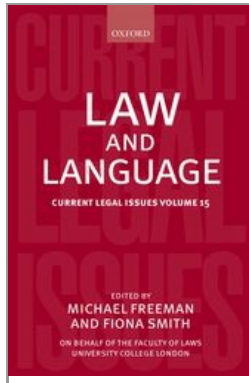


University Press Scholarship Online
Oxford Scholarship Online



Law and Language: Current Legal Issues Volume 15

Michael Freeman and Fiona Smith

Print publication date: 2013

Print ISBN-13: 9780199673667

Published to Oxford Scholarship Online: May 2013

DOI: 10.1093/acprof:oso/9780199673667.001.0001

Foreign Law in Translation: If Truth Be Told...

Simone Glanert

Pierre Legrand

DOI: 10.1093/acprof:oso/9780199673667.003.0316

[−] Abstract and Keywords

This chapter analyzes the conception of ‘truth’ in the translation of foreign law. No word submits docilely to a translation that would carry it *as such* from one language to another: either the word-in-translation leaves behind a residue of the original idiom or it accretes meaning in the other language. The chapter shows that, with specific reference to the matter of foreign law in translation, ‘truth’ has no useful contribution to make to ‘comparative law’.

Keywords: foreign law, language, legal translation, truth, comparative law

What can one do but speculate, speculate, until one hits on the happy speculation?

—Beckett¹

For the point at issue is merely the meaning of the texts, not their truth.

—Spinoza²

He who, in a contest of opinions, says, I have the truth, makes a claim to power.

—Arendt³

We take the view that, in the French philosopher Jacques Derrida's arresting formulation, '[w]e must begin *somewhere where we are*', '[s]omewhere where we are: within a text already where we believe that we are' (though we might want to be somewhere other than where we are).⁴ One should not be surprised to find in this injunction echoes of Martin Heidegger, for Derrida often acknowledges his indebtedness to the German philosopher. He calls Heidegger his 'foreman'.⁵ And he insists that Heidegger's work (p.514) is 'extremely important', that it constitutes 'an unprecedented, irreversible advance'.⁶ Indeed, he claims that 'nothing of what [he] is attempting would have been possible without the opening of Heideggerian questions'.⁷ For his part, in line with his notions of 'fore-having' ('*Vorhabe*'), 'foresight' ('*Vorsicht*'), and 'fore-conception' ('*Vorgriff*'), which indicate that only within the pre-given sign-system within which one is framed does one understand, can one ascribe meaning,⁸ Heidegger explains in his early correspondence that '[he] work[s] concretely and factually from [his] "I am"—from [his] spiritual and in particular factual origin—[from his] environment—[from his] life as a whole [*Lebenszusammenhängen*]', from what is, from there, accessible [to him] as living experience, from that within which [he] live[s]'.⁹ In the words of Hans-Georg Gadamer, another German philosopher (and prominent disciple of Heidegger) with whom Derrida pursued a problematic conversation over more than twenty years,¹⁰ the idea of situatedness is such that 'one does not find oneself in front of it'.¹¹

We write, then, as comparatists-at-law, that is, as academics who, as implausible as this contention may at first blush appear, attach normative value to foreign law. Our argument is not, of course, that foreign law matters because it would be binding beyond its local circumstances, but that it is valuable since it can act as persuasive authority in other settings than its own. Along with other academics who also subscribe to such deterritorialization of the law (and of the mind), we have allowed ourselves to be instituted within the field of 'comparative law'.¹² Having, with hindsight, recognizably emerged in the 1820s,¹³ 'comparative law', like other academic fields, features its learned societies, journals, conferences, chairs, research institutes, courses, and postgraduate programmes. (p.515) It also boasts an orthodoxy. Indeed, in our opinion, any survey of the field is bound to reveal the ascendancy of a specific theoretical framework developed in the 1960s by Konrad Zweigert, then director of the *Max-Planck-Institut für ausländisches und internationales Privatrecht* in Hamburg, and subsequently disseminated by Hein Kötz, his disciple and, in time, his successor at the helm of the Hamburg foundation. All over the world, comparatists-at-law are well acquainted with Zweigert and Kötz's peremptory template, which has long established itself as the most influential strategy informing the study of foreign law.

Familiar phrases and sentences from Zweigert and Kötz's textbook include the enunciation of a '*praesumptio similitudinis*' as between laws,¹⁴ the statement that laws are similar 'even as to detail',¹⁵ the declaration about the 'immaterial[ity] of differences' to comparative research,¹⁶ and the proclamation of the existence of a 'unitary sense of justice' across laws.¹⁷ Zweigert and Kötz further claim that comparatists ought to aspire to 'scientific exactitude and objectivity'.¹⁸ They stress that any examination of foreign law should be 'objective, that is, free from any critical evaluation'.¹⁹ Not only must the comparatist avoid 'allow[ing] [his] vision to be clouded by the concepts of [his] own national system',²⁰ but he requires to 'cut [himself] loose from [his] own doctrinal and juridical preconceptions and liberate [himself] from [his] own cultural context'.²¹ It is also for the comparatist to ensure that 'the solutions [...] [found] in the different jurisdictions [be] cut loose from their conceptual context and stripped of their national doctrinal overtones'.²² In sum, comparative legal studies needs to operate like 'physics', 'microbiology', or 'geology'.²³ In the same manner as there is no "'German" physics', no "'British" microbiology', and no "'Canadian" geology',²⁴ ultimately there must be no local law. It is abidingly the task of the comparatist, to identify the generic aspect of any given law in order to allow it to surpass its localization—local accoutrements very much being apprehended as impediments on the way to a better law. Zweigert and Kötz's goal, as they themselves expressly indicate, is the kind of uniformization of laws that would allow for a return to 'the era of natural law'.²⁵

