

# Derrida Before the Law

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'DERRIDA' – THE WORK OF JACQUES DERRIDA – IS COMMANDED BY A RHETORIC OF command. What Jacques Derrida does is lay down the law. Derrida's reading and criticism, his philosophy, his ethics and politics – his ethico-politics and politico-ethics – are all and always a matter of the law, of legislation: all based in a sense of particular laws and universal law, of the ubiquity and necessity of law. His interpretative effort is a profound and wide *Hermeneutik* of the legal, a huge effort to illustrate laws in operation in texts, in ethical encounters and political practices, in theory of all sorts, in practices of every kind.

Derrida is the grand legislator of deconstruction – the self-acknowledging legislator of the deconstructive world. His voice and rhetoric are the voice and rhetoric of command, dictation, ordering. *Il y a, il n'y a pas*, he keeps saying. *Il n'y a pas de hors-texte*, for example, his most famous Diktat (in the *Grammatology*).<sup>1</sup> *Il n'y a aucun de sens* (no way at all) of going beyond the concepts of metaphysics in order to unsettle metaphysics; he does not believe 'qu'il y ait aujourd'hui à *choisir*' between the Two Interpretations of Interpreting, the onto-theologocentric and the deconstructive (there's no way you can separate the two).<sup>2</sup> 'What comes to pass in a sacred text is the occurrence of a *pas de sens*'; the sacred consists of this *pas de sens*, the no-way way.<sup>3</sup> *Pas de sens*: the path of prohibition; no way for this or that; the barred path; *pas*, the step, that is in itself a not, a no-no; the step that's a non-step. *Pas*: not; not that; not this; no step or stepping that way. For Derrida necessity, compulsion always rule like this. It's just normal with him to declare that this or the other thing must be, or must not be: *il faut, il ne faut pas*. I must, you must, a text must: *je dois, on doit, le texte doit*. Writers and writing are for Derrida proposers of law. To write is to legislate. The critic and interpreter are under law: the laws of interpretative activity, the laws of the text that is being interpreted. The work of reading and writing, like the work of translation, is obligatory, a matter of obligations, of musts. At work in these operations is what Walter Benjamin called the *Aufgabe* – the task – in this case *Die Aufgabe des Übersetzers* – the task of the translator.<sup>4</sup> *Aufgabe*, the work that's imposed, compelled. 'From the very title [of his essay] ... Benjamin situates the problem in the sense of that which is precisely before oneself as a task ...'. That's Derrida in 'Des Tours de Babel', his extended meditation on and around Benjamin's essay. And, Derrida goes on, this imposed task has the force of law, of *loi*. *Loi*: it's one of the most ubiquitous words in 'Derrida'. The demand is a legal one. 'Translation is a form', a genre in fact, and 'the law of this form has its first place in the original' – i.e. the text to be translated lays down the law – textual law, translation law. 'This law first establishes itself, let us repeat, as a demand in the strong sense, a requirement that delegates,

mandates, prescribes, assigns'.<sup>5</sup> So the reader, the translator, is before the law of this task. That's a law. We are all 'essentiellement *devant la loi*'.<sup>6</sup> Genre and genres, of course, have their law(s): *la loi, les lois du genre*.<sup>7</sup> The last part of *Jacques Derrida par Geoffrey Bennington et Jacques Derrida* [double text of *Derridabase* by Bennington and *Circonfession* by JD] (1991) is titled 'Actes (La loi du genre)'; the c.v. that it includes is to be interrogated according to the law of genre, and just to keep you mindful of the sway for Derrida of the legal and the legislating, 'Jacques Derrida' lists a whole lot of other items, iterability, indecidability, and so forth, above all *la différance*, which also have their laws.<sup>8</sup>

Nothing, in fact, that Derrida interrogates – and his investigative scope got wider and wider as his career continued – is imagined as being without its laws. The legislative force/demand of the textual, ethical, political subject and object is found everywhere to be repeated and replicated, without fail, and it is to be dutifully respected and obeyed. Genre, text, translation, giving, friendship, hospitality, monolingualism – whatever the analytic *menu du jour* – nothing escapes the embrace of this pervasive legalism. Derridean legalisms proliferate unstoppably. He can't think without thinking law. 'Well, before beginning [to talk of monolingualism], I will risk two propositions. They each take the form of a law...'.<sup>9</sup> Take a linguistic operation as fundamental as the sentence, which Derrida does in his essay on *Romeo and Juliet* (in a wonderfully, and characteristically, proliferating analysis, beginning with aphorisms, which are for Derrida an essence of Shakespeare's play). Aphorisms are sententious. They exemplify the essence of naming, namely the sentence. They have the *caractère de sentence*. Sentence is multivalent; it is moral saying, judgement, a quality of judgement. So aphorisms are like death sentences – judicial, legal utterances. So a sentence always pronounces a sentence, is always sententious, legalising, legislating. The sentence has its laws; it is law.<sup>10</sup> (Kafka's story 'In the Penal Settlement' comes to mind, in which the sentence imposed on a guilty man is a sentence, a writing, a *Schrift*, inscribed on his body by a pen that's a knife.)

