

## **Deconstruction, Its Force, Its Violence, together with “Have We Done with the Empire of Judgment?”**

By Rodolphe Gasché. New York: State University of New York Press, 2016. 144 pp. \$23.95 (paper). ISBN: 978-1-4384-6000-0

2017 celebrates fifty years since the publication of Jacques Derrida’s celebrated original trio of books *De la grammatologie*, *La voix et le phénomène*, and *L’écriture et la différance*. This anniversary is being marked with various events reflecting on the influence and significance of Derrida’s work. Just prior to this anniversary comes a timely publication from Rodolphe Gasché, a towering figure amidst esteemed scholars of Derrida’s work. Gasché’s work engages with aspects of Derrida’s thought which have long been of interest to legal scholars: the force and possibility of deconstruction, the relationship between law and justice, judgment, and the infamous declaration that “[d]econstruction is justice.”

In the opening pages of *Deconstruction, Its Force, Its Violence* Gasché argues that Derrida’s work is founded on a careful re-reading of the often-overlooked complexities which formulate presence in Western metaphysics. Based on this re-reading, Derrida understands that “being and *logos* are not without a reference to alterity” (xiv). Thus: “Without the demonstration that alterity is coeval with sameness, Derridean thought would not be possible” (xiv). Gasché then finesses Derrida’s *modus operandi* or “strategic operation” into two separate movements (2). The first involves a constant elaboration of the often-overlooked element within metaphysics whereby “the Other [is] intimately interconnected with the thought of the Same” (xiv). The second then develops this point by showing that the Other in question, contra Hegel, “cannot let itself be restricted to the Other of the Same” and “is never merely the Other of my-Self” (xv). This two-step movement of deconstruction, occurring within the framework of metaphysics, is central to Gasché’s book as throughout it he reveals several “fundamentally asymmetric” instances of the Other in the works he examines (xv). Via this reading Gasché aims to meet the challenge of “seeking to do justice to what the Other demands from thought” (xv).

Gasché’s book is divided into three chapters, and an appendix. The three chapters refer, respectively, to the “force,” “possibility,” and “violence” of deconstruction. In the first chapter, Gasché engages with force as both a specific concept of deconstruction and as a “momentum, an *élan*” of deconstruction (1). Here, Gasché explains how Derrida’s reading of Gottfried Leibniz leads him to construct a “differential concept of force” (18). Based on the insight that

“differentiality as a structural feature of difference presupposes a system of differences,” Gasché argues that a differential concept of force that accommodates the Other of the non-same is the force of deconstruction: this differential concept of force is “the force of deconstruction (*genitivus objectivus*)” (18).

Gasché then moves to what is – perhaps for legal scholars at least – the main chapter of the book, in which he addresses deconstructive accounts of juridical issues. This chapter examines the ‘possibility’ of deconstruction in the setting of law and justice. However, Gasché’s first move is to bring the previously explained account of force into conversation with Derrida’s now famous essay “Force of Law,” thus transposing a “force that is what it is only negatively, that is, through its differential relation and exposure to other forces,” onto Derrida’s framing of the relationship between law and justice (28).

Gasché’s analysis then covers several of Derrida’s key points. First, he distinguishes Walter Benjamin’s and Derrida’s respective accounts of originary violence in law, whereby the former is “an actual violence” and the latter is “a necessary (but not therefore actual) possibility without which there would be no such thing as a law or justice as law” (31). Second, Gasché turns to Derrida’s account of how law relates to justice and notes that, as is perhaps well known by now, for Derrida law is a present phenomenon whereas justice is “something nonphenomenalizable, a possibility that is only thinkable” (34). Third, Gasché examines how Derrida’s development of the work of Michel de Montaigne and Blaise Pascal provides a different account of the “factual force, power, or violence” which is embedded in the law (36). Gasché explains that Derrida’s work unveils their “more intrinsic structure” which leads to an “ontological, and perhaps, transcendental interconnectedness” between them (36). Finally, Gasché explains how Derrida’s account of the “mystical foundation of authority” answers the question of how and where deconstruction is possible in the relationship between law and justice. He notes that because Derrida views “the law and its authority [as] hav[ing] no other foundation than the violent performative act by which they are instituted in silence without a foundation exterior to them,” it is this very “unfoundedness of the law ... [which] makes the law essentially *deconstructible*” (40). The possibility of deconstruction arises because the law has no guarantee other than itself and consequently its continued preservation is open to the asymmetrical affects of the Other within the law’s ipseity. Throughout this section Gasché’s explication is refreshingly efficient, nuanced, and detailed, with a clarity that is to be commended.