(p.516) Although the most recent edition of Zweigert and Kötz's textbook is dating rapidly, its predominance remains largely uncontested such that the 'Hamburg model', if we may call it that, very much continues to operate in a structuring capacity within the field, not least in the introductory courses to 'comparative law' on offer in law schools. While comparatists-at-law's allegiance to Zweigert and Kötz is at times emphatic,²⁶ it can also make itself more muted though no less discernible.²⁷ What epistemological challenges to this construction's authority have manifested themselves have thus far fallen short of fully-fledged theoretical programmes and, if for that reason alone, have accordingly enjoyed limited impact within the field of 'comparative law'.²⁸

Crucially, Zweigert and Kötz's theoretical statement remains silent on the matter of translation. Yet, as interpreters seeking to ascribe meaning to foreign law's foreignness, comparatists are incessantly confronted by foreign languages, a fact that compels every student of foreign law to address issues of translation. Indeed, the extent of the challenge is much wider than might readily be expected as soon as one appreciates that even Anglophone comparatists may need to translate English—thus, 'privacy' in the UK is not 'privacy' in the USA. All the same, Zweigert and Kötz fail to address translation in any of the three editions of their text spanning a 30-year period—despite the fact that over the years their book has itself been translated from the German into various languages including English, Italian, Japanese, and Russian. Why this omission? The most charitable reconstruction of Zweigert and Kötz's organizing intuition seems to be that they did not regard translation as worthy of their attention because they deemed it, hyper-pragmatically, a non-issue. One could be forgiven, of course, for adopting the view that, on account of Zweigert and Kötz's stated ambition to make 'comparative law' into an

'international legal science',²⁹ to frame it as a 'universal legal science',³⁰ language ought to prove of the utmost significance to them. But, in the same way as James Gordley, a prominent defender of 'comparative law's orthodoxy, claims that '[t]here [i]s nothing distinctively German, French or American about [German, French or American judicial] decisions',³¹ Zweigert and Kötz can be taken to opine that there is nothing so distinctively Spanish, Dutch, or Polish about the Spanish, Dutch, or Polish languages that would get in the way of the uniformization of laws (which must remain, as far as they are concerned, 'comparative law's' abiding objective).

This improbable understanding assumes a transparency of law-texts such that they could move in unmediated fashion from language to language without undergoing any destabilization and indeed any reconstitution, that is, without the translation acting performatively in any way whatsoever or, to state the matter in slightly more dramatic terms, without the translator doing any violence to the law-text being translated or to **(p.517)** the language into which the law-text is being translated. 'Estoppel' could be rendered in French or '*résiliation*' in English *as such*. '*Abstraktionsprinzip*' could be reproduced in Italian and '*diritti reali*' in German *as such*. In each case, there would be neither loss nor accretion—Ortega y Gasset's 'deficiencies' and 'exuberances'³²—so that Zweigert and Kötz's indifference to language and, specifically, to the multiplicity of languages, would find itself vindicated. Indeed, why theorize translation if there is integral translatability?

We find the kind of idealized linguistic compliance being postulated by Zweigert and Kötz unwarranted. For us, in fact, linguistic compliance can only ever be partial (that is, at once incomplete and committed). The words join, but they are necessarily out of joint, and there is nothing that the assiduity of the translation can do to overcome their 'disacquaintance' for no translation can escape the semantic play that manifests itself in the configuration of meanings across languages.³³ What we have, in effect, is an articulation that is (structurally) disarticulated. If you will, translation is an experience of the same that is not the same, the point being that as any sameness postulates 'n + 1' and as, in turn, any '+ 1' assumes difference, it is the case that in order for a translation to be the same as the source word, it has to be different from it. In this sense, it is not an exaggeration to say that the relation between words across languages is also a non-relation. Translation, then, is not simple, but complicated.³⁴

For us, the governing idea must be that of the debt being owed to the text, which, in the name of something like justice (though a destination we will never reach), compels the translator not to transgress the text. Perhaps the most challenging enjoinder, therefore, is for the text in translation to deploy itself so as to avoid an assimilation of the foreign text into the host language such that the foreign text's singularity would vanish along the way. As we approach the matter of translatability, the translator's aim must indeed be to preserve something of the difference of the foreign law-text on account of the recognition and of the respect that one owes it, especially as one purports to displace it across languages. For us, translation is 'a practice producing difference out of incommensurability (rather than equivalence out of difference)'.³⁵ Indeed, the *ference* in

transference is also the *ference* in difference—or, to apply one of the many possibilities offered by the German language, any (foreign) *Wort* will either contract or expand any (local) *Ort*.³⁶ For example, in order to resist the attraction of seamless domestication of foreign texts, Heidegger's or Derrida's translators did not hesitate to generate an 'agrammaticality effect' thus fashioning translations that, whether through the configuration of neologisms, the modification of the usual syntactic patterns, or even the insertion of foreign words, changed current usage in the host languages.³⁷ In other words, these translators, as they heeded the original texts' summonses, were unwilling fully to concede to their readerships in the host languages. They were, in effect, compelling foreign readers of **(p.518)** Heidegger and Derrida to defamiliarize themselves, to make themselves aware that they were reading a *translation*, that there was a 'nonpresent' text—or that a 'nonpresent' text was not absent. These references to Heidegger and Derrida in translation show that our remarks to the effect that translation dissolves any possible unity of meaning do not call into question the necessity of the translation or indeed its possibility (we shall argue, no doubt paradoxically, that the fact that the translation is impossible does not imply that it must not be done and indeed does not mean that it cannot be done). In effect, to contend that there is necessarily a looseness in the articulation, that translation is not sheltered from semantic play, is an opportunity for the foreign law-text to have a future existence, to survive, to live on, as it becomes the object of infinite discussions and endless debates.³⁸

Under conditions of identity—that is, if the word-in-translation was identical to the word being translated—the question of the 'truth' of the translation would not arise. However, given the situation as we have described it, one of the most intriguing metaphrastic questions that we must face as comparatists-at-law concerns precisely that of 'truth', which is the specific focus of the argument that follows. Indeed, this claim is very much a continuation of our prefatory observations to the effect that no word submits docilely to a translation that would carry it *as such* from one language to another: either the word-in-translation leaves behind a residue of the original idiom or it accretes meaning in the other language. Before we embark on our investigation, it seems interesting to note that, though not with specific reference to translation (which, as we have remarked, they ignore), Zweigert and Kötz express their commitment to 'truth' on more than one occasion. Thus, they call 'comparative law' an 'école de vérité'.³⁹ Moreover, they write that '[comparative law's] ultimate goal is [to] discove[r] the truth'.⁴⁰ And we feel confident that, had they addressed legal translation, Zweigert and Kötz, in line with the theoretical commitments that they consider must underwrite the study of foreign law, would have urged comparatists-at-law to produce true translations. Contrariwise, we want to show, making specific reference to the matter of foreign law in translation, that 'truth' has no useful contribution to make to 'comparative law'.