### **Judaizing**

This being inevitably before the law is patently Jewish. The legislator here is Derrida the Jew, Reb Derissa, Derrida the Jewish saint, or Holy Jew (as Hélène Cixous has recently labelled him in her *Portrait de Jacques Derrida en Jeune Saint Juif* (2002)).<sup>11</sup> This is Derrida standing before Sinai, and positing all interpretation, all philosophy as standing there. He is excited by Emmanuel Levinas' suggestion that this is where we all stand (in Levinas's elliptical question: 'A recognition of the Torah before Sinai?') because this is where Derrida has consistently suggested we all are, before the law, before Sinai.<sup>12</sup> Sinai is a place of universal authority, of as it were the Torah for everyone. We are all of us, then, readers and writers, in effect Jews, as Derrida puts it in 'Edmond Jabès and the Question of the Book': 'the situation of the Jew becomes exemplary of the situation of the poet, the man of speech and of writing'; 'in question is a sort of Judaism as the birth and passion of

writing'.<sup>13</sup>

Law has an 'implacable universality', as Derrida puts it in *The Gift of Death* (1992). And the sanction for this notion is in and at Sinai, the old covenant, the regime of the Jewish Jahwe (in what T. S. Eliot in 'Journey of the Magi' labels 'the old dispensation'). The phrase 'implacable universality of the law' comes in Derrida's extended discussion of Kierkegaard's haunted reading of the Akedah, the story of Jahwe's commanding Abraham to kill his son Isaac.<sup>14</sup> The lawgiver of all the laws that Derrida sees instated and making their demand, their ultimate sanctioner, is this Abrahamic Jahwe. Not accidentally, Walter Benjamin's model of the text-to-be-translated is the Bible, the sacred text for Jewish Benjamin, as for Derrida (and, for that matter, for Freud). For Benjamin, the requirement of the *Aufgabe*, its *Forderung*, finds its only correspondence (its *Entsprechung*, its correlative, that which gives it meaning) in 'a thought of God', and Derrida agrees. The *Aufgabe*, the task of the translator – this model/allegory/example of all reading – is the response to the divine *Gabe der Sprache* (the gift of speech, of tongues) and the *Gebung des Namens* (the giving of the name) at Babel. And so 'Benjamin named God at this point, that of a correspondence authorizing, making possible or guaranteeing the correspondence between the languages engaged in translation'.<sup>15</sup> Law, all the laws of Derrida's preoccupation, come from – or are as if they came from – the Jehovah of Sinai, the Jehovah of Babel.

### Coming Elijah

Reb Derissa, rabbinical teacher and midrashi, lawgiving interpreter of the Law and the laws, casts himself, of course, as the prophet Elijah. He's proud to be known as Elie Derrida. Elie, Elijah, is his circumcision name, to be fantasised over, jested about, but always seriously pronounced. Elijah, the herald, with Moses, of the arrival of the Messiah (which is why a seat is kept waiting empty for him at every orthodox Jewish Passover celebration). Elijah, for Jews, always coming, never yet arriving; always on the way, expected, anticipated, but not yet appearing (like the American evangelist Alexander Dowie in Joyce's *Ulysses*, dubbed Elijah; 'Elijah is coming' the flyers scudding along the Dublin streets announce, but he never comes in the real-time of the novel, only putting in an appearance in the dream-sequences of the Nighttown episode, the non-arrival arrival). So Elijah is the aporetic prophet: the prophet in suspension, stuck, as it were, on the border of the old dispensation. Still in suspension, coming but not coming, the prophet *in aporia*, and so the prophet *of aporia*, the prophet of the aporetic Messiah. The Messiah, as Derrida has it in the *Politics of Friendship*, always under erasure – called upon, summoned, and also repressed – a sentence that has (no) more sense ('Plus de sens').<sup>16</sup> He's the archetype for Derrida of the friend who is no friend, the friend who is (also) the enemy – the *veiled* one (like Moses with the veiled face, like the Holy of Holies veiled by Moses), 'given, ordered and ordained [*donné, ordonné*] by God', not yet unveiled, not yet *donné*.<sup>17</sup>

Elijah the (not) arriving herald of the (not) arriving Messiah – unlike of course in the Christian story, in which both the prophetic herald and the

