity" or "alterity-as-history", insofar as one is necessarily co-implicated in the operations of the other. Derrida himself, in a way that seems to acknowledge this co-implication, says, "(t)here is an *venir* 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, but it is the chance of the event and the condition of history" (FL, p. 27).
17. Here, it is noteworthy that the spirit of this stance is opposed to that espoused by Kant in his "Metaphysics of Morals". Kant "formally prohibits the exploration of the origins of the legitimate order" since it "cancels its own validity by making it dependent on historico-empirical circumstances" for "...we cannot at one and the same time assume the historical origins of the law in some lawless violence and remain its subjects. As soon as the law is reduced to its lawless origins, its full validity is suspended" (See Zizek, 1991:205). In fact, Derrida's "responsibility in the face of a heritage" invites parallels not only with Heidegger's stance toward history as tradition (as presented, especially, in Section 5 of his *Being and Time*; in his "The Concept of Time in the Science of History" (1916); and in his "The Origin of the Work of Art" (1935); but also with Nietzsche's/ Foucault's genealogy.
18. This paradoxical "trace of the other" that seems to both precede and exceed the "subject" in a way that frustrates autonomy is what Levinas has elsewhere referred to as "posterior anteriority".
19. Here, the reference to the idea of "raising the stakes" is particularly noteworthy insofar as it invokes the issue of "risk", an issue which necessarily implies and entails a certain amount of anxiety. I will discuss this issue of risk with reference to anxiety later in this essay.

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