We begin with an influential British playwright.

∞

Harold Pinter died on Christmas Eve 2008. In the lecture that he delivered upon being awarded the Nobel prize for literature in 2005, Pinter recalled a text of his dating back

nearly half a century. It concerned the matter of 'truth'. In that paper, Pinter had written as follows: "Truth in drama is forever elusive. [...] [T]here never is any such thing as one truth to be found in dramatic art. There are many. These truths challenge each other, recoil from each other, reflect each other, ignore each other, tease each other, are blind **(p.519)** to each other. Sometimes you feel you have the truth of a moment in your hand, then it slips through your fingers and is lost."⁴¹

We claim that what Pinter said about dramatic art also applies to foreign law in translation: '[T]here never is any such thing as one truth to be found' in translation, '[t]here are many', they 'challenge each other', and they are 'blind to each other'. Indeed, we propose to take Pinter's insight one important step further and to argue that if no comparatist-at-law can access 'one truth', if to argue for 'the true translation' concerning foreign law makes as much sense as to talk of a loud blanket or of an angry cucumber, if '[t]here is no experience of truth that is not interpretive',⁴² if there would be but cognizance of 'truths', one would do well to renounce the word 'truth' altogether—at least as far as the specific language-game of foreign law in translation is concerned.⁴³ In effect, there is a disturbing touch of the oxymoronic in 'truths', while a word like 'just'—there would be (relatively) 'just' translations—seems to us much more discerningly to account for the immanence that Pinter sought to capture. But we shall return to the matter of 'justness' presently.

For now, let us formulate translation's quandary for comparatists-at-law. Assume a foreign law-text. This law-text is translatable in various languages. More problematically, it is also infinitely translatable within one language. Out of this array of inter-linguistic and intra-linguistic translations, can one translation be said to disclose sufficient normative purchase on the law-text being translated so as to warrant—and indeed require—identification as the 'true' translation of it (in the sense in which it would be the unique, uniquely fixed, uniquely stable, and uniquely acknowledged translation of it)? It is this precise question that we resolutely answer in the negative, confident in the knowledge that, in such an instance, 'negativity is a resource'.⁴⁴ In fact, negativity epitomizes the generative, vitalistic role of a counterdiscourse—our counterdiscourse—positioning itself vis-à-vis an orthodoxy which, on account of the fetishism of closure that it practises through the imposition of its positivist system, purports incessantly to arrest the flow of meaning—the quest for 'truth', an imaginary goal external to the linguistic inquiry, reaching a determinate and terminating point once its aim is deemed to have been attained. We refute the idea of stasis, the view that there can ever come a moment when a foreign law-text will have been perfectly read 'in translation'. As our claim defends an interminable linguistic terminus, as it promotes 'the joyful affirmation of the play of the world',⁴⁵ rather than facile and sterile univocality, it effectuates a politics of resistance. It is, literally, an *undisciplined* gesture. It is *contrarian*.

The stakes could hardly be higher. The absence of truth-in-translation challenges one to make genuine normative choices instead of assenting to (interpretive) decisions on account of their so-called 'truth'. We are of the opinion that, rather than pander to 'truth', a comparatist-at-law must assume substantial responsibility for the normative **(p.520)**

(and fallible) elections that need to characterize the process of translation. To accept that translation is situated firmly within linguistic contingency is to begin to take responsibility for one's own perspectival apprehensions. To refuse the idea that there could be access to 'truth' is, in the end, the only way to avoid intellectual complacency—which is precisely what engulfs one when one stops thinking of a translation as a description and begins to see it as being endowed with a special quality that would somehow make it 'true'. The lack of access to 'truth' enhances agency. It forces one to select and defend one's views. Linguistic contingency is one's opportunity. Such, then, are the broad ethical parameters within which we are operating. The ethics of engagement with language that we promote wants to reach beyond established positions; it is something like an 'infinite *striving*'.⁴⁶ We claim that 'the patronising dogmas of the truth [...] [must] give way to critical theories of the particular'.⁴⁷

Now, we find ourselves being influenced by two sets of reasons that, though hailing from very different philosophical quarters, intersect in their refusal to abide by the view that 'truth' would somehow be available in translation. To be sure, the fact that we can depend on support from two prominent philosophers located at very different points on the philosophical spectrum is not enough, in and of itself, to validate our conclusions. But, unless one is prepared to dismiss this convergence as mere coincidence—which would strike us as a jejune motion indeed—the resonance between two primordially different and deeply influential epistemes ought, at the very least, to give our sceptical readers serious pause for thought before proceeding to spurn our argument.