Messiah himself actually arrive – is a main undergirding case of the perpetual Derridean law of aporia. Aporia is for Derrida the law of law, the law of all the laws. Aporia: centred in the grand Derridean metaphor and case of *différance*, Derrida's coinage, the aporetic word itself, invented to contain emblematically in one sign, both the *différent* and the *différé*. The law of law in a word. In other words, here is at work the grand deconstructive principle of *shibboleth* – as explicated in Derrida's reading of Judges 12, the narrative of the Ephraimites killed because they can't pronounce the word *shibboleth*. *Shibboleth*: the unsayable/sayable word, the principle of aporia in action – in action (in Derrida's reading) in Spain during the Spanish Civil War where the Republicans say 'No pasaran', they shall not pass, the word of the barred passage.<sup>18</sup> *Shibboleth*, the word of the perpetual barred passage to meaning and life and salvation, the aporetic word. Aporia, the law, the shibboleth ('primordial' as Derrida has it in the *Adieu* to Levinas<sup>19</sup>) of all the thresholds that Derridean analysis momentarily invests in (pharmakon, hymen, tympanum, margin, supplement, nostrils, buccal cavity, parerga, brisure, and all the differential rest). *Shibboleth* pronounces in its unpronounceable way the law of the no-way way, of oxymoron, of paradox (the law of all the words and notions in *para-* that litter these discussions), in other words the law of the legal limit which can never be sustained. Genre, the generic system of organising writing, is a prime illustration of the way legal/legislating limits, in this case the limiting of literary kinds, can never work. The 'law of the law of genre' is the necessary defiance of the law of genre: this law proposes contradictorily, aporetically, illimitable limitation.<sup>20</sup> Genres, like texts as Derrida sharply puts it, overflow all boundaries assigned to them. And what's binding on genres is what binds all such legislative occasions. For example, the law of hospitality (a 'divine law', what's more) is that the *hôte* [host] is always also the *hôte* [guest].<sup>21</sup> This law is all at once conditional and unconditional.<sup>22</sup> The law of the sentence is to be both a performance and a suspension of performance (the death sentence on Romeo and Juliet condemns them to death and also 'arrests death', suspends its coming).<sup>23</sup> What happens at Sinai is likewise aporetic (and, of course, foundationally so): God gives the tablets of the law; at the same time the tablets are broken. It's an aporia which multiplies, for Derrida, into all of modern politics as well as modern philosophy and religion. Sinai's active ambivalences are colossal. They signal all at once welcome and rejection, the duality of the *hostipitality* Derrida sees infecting all human, as well as all human-divine, relations: *hostipitality*, his nonce word embracing the aporia of the linguistic and the ethical as both hospitality and hostility.<sup>24</sup> For at Sinai the divinity itself is revealed as both host and *hostis*, welcomer and enemy.

In a time that it is already difficult to hold as *one* and to bend to the homogeneity of a narrative without internal rupture, the name *Sinai* cannot but signify, obviously, at once the place where the Torah was given, the sacred anointing oil of messianity, the ark of the covenant, the tablets of the covenant written by the hand of God; but then also the tablets given by God after he retracts the evil with which he had threatened the stiff-necked people (first rupture or interruption), then the tablets cut anew after God had in some sense again interrupted all theophany by

forbidding, in the passing of his glory, the vision of his face in a face to face, then the place of the re-newed Covenant, then the veiling and unveiling of the face of Moses. So many interruptions *of self*, so many discontinuities in history, so many ruptures in the ordinary course of time, caesuras that nonetheless make up the very historicity of history.<sup>25</sup>

Sinai, the sign and site of continuing violence and conflict.

But today Sinai is also still in relation to the singular history of Israel, a name from modernity. Sinai, the Sinai: a metonymy for the border or frontier between Israel and the other nations, a front and a frontier between war and peace, a provocation to think the passage between the ethical, the messianic, eschatology, *and* the political, at a moment in the history of humanity and of the Nation-State when the persecution of all these hostages – the foreigner, the immigrant (with or without papers), the exile, the refugee, those without a country, or a State, the displaced person or population (so many distinctions that call for careful analysis) – seems, on every continent, open to a cruelty without precedent.<sup>26</sup>

As at Sinai, so also at Babel, where God's divine endowment of tongues is also a gift of confusion of tongues – the speakable which is also, most ironically, the unspeakable; the translatable that's also the untranslatable (God petitions for translation, as Derrida has it; but in vain).<sup>27</sup> Which is like all text in the Benjamin vision embraced so ardently by Derrida – only translatable as non-translation, in an aporia whose model is an *Interlinearversion* of the Bible (the sacred text of course providing for the Jewish commentator the limit-case for the task of translation).<sup>28</sup> In other words, what these favoured Biblical cases of Derrida uniformly reveal (and instigate) is the contradiction, the impasse, the impossibility, of all of the prevailing laws that he invokes and inspects. *No pasaran*. All laws are already as broken as the broken tablets of the Mosaic. The Mosaic reigns, in effect, as the merely mosaic. 'Thou shalt not kill' says the Law, and the very announcement of the impossibility of doing that radically contains its possibility. 'The face of the Other forbids me to kill; it says to me, "Thou shalt not kill", even if this possibility remains presupposed by the interdiction that makes it possible.'<sup>29</sup>