Gasché then ends the chapter with an extended discussion of how justice motivates the deconstructibility of law. Through a recollection and elaboration of Derrida's famous statement, "[d]econstruction is justice," Gasché provides an account of the way in which law, justice, and deconstruction operate as a tripartite system (43). First, he recalls Derrida's statement in "Force of Law" that "[d]econstruction takes place in the interval that separates the undeconstructibility of justice from the deconstructibility of law" (43-44). Gasché interprets this quote to suggest that justice impacts law as its "ideal horizon," despite the fact that the possibility of this ideality is impossible and nonphenomenalizable (46). Yet it is precisely the point that this "possible must remain possible as possible in its very impossibility" (45). This ensures that law is always deconstructible in the name of justice: such deconstructibility is the '*opus operatum*' in the drive towards justice, as a 'work of vigilance,' 'without surrendering its virtual status' (45). Following this argument Gasché unveils another asymmetric tension between the universal nature of law and the singular instance of justice (48-49). Here he explains how Derrida's maxim "*deconstruction is justice*" is illustrative of a "double movement" which first contains an engagement with the history and legacy of justice and then enacts a limitless and "inevitably hyperbolic" responsibility to that received legacy (53, 57). The chapter concludes by highlighting that there is a violence in the "force" of deconstruction cutting into law, a legal judgment, or any prescribed legal norm. However, this is "a violence that the singular other itself demands in order to be recognised and to be addressed in his or her singularity" (58). With this crucial point it is again clear that the reading of Derrida's juridical work offered by Gasché is eloquently framed by his prioritisation of deconstruction's concern for the accommodation of the asymmetrical Other.

Gasché's third chapter focuses on the famous discussion of violence featured in Derrida's *Of Grammatology*, where it is argued that Claude Lévi-Strauss's *Tristes Tropiques* incorrectly presents writing as the corruptor of innocent full-speech. Here, once again, Gasché expertly illustrates the violence which is inherent in deconstruction both as a movement within and against metaphysics, as well as "an inaugurating or enabling violence" without which nothing could originate, conceptualise, nor exist (71). This chapter is a fitting reminder of both deconstruction's weighty metaphysical critique and the specific critique it originally enacted, fifty years ago on the very first page of *Of Grammatology*, against the "*ethnocentrism* which, everywhere and always, had controlled the concept of writing."

The final section of Gasché's book, an appendix titled "Have We Done with the Empire of Judgment?," refers to Derrida's, as of yet untranslated, text titled "Préjugés: Devant la loi" ("Prejudice: Before the law") which focuses on the prejudice and pre-judgment which contaminates the concept of judgment. According to Gasché, Derrida notes that the question "How to judge?" has the potential to disorganize "the entire theoretico-ontological apparatus that prejudices that one must be able to judge *what* a judgment *is* before judging *the manner* in which one must judge, and so forth" (97).<sup>1</sup> Gasché ends his appendix by noting that a judgment is only truly a judgment for Derrida "when it also involves the heterogeneous event of a decision" (106).

To conclude, Gasché's book is an erudite and insightful, yet accessible and clear, accompaniment to some of the key juridical themes in Derrida's work. This work represents a valuable commentary, particularly for legal scholars, on Derrida's intricate deconstructive thought and appears at a significant moment in the continuing reception of his work.

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<sup>1</sup> This is Gasché's own translation taken from Jacques Derrida, 'Préjugés: Devant la loi,' in Jacques Derrida, Vincent Descombes, Garbis Kortian, Philippe Lacoue-Labarthe, Jean-François Lyotard, and Jean-Luc Nancy, eds., *La Faculté de juger* (Paris: Minuit, 1985), p. 93.