∞

In crucial ways, we are indebted to Jacques Derrida's views on 'truth', an idea that he castigates throughout his work as a reprehensibly 'metaphysical' concoction.⁴⁸ Whatever metaphysical thought would have us believe, Derrida claims, a focus on the operation of language shows that a text 'does not give rise, "in the final instance", to a hermeneutic deciphering, to the unencrypting of a meaning or of a truth'.⁴⁹ Derrida, then, contrasts two apprehensions of interpretation or, as he says, 'two interpretations of interpretation'.⁵⁰ Specifically, '[o]ne seeks to decipher, dreams of deciphering a truth [...] escaping the play [...] of the sign [...]. The other [...] asserts the play and attempts to move beyond [...] [the dream of] the full presence, [of the] reassuring foundation, [...] and [of] the end of play'.⁵¹ Uncompromisingly, Derrida emphasizes that 'these two interpretations of interpretation [...] are absolutely irreconcilable'.⁵² Over against any process of appeasement along the lines of a Hegelian *Aufhebung*, he situates his own work firmly in defiance of the kind of reading that assumes a text to consist of a set of grammatical propositions (**p.521**) asserting a foundational identity, an internal coherence, a logical order, a semantic unity, a 'truth'.⁵³ While metaphysics has the text functioning as a centripetal force—ultimately, this line of interpretation features '[t]he project of returning "strategically", ideally, to an origin or to a "priority" that would be simple, intact, normal, pure, proper'⁵⁴—for Derrida the text is inescapably centrifugal. A text exists as a force of proliferation and differentiation resisting anything like 'a' meaning (as in 'this is what the text means') or 'a' truth (as in 'this is truly what the text says'). As far as Derrida is

concerned, '[t]his can appear surprising or disagreeable only to those for whom things are always clear, easily decipherable, calculable, and programmable: in a word, if one wanted to be polemical, to the irresponsible'.⁵⁵ For him, two principal features inhere to any text.

First, text is language and language—within the limits set by the alphabet—is infinitely labile.⁵⁶ In Derrida's formulation, '[a] thousand possibilities will always remain open even as one understands something of that sentence that makes sense'.⁵⁷ Still in Derrida's terms, the fact is that a word or a sentence features as one of its very attributes the characteristic of being *iterable*. Using the lemma 'iter', which he claims to derive from the Sanskrit '*itara*' meaning 'other', Derrida coins 'iterability', a neologism connoting both 'reiteration' and 'alterity'.⁵⁸ *Iterability*, then, combines repeatability and differentiability. The main point is that a word or a sentence is intrinsically endowed with a force of rupture from any use to which it may have been put and to which it cannot therefore be confined. Every word or sentence is potentially repeatable and every such repetition is an othering of that word or sentence in the sense that each iteration is unique. No matter what Beckett purported to mean, for example, when he wrote *En attendant Godot* in the late 1940s, no matter how he sought to organize the specific moment of inscription of the word 'Godot', no matter how he wanted to totalize or stabilize or fixate meaning, this word is iterable such that the author's conferment of meaning can be supplemented—which is to say that the author can never *saturate* meaning,⁵⁹ that he can never completely and systematically occupy fully the 'space' of meaning so that no room would be left for anything to be added by an interpreter intervening subsequently. In other terms, meaning has a 'never-completely-achievable' quality, which, far from pertaining to occasionality, is intrinsic to it. The word or sentence never exhausts itself **(p.522)** in the moment or in the time of its inscription. Rather, it carries, as an inherent dimension of its existence as word or sentence, a 'nonpresent *remainder*',⁶⁰ that is, a sheaf of meaning that is 'nonpresent' (in the sense that it is not being presently deployed) but that is not absent either (since it is potentially present and capable of being deployed at any moment, in any hypothetical alternative set of interpretive circumstances). Using a botanical analogy, Derrida refers to a process of 'dehiscence' with a view to capturing the inherent workings of a text as it bursts open with meaning and discharges its meaningful contents.⁶¹ Every repeated utterance or iteration alters, and thus adds 'an extra turn' to the word's or to the sentence's meaning,⁶² which will then potentially haunt each successive use of it. In his writings, Derrida also mobilizes the notion of 'dissemination' so as to refer to the idea of multiplication of meaning. To the extent that he defends the view that words and sentences do not operate within closed systems of meaning as metaphysicians, and indeed as structuralists, have long maintained, Derrida's argument can fairly be regarded as counter-hegemonic.

Whilst the open-texturedness of meaning suggests the contingency of interpretation, it also points to the aleatory character of translation. As is the case with interpretation, there is 'the structure of *supplementarity* within translation'.⁶³ Every word or sentence being inherently iterable, the occurrence of more than one translation is, structurally so to speak, inevitable. Indeed, the problem of ascription of meaning is compounded in the

case of translation—an instance of iteration squared, if you will—since the process involves more than one language: ‘No matter how correct and legitimate they are, and no matter what *right* one grants them, [translations] are all maladjusted, as if unjust in the deviation that affects them: within themselves, of course, since their meaning remains necessarily equivocal, and in their relation amongst themselves and thus in their multiplicity, finally or primarily in their irreducible inadequacy to the other language and to the stroke of genius of the event that makes the law, to all the virtualities of the original.’⁶⁴

The idea that there would exist a common semantic interface across languages allowing for unalloyed inter-linguistic correspondence is precisely the kind of metaphysical composition that Derrida has been at pains to combat.

Secondly, the process of incessant interpretation that is a feature of the text’s iterability is addressed by an interpreter—say, a comparatist-at-law intervening as translator—who, as someone who is inevitably situated in place and time, can only interpret from where he is. As Derrida puts it, one must accept that ‘[on]e ha[s] received more than [on]e thinks [on]e know[s] from “tradition”’.⁶⁵ This claim harks back to the key Heideggerian (and anti-Cartesian) insight that we introduced early in this essay to the effect that on **(p.523)** account of one’s insurmountable situatedness within tradition, one’s interpretive standpoint, and therefore one’s interpretation, is itself *always already* situated—the adverbial construction, Heidegger’s own (*‘immer schon’*), referring to the fact that interpretation is simply unimaginable otherwise than as being situated, that an interpretive stance that would be *out of situation* is simply unthinkable. In Heidegger’s words, any ‘unveil[ing]’ is ‘always done under the guidance of a perspective that fixes that with regard to which what has been understood is to be interpreted’.⁶⁶ In sum, ‘[t]he interpretation is grounded in a *foresight*’.⁶⁷ If you will, ‘[t]he interpretation has always already decided, finally or provisionally’.⁶⁸