### **The Force of Law**

All of which is dramatically exemplified in Derrida's reading of the fragment of Kafka's *The Trial* known as the 'Before the Law' episode.<sup>30</sup> 'Before the Law stands a doorkeeper. To this doorkeeper there comes a countryman and prays for admittance to the Law'. He's never admitted, even after years of importunate waiting. He's kept perpetually at the threshold. He stands for Joseph K, Kafka's hero, for Kafka, and in Derrida's reading for Derrida himself, for the reader as such, for the very act of reading. All of these are always before the Law, as endlessly posited by Derrida. Like the countryman, the Law, the reader of the Law, and the reader of this text about reading the Law, are all stuck; they're held in a perpetual aporetic condition, suspended in perpetual *différance*, before the door of the Law. The doorkeeper 'withholds

the pass' forever (p. 203). The guarded door, or threshold, is the *hymen* of the Law (p. 209). *No pasaran*. The Law is a *différance*: an affair of veto and also non-veto (p. 203). The Law 'places the man in its own contradiction': the contradiction of its order, the interruption of its relation. This is a 'terrifying double-bind' (p. 203). To have *rapport* with the Law you have to deny yourself rapport with it: *il faut ne pas, il ne faut pas* (translated as 'it must be that one does not; it must not be that one does', fn. 18, p. 203). The Law produces sin. The Law both prohibits and is itself prohibited (*interdit*). And Derrida quotes Romans 7 (fn. 17, p. 203). It's bind of *différance* the countryman is held in until death (p. 211). As he dies, the doorkeeper shouts in his ear that the gate was 'made only for you. I am now going to shut it'. The sentence is of course the countryman's (death) sentence. It's an aphoristic verdict, with all the aporetic horror Derrida finds characteristic of aphorisms: 'cette sentence (arrêt ou jugement)' (210, and fn. 24, p. 210). The sentence of the law is an arrest, a stop, a halt, a dead-stop. An aporia.

In his momentous text 'Force of Law: The "Mystical Foundation of Authority"' (1989/90), Derrida argues with passionate force that the law is always and inevitably horribly forceful. A law of law is that it has its force: the *force of law*. The law is sustained by force, by violence, and this legalised violence is of its nature as unjust as any violence. Which is a challenge to the idea of law as maintaining right, rights, righteousness (*droit, les droits, droiture*), to the righteous desiring of law, and the law-abiding/law-abider's *je dois*, I must. Law, Derrida points out, is always in effect illegal, legally unfounded at bottom, at the historical point of origin; historically it's always put and held in place by imposed force. It is also unstable, subject (historically again) to constant revision and rereading, to midrash. It is morally and hermeneutically aporetic. Sinai is, for Derrida, a fundamental case of the law's fundamental moral aporia, the injustice of a judicial system held in place by force, by the strongest originator there is, namely Jahwe. Derrida's questioning of the lawfulness of Law leads him thus to question the justice of God's Law, to query the Jewish-Biblical, the Old Testament claim that this lawgiver, at any rate, and these particular laws of his are always righteous and just.<sup>31</sup>

The Jewish Biblicist (and literary historian) Regina Schwartz is expectably outraged by this, and will have none of Derrida's case. His argument is simply irrelevant to the Law of Jehovah, she claims. What makes Jehovah's Law unique among legal systems is that it is always 'just'. In Exodus and the Talmud and beyond, it is 'not ... aporia, but ... the radical identity of the law and justice that characterizes revelation in the Hebrew Bible'. That is the radicalism of the Biblical vision – a unique vision. This law *is* justice. It is transcendent in the Just God who sanctions it. That the primary evidence for this is the say-so of the very law-giving texts which announce their laws and their lawgiver as Just does not at all perturb this protester. And Schwartz is not, of course, refuting Derrida's case that Jehovah's law is unjust, but merely denying it.<sup>32</sup> Derrida's case is deeply endorsed by the Christian tradition, which refused and refuses the justice of large parts of the Law of Jehovah (the

stoning to death of adulteresses, for example, levirate marriage, the killing of men with damaged testicles, as well as the whole practical sacrificial system, the saving blood of bulls and goats and so forth), a refusal beginning with Jesus rewriting the Ten Commandments and the Torah into a mere two laws about loving God with all your heart and your neighbour as yourself. But to say otherwise than the Torah, than Schwartz herself – as Jesus did in opposing the Pharisees for a legalism which betrayed and hindered justice, as the Christian Gospels and Epistles do in displacing the old dispensations of the Law – is to be anti-semitic: ludicrously anti-semitic, in fact, as Schwartz has it.<sup>33</sup>

