

ARTICLES : SPECIAL ISSUE
A DEDICATION TO JACQUES DERRIDA - CLOSING

Epilogue: in lieu of conclusion

By Florian Hoffmann*

How could one conclude the preceding collection of texts and create the closure necessary for the recognizability, citability, and, indeed, untouchability of this "Special Section on Derrida" within the *German Law Journal* ? And how could one determine the multiple significations of each and all these texts, and connect them through a single thread? And, finally, how is one to respond to the preceding questions ? Do they call for an analytical reflection on the structural indeterminacy of conclusion, or for an ethical reflection on its justice?

The answer to all these questions must, of course, consist of an uneasy gesture towards *différance*, the necessary and desired quest for closure in space and time, and the impossibility of ever attaining it. All texts in this collection circle around a word, notably a name, Jacques Derrida, the signification of which, however, remains ultimately elusive; it leaves its traces all over these texts, indeed, it seems to haunt each of them in a ghost-like manner, though, like a ghost, it always escapes. It is also such an escape that underlies the logic of this homage, namely that of the other of that word, that is, the flesh, the person Jacques Derrida, who has escaped far beyond our reach.

But this escape is not the end of the end. It is just the end of our attempt to conclude, to "find" the end of his word. Yet, it leaves intact, and, indeed, is a precondition for the necessary, but entirely arbitrary ending of our words on his word, for the inherently violent but inescapable imposition of a final full stop, a cut off point, a dead-line. Such an end, however, is not one that pretends to fullness of meaning and being, but one that is secretly premised on something beyond it, an after-word, an epilogue - different, but thereby definitive of that which is ended, as J.D. reflections on Plato's *Pharmacy* have famously illustrated.¹ Hence, while an

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epilogue is, *prima facie*, meant to authoritatively determine and, thus, petrify the word that precedes it, it thereby resurrects the latter by bringing it back to life after and beyond death.

Hence, rather than to try to conclude this particular collection of essays, or pretend to issue final judgement on J.D.'s work, this epilogue hopes to raise –not to answer (!)– the question of what the epilogue of Jacques Derrida is or will be. It is a question about which he himself increasingly reflected, with a mix of fascination and puzzlement, during his final 'war with himself'.² One of his starting points in this reflection was, of course, Walter Benjamin's distinction between surviving (*überleben*) and living on (*fortleben*), and his transposition of it onto the act of publishing, which, to him signified, the death of the author, and, yet also the precondition for her/his survival. The life of the text dies once the author forcibly finishes it, yet it comes back to life once it is read. The text, thus, survives, and with it the hope that, thus, the author lives on, though it is never more than a hope, and one about which J.D. for one, was not, it would seem, always sure.

What will remain, what will be the legacy? Will this *oeuvre* have been an end point in itself, the final echo of an intellectual movement of which, as he knew, J.D. was frequently considered to be the last survivor. And will this movement's multiple forms of self-conscious epi-modernity fall like, as an unsympathetic blogger put it, the constructs of the Late Scholastics once the society, culture, and characters that sustained it are no longer present? Or are we, on the contrary, in the very beginning of something of which we have seen, not least through J.D.'s grand eye-opening exercise, only the tiniest of fractions yet? Is it, perhaps, as another follower of that "movement," the prophetic Michel Foucault observed early on, namely that "by a light that may either be –we do not yet know which– the reviving flame of the last great fire, or an indication of the dawn, we see the emergence of what may perhaps be the space of contemporary thought?"³

And what about law? What legacy will there be in and through the many movements J.D. inspired, from Critical Legal Studies to Legal Pragmatism, from legal deconstruction to autopoietic legal theory? How will those equally many who felt infernally threatened by his exposition of their all too shaky foundations react

Dedication, and has had a passion for Derrida ever since he attempted to deconstruct Ronald Dworkin's *Law's Empire* in his Master's thesis.

¹ See Plato's *Pharmacy*, in *Dissemination* (1983).

² Jean Birnbaum, *Entretien avec Jacques Derrida*, LE MONDE (8 Aug. 2004).

³ Michel Foucault, *THE ORDER OF THINGS: AN ARCHEOLOGY OF HUMAN SCIENCES* (1970).

to and be affected by the dawn of J.D.'s epilogue? The only thing that can be said at this stage is that both the legacy of inspiration and the legacy of fear are likely to emerge within a tension J.D. has thematized in a text, *Force of Law*,⁴ that is present in virtually all contributions to this collection. One of the central themes in *Force of Law* is, of course, the tension between law and justice, which can be said to be played out also in relation to the question of legacy. For, no doubt, the machine-like logic of the professional academy, regardless of whether on the inspiration or fear side, is bound to 'legalize' the epilogue, i.e. to categorize and canonize, and in many other ways forcefully conclude his word; it will create schools out of his thought, regardless of his own rejection of any such framing, and out of their institutional in-fighting will emerge temporarily predominant perspectives, *codices Derrideani*, which will pretend to govern the legacy. Yet, this law of the epilogue will not be able to annihilate the ever open question of justice, that is, the ethical question of how we can and how we should act as the creators of the epilogue. The answer to that question involves, for each of us individually, the difficult task of assuming responsibility for the many unfounded and unfindable decisions through which we contribute our part to the legacy. For the justice of legacy implies that that responsibility cannot be externalized and projected onto some ready-made Derridean intentions, or be produced merely by the economy of academic professionalism; it must be ours, and ours alone. Hence, while we are bound to obey the law, the call for justice, if we want to heed it, means that we must continuously attempt to subvert that law.

Let us, thus, take up the second possibility contemplated by J.D. in his last interview, namely that we are only at the very beginning of reading him – *Derrida est mort...vive Derrida!*

⁴ Jacques Derrida, *The Force of Law. 'The Mystical Foundation of Authority'*, 11 *CARDOZO LAW REVIEW* 919 (1990).