The Heideggerian notions, as they foreground Rudolf Bultmann’s idea of ‘pre-understanding’ (*‘Vorverständnis’*) and Gadamer’s conception of ‘prejudice’ or ‘prejudgment’ (*‘Vorurteil’*),⁶⁹ refer to a preliminary structure of understanding that is inherently constitutive of any understanding and, as such, that acts as a *condition* of understanding. In other words, one cannot ascribe meaning—indeed, one cannot experience anything one might want to seize as ‘truth’—against a ‘no-background’ situation. Of course, to say that all understanding is prejudiced in that it is circumscribed by the light that the epistemological situation sheds on the interpreter is not necessarily debilitating. Neither the significance of impersonal processes in the construction of the individual nor the prominence of impersonal assumptions in the formulation of knowledge-claims detracts from the empowering character of prejudice. Thus, one can understand Marcel Duchamp’s ready-mades as art because one belongs to a culture that envisages art in a certain manner, that has an idea of what art is and of what art can be. Heidegger’s conclusion, then, holds: ‘Whatever and however we may try to think, we think within the sphere of tradition’.⁷⁰ And this is Derrida’s contention also: ‘The “subject” of [interpretation] does not exist if one means by that some sovereign solitude of the

[interpreter]. The subject of [interpretation] is a *system* of relations between layers: [...] mental, society, world'.⁷¹ In sum, 'what one calls the [interpreting] subject is no longer he who himself or he who alone [interprets]. He comes to understand himself in an irreducible secondarity'.⁷² Writing of Rousseau and his work, Derrida thus observes that '[t]here is not, strictly speaking, a text whose author or subject is Jean-Jacques Rousseau'.⁷³

(p.524) The irreducible situatedness of interpretation and the correlative inability for an interpreter to capture alterity on its own terms (rather than on one's terms) entails that 'translation is another name for the impossible'.⁷⁴ The primordial point is this: 'Between my world, [...] what I call 'my world', [...] between my world and any other world, there is initially the space and the time of an infinite difference, of an interruption [that is] incommensurable with all the attempts at passage, at bridge, at isthmus, at communication, at translation, at trope, and at transfer that the desire for world or the lack of world, the [human] being in lack of world, will try to pose, to impose, to propose, to stabilize. There is no world, there are only islands'.⁷⁵

Gadamer's observation is no less powerful: 'It is enough to say that we understand in a *different way, if we understand at all*'.⁷⁶ As if echoing both Derrida and Gadamer, Borges's question lingers, obstinately: 'You who read me—are you certain you understand my language?'⁷⁷ In his subtle way, this most cosmopolitan of writers reminds us that the abyss across languages cannot be overcome.⁷⁸ But the impossibility of translation—of any translation that could be called 'true'—cannot be allowed to detract from the paradoxical fact that translation is possible, and must be.⁷⁹ Indeed, Derrida is adamant: 'I *must* translate, transfer, transport (*übertragen*) the untranslatable in another turn where, though translated, it remains untranslatable'.⁸⁰ Derrida's demand, however, is not for the faint of heart as he asks us to accept that the impossible is possible 'not in the sense in which it would become possible, but in the more radical sense in which the impossible is possible, *as impossible*'.⁸¹

(p.525) The fact that the idea of 'truth', then, is simply not suitable with respect to translation is pithily rendered by Derrida as he writes that the very word 'translation' ought to be replaced by 'transformation'. Observing that '[w]e will never have been involved and never have been involved in fact in the "transportation" of pure signifieds that the signifying instrument—or the "vehicle"—would leave intact and untouched, from one language to another',⁸² he adds that 'for the notion of translation, one will have to substitute a notion of *transformation*: the regulated transformation of a language by another, of a text by another'.⁸³ Transformation, according to Derrida, captures untranslatability as the negative moment necessary to the recognition and to the survival of the idiomatic that exceeds one's grasp and to which one's response can therefore be neither sheer reproduction nor meaning transfer. It refers to another *economy*, to an economy of *negotiation*,⁸⁴ where '[w]hat guides [on]e is always untranslatability'.⁸⁵

The strong assertion of the singularity of language and the related view that 'truth' cannot be an apt theoretical tool for approaching what takes place in understanding and communication—that 'the relationship between self and other can never be turned into a

relationship between self and self (same and same)', that '[t]he enduring self/other relation means that alterity can never be reduced to identity'⁸⁶—is not, however, the exclusive province of the philosophy of deconstruction as practised by Derrida and his epigones. Specifically, we have found noteworthy reverberations between Derrida's thought and that of logician and mathematician Willard Van Orman Quine, arguably the most influential US analytical philosopher of the twentieth century.⁸⁷ And it is to this specific correspondence of outlooks that we now turn.

Quine holds a physicalist ontology—for him, 'the only things that exist are those which feature in the explanations of the most fundamental science, namely physics'—and a naturalized epistemology—'[the] investigat[ion] [of] the relationship between theory (our beliefs) and empirical evidence' requires one to proceed 'through empirical **(p.526)** science (neurophysiology, behaviourist psychology)'.⁸⁸ For Quine, 'there is no knowledge outside science'.⁸⁹ In other terms, '[e]verything we know about the world is due to the impingement of energy on our sensory surfaces'.⁹⁰ Of course, the assumption that everything supervenes on the physical, that physics enjoys special ontological authority (which entails an assimilation of even philosophy to science),⁹¹ is precisely the kind of metaphysical claim—'not itself a scientific finding'⁹²—that Derrida chastises. But this disagreement cannot have us lose sight of significant affinities between the two philosophical projects as regards the lack of interface between translation and anything that could reasonably be called 'truth'.