### **Pauline Aporetics**

The issue of Christianity and law is, of course, not simple – this ‘anti-semitic’ rewriting of Judaic Law by the Messiah who arrived and arrives, a messianistic rewrite which would seem to provide strong examples and models of revision and resistance to Derrida’s judaized readings, and models of reading. The big question, as Derrida suggests, is just how much of a rewriting of the Law, of law, the New Testament actually is. It’s a discussion in which Romans 7 must feature hugely – the Christian text of ‘Pauline aporetics’ which interests Derrida so hugely. *Before the Law* perhaps gives rise to, in a kind of movement or trembling between the Old and New Testament, a text which is both archived and altered, such as the Epistle to the Romans 7.<sup>34</sup> Referring to the Kafka story as a ‘scene of reading’ – an ‘exegetical demonstration’ set in Chapter 9 of *The Trial* (‘In the Cathedral’) as ‘a prodigious scene of Talmudic exegesis’ – Derrida talks of the ‘metonymical hand-to-hand engagements which it could have had with’ Romans 7.<sup>35</sup> The priest of Chapter 12 of *The Trial*, interpreter, as Derrida has it, of the story’s ‘second exegetico-Talmudic wave’, is ‘a kind of St Paul, the Paul of the Epistle to the Romans who speaks according to the Law, of the Law and against the Law, “whose letter has aged”; he is also the one who says that “apart from the law sin lies dead”: “I was once alive apart from law, but when the commandment came sin revived and I died ...” (Romans 7).’<sup>36</sup> And Derrida’s spotting of the aporetics of Romans 7 does not rely on selective quotation. The whole, curious, chapter is a self-stymying fencing with the Law, indeed a kind of ‘trembling between the Old and New Testament’. ‘Know ye not, brethren, (for I speak to them that know the law,) how that the law hath dominion over a man as long as he liveth’ (v. 1), but the Jewish-Christian brethren are now ‘dead to the law’ (v. 4), ‘delivered’ from it, it ‘being dead’ (v. 6). But still they ‘serve it’, albeit in a new spirit. So the law’s dominion is over, but also clearly, and aporetically, not. ‘Is the law sin? God forbid’ (v. 7). But actually it is, since it gives knowledge of the sin it prohibits, and so gives that sin life. ‘I had not known sin, but by the law: for I had not known lust, except the law had said, Thou shalt not covet ... without the law sin was dead ... I was alive without the law once: but when the commandment came, sin revived, and I died’ (vv. 7-8). So the commandment, ‘which was ordained to life’, is found to have been ordained to death (v. 10). So, again aporetically,

life: death, which is which? Furthermore, how do the holiness of the Law and the holiness, justice and goodness of the Commandment show themselves? (v. 12). Evidently, by sponsoring sin. And it's a very curious argument for the goodness of the Law that it is actually not good. I do not do what I would do, and I do what I hate (v. 15); so by doing what I would rather not, i.e. by sinning, transgressing, breaking the Law, 'I consent unto the law that it is good' (v. 16). In other words my good consent to the good of the Law is shown in my transgressing it. And so the chapter goes on. The presence of the Law is marked by the co-presence of good and evil ('I find then a law, that, when I would do good, evil is present with me', v. 21). The law of the Law is to generate its opposite. The Law of God is, in fact, a law of sin (v. 24). The 'law of God', and the 'law of sin', are parallel and coterminous, sustaining each other (v. 25). The legal situation the Apostle finds himself in is terribly self-cancelling. It is indeed aporetic. 'O wretched man that I am! who shall deliver me from the body of this death? (v. 24): he might as well be asking who shall deliver him from these unstoppable burgeoning aporias.

So Derrida does have a point about the aporetics of St. Paul's relationship with the Law. Fuel indeed for his case that Christianity, the New Testament, the new dispensation, merely continue his reading of the old dispensation. For Derrida there's no Christian-era evading of the Torah model of the Law, of the perpetual aporetics that he sees Torah-law as being stuck in. For him God is always aporetic – whether Jewish, or Christian, or Greek. Arrestingly, in the *Politics of Friendship*, he seizes on Aristotle's use of *aprosēgoría* to describe God: an aporetic God characterised by *aprosēgoría*, non-allocation, non-address, and so the one who undoes the friendship he offers, the hostile host, the non-friendly friend. An aposegoric divinity – the non-speaking speaker, the non-addressable addressee: this God of the Greeks, Derrida thinks, parallels the Jewish deity as he really is, and also 'characterises the Christian'.<sup>37</sup> It's a direct thrust, this, at the Judaeo-Christian deity who, orthodoxly considered, both speaks and is spoken to.