With respect to translation, Quine's thesis addresses what he styles 'inscrutability of reference'.⁹³ But before we can say more about translation, it is necessary to take a few steps away from the topic and discuss basic aspects of Quine's philosophy. For Quine, then, ontologically speaking the only 'facts of the matter' are physical (indeed, he likens 'factuality' to 'gravitation and electric charge').⁹⁴ Meaning, however, is not part of physical reality. Since there is no fact of the matter concerning what words mean, given that '[a]scriptions of meaning cannot be reduced to physical statements',⁹⁵ physical facts cannot determine what our expressions mean. There is, therefore, a disjuncture between meaning (word) and physical reality (world). As one commentator aptly remarks, '[r]eference, for Quine, is thus not the fundamental relation that language has to the world'.⁹⁶ Observe that Quine does not say that words refer to something and that one is not in a position to ascertain what that is. For Quine, there is, more accurately, no such 'thing' as 'that which our words refer to'. To be sure, Quine falls short of arguing that words do not 'refer' in any sense of the term whatsoever. Thus, reference remains relevant for him.⁹⁷ In his view, words do 'refer', but this reference does not concern anything like the word's 'being'. All that exists is an assignment of reference to a word by its speaker. Given the ontological discrepancy between word and world, in the absence of a 'thing-like' reference, the only way for anyone to understand any language, even one's 'own' language and a fortiori another language, is therefore for one to operate on the basis of observable behaviour (verbal or non-verbal), which is the only matter that our experience allows us to speak about with a certain rigour: 'We depend strictly on overt behavior in observable situations'.⁹⁸ For example, all that we have in terms of what a speaker **(p.527)** means is 'what might be implicit in his dispositions to overt behavior'.⁹⁹

And it is this dynamics that Quine has in mind as he writes that '[l]anguage is a social art'.¹⁰⁰

In the absence of isomorphism between word and world, there is inevitably a process of mediation intervening between word and world with a view to specifying the word's world. And this mediation relates to the assignment of reference underlying the word, which itself is 'an obscure notion, subject to no extensional criterion of individuation and definable only in terms of other, equally obscure, intensional notions'.¹⁰¹ As the assignment of reference cannot illuminate any 'thing-like' referent, as 'there is no matter of fact as to what we are *referring to*',¹⁰² reference accordingly remains opaque or inscrutable (or indeterminate). Of course, when one speaks a familiar language—say, the 'home language', to use Quine's formulation—the matter of inscrutability does not arise as a difficulty and does not hinder language use. Thus, "'London" designates London (whatever *that* is) and "rabbit" denotes the rabbits (whatever *they* are)'; for Quine, '[i]nscrutability of reference emerges only in translation'.¹⁰³ This is the question that we now propose to address.

Assume a text and a translator purporting to offer a translation of that text. Quine emphasizes at the outset that a range of competing translations can prove equally compatible with the behaviour under examination, that is, with the empirical data. In the absence of an elucidative referent, since 'there just aren't any facts for such putative semantical statements to be about',¹⁰⁴ because there are 'no entities' beyond assignments of reference,¹⁰⁵ that is, other than as elements of a theory,¹⁰⁶ considering that meaning cannot be reified (or cannot be made 'thing-like'),¹⁰⁷ in view of the lack of any physicality assuredly correlatable with an utterance, in as much as '[r]eference itself proves behaviorally inscrutable',¹⁰⁸ there is no way to know which interpretation would provide the *true* interpretation of that which has been uttered. For Quine, there is no principled way of adjudicating between alternative interpretations of language such that one could be said to be (referentially) true. In other terms, with specific reference to translation, Quine's 'physicalist' claim holds that since there is no fact of the matter for the translator to be right or wrong about, since reference proves inscrutable, a range of different translations can properly entail 'the neural stimulations which would prompt speakers to assent to them', that is, the 'stimulus meaning' that would validate a particular translation, whether intensionally or extensionally,¹⁰⁹ in the eyes of a particular reader.¹¹⁰

(p.528) It follows that '[t]ruth is immanent'.¹¹¹ It depends on a language;¹¹² indeed, it is inseparable from a theory of the world for 'we can never do better than occupy the standpoint of some theory or other, the best we can muster at the time'.¹¹³ According to Quine, 'there is no extra-theoretic truth, no higher truth than the truth we are claiming or aspiring to as we continue to tinker with our system of the world from within'.¹¹⁴ Given that every translation, for example, is forced to project the ontology of a language or theory on the *interpretandum*, any 'truth' is the expression of one's epistemological stance.¹¹⁵

Importantly, despite his challenge to 'an ill-conceived notion within traditional semantics,

namely, sameness of meaning',¹¹⁶ Quine cannot be characterized as a semantic nihilist: 'Indeterminacy means not that there is no acceptable translation, but that there are many'.¹¹⁷ In other terms, 'translations of a language can be set up in such ways that, while each is consistent with the speech dispositions of everyone concerned, they nevertheless can have different sentence-to-sentence correlations even to the point where two translations of some sentence can be correlated with sentences having opposite truth-values; *and* there is no answer to the (pseudo-) question of which translation is the *uniquely* correct one—they are *all* correct insofar as they measure up to the speech dispositions of all concerned'.¹¹⁸

While he says that all that is possible for an interpretation is the fact of practical success, Quine never claims that one cannot decide between any two interpretations. Rather, his contention is that '[i]f we transcend [the data] and decide that one of two [translations] equally in conformity to the data is better than the other, our decision will be based on mere intuition'.¹¹⁹