### Unforgiving

But does this large insistence on the aporetic, not least as it is applied to the Christian, reach right down to the bottom of the ethico- (and ethico-political) Christian matter – for all the force we have to grant a Derridean Romans 7? Take the crucial area and idea of forgiveness, the ultimate act of traditional Christian giving and hospitality, and one which came naturally to preoccupy Derrida in the course of his late examinations of the roles of the Gift and Hospitality.<sup>38</sup> Once again Derrida finds aporia to be of the essence. Only the unforgivable can be forgiven, is how he formulates the business of forgiveness, and so, for him, forgiveness is stymied from the outset in its forgiving intentions. It's another grand impasse. Christianity, of course, believes in, and offers, forgiveness. Christian religion is based in the idea of forgiveness. Derrida knows all about that: about forgiveness in its traditional theological sense – the erasure and forgetting by God of the sinner's offence, crime, sin. But he denies that definition of forgiveness;

won't accept that forgiveness works like that, has that force and scope. He refers to recent events in South Africa involving public forgiveness rituals inspired by the Christian idea, namely Bishop Desmond Tutu's Truth and Reconciliation Commission. Tutu is roughly dismissed. His idea that real forgiveness is possible is rejected as based in a flawed grasp of the real aporia of forgiveness. That reading of forgiveness is a Christian, and Anglo-Anglican Christian, delusion and misreading (42-3). Ridiculously, blindly non-aporetic, it must yield to the rationale of Derridean aporia.

This dismissal is characteristic. Whenever the possibility of going beyond the force of law is hinted at in the Old Testament or/and dwelt on by explicit suggestion in the New Testament (those places Christian midrashi seize on as proleptic indicators of a coming let-out or exit clause from Old Testament legalism) Derrida resists, argues the opposition down, or simply turns his analysis aside. Cities of refuge, for instance – those designated Jewish places of safety for involuntary and accidental killers, providing escape from the law and lawful revengers, in effect qualifying the absoluteness of the commandment 'Thou shalt not kill', and taken by the writer to the Hebrews as a model of the Christian's escape from the rigours of Judaic legalism ('we who have fled for refuge': Hebrews 6:18) – are an admitted problem ('extremely enigmatic'), but one the (legislating) analysis simply refuses to take into account.<sup>39</sup> Derrida's way with Kierkegaard's reading of the Akedah is even more telling.<sup>40</sup> Jehovah's order to Abraham to sacrifice his son Isaac on Mount Moriah is arbitrary, and therefore immoral and unjust. It's an order that transgresses ethical order (p. 59). It's a (secret) speaking that's unspeakable (p. 59). The demand is immoral, and Abraham's obedience to it is immoral. Abraham the most moral and most responsible man is also the most immoral and most irresponsible man (p. 72). The law of God, law itself, are characteristically forceful, violent; here is revealed the 'implacable universality of the law' (p. 76). Mount Moriah begins here its career as a place of 'perpetual violence': it's the site of Jerusalem's Temple Mount, a site of continual and continuing bloody struggle for Judaism, Islam and Christianity (pp. 69, 70). The very idea of sacrifice – giving a death, the gift of death – is 'unjust' (p. 71). 'There is no language, no reason, no generality or mediation to justify this ultimate responsibility which leads me to absolute sacrifice' – sacrifice at the demand of the lawgiver, sacrifice out of a sense of 'imperative duty' to the law and the lawgiver. As for the 'ram caught in the thicket' that's miraculously provided as a sacrificial substitute for Isaac, that won't do either. Substitution is, Derrida claims, an impossibility (he's thinking hereabouts, not least, about hostage taking and hostage exchanging in the Middle East, and the link he keeps wanting to make between hosts and hostages along the host-hostile axis that so concerned him in his later writings). There is never real substitution (p. 58). 'Sacrifice' is 'unique, irreplaceable, and most precious' and therefore not to be substituted for. Historically Isaac died and dies; on the Temple Mount the sacrifice of Isaac continues every day (p. 70). What Derrida is resisting, of course, is the idea of atoning, substitutionary sacrifice which animates the whole of the traditional

Judaic sacrificial system – that way of living with and surviving the rigorous demands of the law – and the complexly proleptic Christological reading of the Abraham-Isaac episode as typical of the sacrificial, substitutionary death of Christ: God the Father demanding the sacrificial death of his only son as a substitute for the sinner's death; Jesus as the ram, the type of the substitute; Jesus as the burnt offering, the law- and lawgiver-appeasing holocaust sacrifice. Certainly, for Derrida, there is no let-out of a Kierkegaardian kind built into the story, no Gospel truths of any sort on the horizon (81). (Kierkegaard was keen on relating the episode to Matthew 6 and Jesus' attacks on the public piety of the ostentatiously law-abiding 'hypocrites' who trumpet their almsgiving in the streets and the synagogues – whereas real reward will come from the God of Abraham, who transacts with the orthodox law-abiding Abraham in secret, and sees the truly pious act done 'in secret'.)

There is, evidently, no escape for Derrida in Christianity's modified legalism, its post-Jahwistic, its achieved messianism – the eucatastrophe (to use J.R.R. Tolkien's apt word) of the Christian Divine Comedy. Derrida is simply stuck – aporetic indeed – with the legalised impasse exemplified in a particular Jewish joke he relishes. It's a joke told by Théodore Reik, who, it is said, wrote extensively on 'the Great Atonement'. Derrida offers it as a 'sort of postscriptum' to his obituary of his friend Sarah Kofman, with whom he 'peddled' such 'good Jewish jokes' – she quoted it as almost the last word of her book *Pourquoi rit-on? Freud et le mot d'esprit*, a book she finished writing on September 25, the day of Yom Kippur, the Day of Atonement.

Two Jews, long-standing enemies, meet at the synagogue on the day of the Great Atonement. One says to the other [by way of forgiveness]: 'I wish you what you wish me'. And the other replies, giving tit for tat: 'See, you're doing it again!'

Derrida glosses it:

An unfathomable story, a story that seems to stop in its tracks, whose movement consists in interrupting itself, in paralysing itself in order to refuse any future, an absolute story of the unsolvable, a vertiginous depthlessness, and irresistible whirlwind that draws forgiveness, the gift, and the giving back of forgiveness right to the abyss of the impossible.<sup>41</sup>

### **My Sort-of Postscriptum**

Should Derrida's reading of law and legalism be read otherwise? Can it? Is a new-dispensational reading possible? Well, yes, up to a point, certainly – a textual, theoretical, practical way beyond the Derridean legislation (for belief, faith, reading) of the perpetual aporetic; a *sens* or path opening out beyond the aporetic barrier; a Christian reading of the door, of Christ as the door, and myself as the door, the door at which Christ stands and before which I stand and which is an accessible, a crossable border or threshold. Which are possibilities actually glimpsed from within the Jewish world, from a Jewish viewing-point – as, of course, the Christian reading of the Jewish scriptures orthodoxly thinks they can and should be. As in Martin Buber's reading of 'Before the Law', dwelling on what he calls the Kafkan 'metaphysics of the

door', and accounting for the negativity of the novel *The Trial* and of this inset story and its momentarily barred threshold as a version of the Jewish *Emunah* experience, the experience of the wilderness, which involves the (curious) speaking of a hidden deity, of a divine revelation of, and within, divine occlusion. An emphasis, if that is possible, on the positives of aporia. A kind of post-Romans 7 Paulinism: the affirmative, despite everything that's preceded it, of the opening of Romans 8. 'There is therefore [*therefore?* that extraordinarily challenging claim for the *consequence* of the aporetics of Chapter 7, what follows from it] therefore now no condemnation to them which are in Christ Jesus, who walk not after the flesh, but after the Spirit. For the law of the Spirit of life in Christ Jesus hath made me free from the law of sin and death.'