∞

Featuring 'startling' correlations in their philosophical projects,¹²⁰ in spite of 'quite opposite starting-points',¹²¹ Derrida and Quine are both arguing against an 'uncritical notion of meanin[g]'.¹²² And the two philosophers are both led to ascertain an abyss—a non-relation or an interruption—between language and world. They are both saying that a word (or a concatenation of words) cannot be fully present in a way that would allow it to be self-interpreting, to preclude the necessity of its being interpreted, to avoid the need to force an interpretation. For Derrida and Quine, a word as given and pure (**p.529**) meaning is an incoherent notion ('[t]he idea of a *Ding an sich* may be nonsense; the idea of a *Bedeutung an sich* is definitely nonsense on stilts').¹²³ Not even the 'context' can fix the reference of a word since context is not exhaustively specifiable without itself being subject to interpretation (thus, context is language-like or features language-like properties). Ultimately, all interpretation takes place via an unending regression into a sequence of what Quine calls 'background languages'.¹²⁴ There simply cannot be any interpretation beyond language or out of language. It is not, of course, that Derrida and Quine deny the existence of physical reality or anything of the kind. What they are claiming is that there is nothing semantic behind language, that one never reaches semantic bedrock. Built into interpretation, then, in the absence of the kind of 'absolute anchors' that could be supplied by the full presence of a text or a context,¹²⁵ is a 'drift',¹²⁶ which means that 'there is always a "slack" between an interpretation and the evidence for it',¹²⁷ what Derrida calls 'play'.¹²⁸ It follows that translation inevitably differs from what it is about (in that it is but an interpretation thereof) and defers what it is about (in that it calls for an interpretation of itself).¹²⁹

The idea of 'slack' or 'play' cannot, however, be taken to embody 'unlimited polysemy'.¹³⁰ 'One does not do whatever one wants with language'.¹³¹ Thus, a translation may be defective. Our basic argument is that a translation is a translation 'of' a text. One needs to ask, then, to what extent is a translation appropriately responding to a

hidden claim of the text or illegitimately imposing itself on the text by failing to hearken to its *genius loci*. For a translation to exist as translation of a text, it must demonstrably engage with the claim of the text,¹³² with the 'speaking-to-us' ('*Zuspruch*') of the text that is at work.¹³³ In other words, the translation must show itself to be hearkening to the text,¹³⁴ for 'we are compelled, as soon as we set out upon a way of thought, to give specific attention to what the word says'.¹³⁵ A translation defecting from the text—for example, on account of its absurd rendition of the text (say, 'The Fool Who Caused Trouble' for Proust's *A la recherche du temps perdu*)—could therefore be said not to be operating as a translation of the text, which means that it would be defective even as it purported to be a *translation* of the text. Through the reference to defectiveness, translational anarchism is contained—as it must be. Inevitably, borderline situations will **(p.530)** arise. Consider an anachronistic translation: does the reference to 'Cape Kennedy' in the translation of a passage from 'Homer's *Iliad* regarding Achilles's talking horses and the way in which they soar in the skies—'as in dreams, or at Cape Kennedy, they rise'¹³⁶—pertain to defectiveness?

But the fact that certain translations can be said to be defective still does not entail that one of them need be recognized as 'true'. The idea of 'truth' traditionally connotes transcendence in the sense at least that 'truth' must exist beyond contingency. With specific reference to translation, truth classically turns on the recovery of full meaning. Neither sense of 'truth' is necessary, and one could plausibly refashion the word by contemplating other semantic extensions. However, the habitual connotations of 'truth' are sufficiently well established in philosophical, literary, and common parlance to suggest that it is by reference to them that it becomes relevant to ask whether a translation can be 'true'. And because translation is at the very minimum constrained by the language in which it is happening and by the person who is making it happen, it can never arise outside of an interpretive framework. Even assuming something like 'the text-in-itself', a translation of it cannot be 'true' in the canonical sense of the word, that is, it can never lift itself out of conjecture to reach the text 'as it is': '[T]he thing itself always slips away'.¹³⁷

Since a translation is inherently 'maladjusted',¹³⁸ all that translation can hope to be, the best that it can expect to be, then, is (relatively) just. It can reach a point where it purports to do justice to the text through a process of incessant negotiation with it. Observe, however, that the justice at issue is not exclusively 'of' the text in the sense at least that the text's justice needs to be formulated through a process of interpretation and thus calls to be conveyed 'to' the text by the interpreter as hearer. Yet, justice must be understood as being strictly connected to place and time, that is, as being thoroughly immanent or embedded or singular: it is of *that* text, it is being conveyed by *that* interpreter. As regards translation, justice is but the application of local interpretive knowledge in response to the claim of a specific text, a process that will itself be validated or invalidated by reference to local interpretive knowledge as deployed by a particular audience or readership.

No doubt aporetically, translation can thus be defective even as it cannot be 'true'. In translation, therefore, 'truth' cannot act as a regulative ideal. Yet translation, albeit

maladjusted, can aspire to being just. It can only ever aim to be just—it can just seek justness. However, as a matter of the hearkening—of the recognition and respect—that is due to the text, it must want to be just. Indeed, ‘is not a just translation hospitality itself?’¹³⁹

∞

For Ronald Dworkin, ‘a scholar who labors for years over a new reading of *Hamlet* cannot believe that his various interpretive conclusions are no more valid than the contradictory conclusions of other scholars [...]. [...] [I]f [interpreters] have come to think that one interpretation of something is best, they can also sensibly think that that interpretation meets the test of what defines success in the enterprise, even if they cannot articulate that test in much or any detail. So they can think there is objective truth in interpretation’.¹⁴⁰ (p.531) Elsewhere, still adverting to the matter of ‘truth’, Dworkin argues that although ‘[we] might worry that it is both arrogant and impolitic to claim absolute truth’, ‘we must do that’; indeed, ‘[w]e have no option’.¹⁴¹ We disagree.

Because ‘a comparative-law investigation should also concern the translation of law texts’,¹⁴² and since, as Quine’s analytics makes clear, ‘[t]ranslation remains, and is indispensable’,¹⁴³ assume a comparatist-at-law inscribing foreign law in translation. Assume further that this comparatist is acting in all earnestness and wishes to be taken seriously. Of course, one can expect this comparatist to deem her translation of foreign law more compelling than, say, her colleague’s translation or than other extant translations to be found in books or journals. But this sense of achievement does not mean, need not mean, and must not mean, that this comparatist-at-law holds her interpretation to be ‘true’. What this comparatist needs to think, and what others need to accept about her work, is that her translation carries a higher interpretive yield than other translations, that it is good and perhaps excellent, not that it is ‘true’. ‘Truth’ is simply not necessary to any expression of conviction in the supremacy of one translation over others. Indeed, it is misleading for while it evokes the original text’s authority, it fails to account for its vulnerability.