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- 1 *De la grammatologie* (Éditions de Minuit, Paris, 1967); *Of Grammatology*, trans. [badly!] Gayatri Chakravorty Spivak (John Hopkins University Press, Baltimore & London, 1974).
  - 2 'La structure, le signe et le jeu dans le discours des sciences humaines', *L'écriture et la différence* (Éditions du Seuil, Paris, 1967), pp. 412, 427-8. ('Il n'y a aucun sens à se passer des concepts ...' miserably and misleadingly mistranslated in the English versions of this lecture as 'There is no sense in doing without the concepts ...', as in 'Structure, Sign and Play in the Discourse of the Humanities', *Writing and Difference*, trans. Alan Bass (Routledge & Kegan Paul, London & Henley, 1978), p. 280.
  - 3 'Des Tours de Babel' (1985), in Jacques Derrida, *Acts of Religion*, ed. Gil Anidjar (Routledge, New York & London, 2002), 133.
  - 4 'Die Aufgabe des Übersetzers' (1923), 'The Task of the Translator', *Illuminations*, trans. Harry Zohn, ed. Hannah Arendt (Fontana, London, 1973), pp. 69-82.
  - 5 'Des Tours de Babel', in *Acts of Religion*, ed. Gil Anidjar, pp. 114, 115, 116.
  - 6 "'Il faut bien manger" ou le calcul du sujet', *Points de suspension: Entretiens, choisis et présentés par Elisabeth Weber* (Éditions Galilée, Paris, 1992), p. 270.
  - 7 'La loi du genre', *Parages* (Éditions Galilée, Paris, 1986), pp. 249-287.
  - 8 'Geoffrey Bennington et Jacques Derrida', *Jacques Derrida* (Éditions du Seuil, Paris, 1991), p. 295.
  - 9 *Monolingualism of the Other; or The Prosthesis of Origin*, trans. Patrick Mensah (Stanford University Press, Stanford California, 1996), p. 7.
  - 10 'Aphorism Countertime' (1986), trans. Nicholas Royle, in Jacques Derrida, *Acts of Literature*, ed. Derek Attridge (Routledge, New York & London, 1992), p. 418.
  - 11 Hélène Cixous, *Portrait of Jacques Derrida as a Young Jewish Saint*, trans. Beverley Bie Brahic (Columbia University Press, New York, 2004).
  - 12 *Adieu to Emmanuel Levinas* (1997), trans. Pascale-Anne Brault & Michael Naas (Stanford University Press, Stanford, California, 1999), p. 65.
  - 13 'Edmond Jabès and the Question of the Book' (1964), in *Writing and Difference*, ed. cit., pp. 65, 64.
  - 14 *The Gift of Death*, trans. David Wills (University of Chicago Press, Chicago & London, 1995), p. 76.
  - 15 'Des Tours de Babel', *Acts of Religion*, pp. 116-117.
  - 16 *Politics of Friendship* (1994), trans. George Collins (Verso, London & New York, 1997), pp. 173-4, 33.
  - 17 *Adieu to Emmanuel Levinas*, p. 4.
  - 18 'Shibboleth' (1984), in *Midrash and Literature*, ed. Geoffrey H. Hartman & Sanford Budick (Yale University Press, New Haven & London, 1986), pp. 307-347; revised as *Schibboleth: Pour Paul Celan* (Galilée, Paris, 1986), from which extracts appear, trans. Joshua Wilner, in *Acts of Literature*, pp. 373-413.

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- 19 *Adieu to Emmanuel Levinas*, p. 6.
- 20 'The Law of Genre', trans. Avital Ronell, in *Acts of Reading*, pp. 220-252.
- 21 *Adieu to Emmanuel Levinas*, p. 42.
- 22 One of the points of *De l'hospitalité* (1997) endorsed in the Le Monde interview, 'Le principe d'hospitalité', in Derrida, *Papier Machine: le ruban de machine à écrire et autres réponses* (Éditions Galilée, Paris, 2001), pp. 273-277.
- 23 'Aphorism Countertime', *Acts of Literature*, p. 418.
- 24 *Adieu to Emmanuel Levinas*, p. 51.
- 25 *Ibid*, pp. 63-64.
- 26 *Ibid*, p. 64.
- 27 'Des Tours de Babel', *Acts of Religion*, p. 118.
- 28 'The Task of the Translator', *Illuminations*, ed. cit, p. 82.
- 29 *Adieu to Emmanuel Levinas*, p. 6.
- 30 'Before the Law' (1982), trans. Avital Ronell, in *Acts of Literature*, pp. 181-220.
- 31 'Force of Law: The "Mystical foundation of Authority"', in *Acts of Religion*, pp. 230-298.
- 32 Regina M. Schwartz, 'The Revelation of Justice', in *Derrida and Religion: Other Testaments*, ed. Yvonne Sherwood & Kevin Hart (Routledge, New York & London), pp. 337-347.
- 33 *Ibid*, p. 340.
- 34 'Before the Law', *Acts of Reading*, fn. 17, p 203.
- 35 *Ibid*, p. 217.
- 36 *Ibid*, p. 219.
- 37 *Politics of Friendship*, pp. 222-223. This aprobegetic deity – and for that matter the aprobegetic deity – must owe a good deal to Beckett's apathetic, athambic, aphasic, ataraxic deity (as, particularly, in Lucky's theological rant in *Waiting for Godot*).
- 38 'On Forgiveness', Part Two of *On Cosmopolitanism and Forgiveness*, trans. Mark Dooley & Michael Hughes (Routledge, London & New York, 2001).
- 39 *Adieu to Emmanuel Levinas*, p. 45.
- 40 *The Gift of Death*, pp. 69ff.
- 41 'Sarah Kofman (1934-94)', *The Work of Mourning*, ed. Pascale-Anne Brault & Michael Naas (University of Chicago Press, Chicago & London, 2001), p. 184.