But we shall not finish where we began, that is, with Pinter. In his Nobel lecture, in addition to claiming that ‘there never is any such thing as one truth’, that ‘[t]here are many’, that they ‘challenge each other’, and that they are ‘blind to each other’, Pinter said that ‘[y]ou never quite find [truth] but the search for it is compulsive’. He added: ‘The search is clearly what drives the endeavour’.¹⁴⁴ Although there never is any such thing as one ‘truth’, then, the search for it would be irresistible. This assertion is intriguing. One would be compulsively driven to search for something that never is and that never can be, such that one would find oneself locked in an impasse: ‘Truth’ must be abandoned, yet it cannot be jettisoned. Possibly the *idea* of ‘truth’ indeed remains so attractive. It may be that ‘truth’ continues to drive the mind despite its inexistence. And perhaps ‘truth’ is needed—‘final belief/Must be in a fiction’¹⁴⁵—an intuition that Derrida ultimately seems to accept as he writes that ‘[o]ne must have truth’.¹⁴⁶ Derrida’s and Quine’s contestations would therefore be offering ‘a persistent critique of what one cannot not want’.¹⁴⁷ *Quaere*: Would holding that ‘[t]ruth in law need not extend beyond a

particular culture' help to square the proverbial circle?¹⁴⁸ But is one then still talking of 'truth' which, by definition so to speak, cannot meaningfully be equated with local knowledge, that is, with contingency? Now, would the fact that '[t]ruth is preserved in vestigial form in the notion of error' assuage one's alleged need to believe?¹⁴⁹

(p.532) In the course of our argument, we have wanted to focus not on whether or not there is faith in 'truth', but on whether or not there is 'truth' in translation with specific reference to foreign law. In sum, we have been asking ourselves Beckett's question: '[W]hat truth is there in all this babble?'¹⁵⁰ And, like Derrida and Quine, we feel able to answer that there is none, none whatsoever. Faith is quite another matter.

Notes:

(¹) Samuel Beckett, *The Unnamable*, in *The Grove Centenary Edition*, ed. by Paul Auster, vol. II (New York: Grove Press, 2006 [1958]), 363 [*Que voulez-vous, il faut spéculer, spéculer, jusqu'à ce qu'on tombe sur la spéculation qui est la bonne*]. The re-writing from the French is Beckett's own.

(²) Baruch Spinoza, *Theological-Political Treatise*, 2nd edn, transl. by Samuel Shirley (Indianapolis, Ind.: Hackett, 2001 [1670]), 88 [*De solo enim sensu-orationum, non autem de earum veritate laboramus*].

(³) Hannah Arendt, *Denktagebuch*, ed. by Ursula Ludz and Ingeborg Nordmann, vol. II (Munich: Piper, 2002 [1963–1964]), 619 [*Wer im Meinungskampf sagt: er habe die Wahrheit, meldet einen Herrschaftsanspruch an*].

(⁴) Jacques Derrida, *De la grammatologie* (Paris: Editions de Minuit, 1967), 233 [*Il faut commencer quelque part où nous sommes*]/*Quelque part où nous sommes: en un texte déjà où nous croyons être*] (emphasis original) [hereinafter *Grammatologie*]. One should not assume that the localization of one's situation is easily achieved. In fact, Derrida observes that it can be expected to induce a 'vertigo': Jacques Derrida (with Catherine Malabou), *La Contre-allée* (Paris: La Quinzaine littéraire, 1999), 147 [*vertige*] (hereinafter *Contre-allée*).

(⁵) Derrida, *Contre-allée* (cited in n.4), 57 [*contremaître*]. The French word, which is Derrida's, connotes the idea of a 'master' (as in *maître*) but can also, more sophisticatedly, suggest the notion of a master against whom ('*contre*') one is thinking and writing. This reading allows Derrida to assert his fidelity to Heidegger's thought while advocating his intellectual specificity, which in the very name of loyalty to Heidegger, in particular to Heideggerian contrarianism, takes the form of frequent departures from Heidegger's own ideas.

(⁶) Jacques Derrida, *Positions* (Paris: Editions de Minuit, 1972), 73 [*d'une extrême importance*]/*une avancée inédite, irréversible*] (hereinafter *Positions*).

(⁷) Derrida, *Positions* (cited in n.6), 18 [*Rien de ce que je tente n'aurait été possible sans l'ouverture des questions Heideggeriennes*].

(⁸) Martin Heidegger, *Being and Time*, rev'd transl. by Joan Stambaugh (Albany, NY: SUNY Press, 2010 [1927]), 145–6 [hereinafter *Being and Time*].

(⁹) Martin Heidegger, [Letter to Karl Löwith], in (eds), Dietrich Papenfuss and Otto Pöggeler, *Zur philosophischen Aktualität Heideggers*, vol. II (Frankfurt: V. Klostermann, 1990 [1921]), 29 ['*Ich arbeite konkret faktisch aus meinem "ich bin"—aus meiner geistigenüberhaupt faktischen Herkunft—Milieu—Lebenszusammenhängen, aus dem, was mir von da zugänglich ist als lebendige Erfahrung, worin ich lebe*'].

(¹⁰) e.g. (eds), Diane P. Michelfelder and Richard E. Palmer, *Dialogue and Deconstruction: The Gadamer-Derrida Encounter* (Albany, NY: SUNY Press, 1989). For a thoughtful account of the disputation between Derrida and Gadamer, see Colin Davis, *Critical Excess* (Palo Alto, Calif.: Stanford University Press, 2010), 26–55.

(¹¹) Hans-Georg Gadamer, *Truth and Method*, 5th edn, rev'd transl. by Joel Weinsheimer and Donald G. Marshall (New York: Continuum, 2004 [1990]), 301 ['*man sich nicht ihr gegenüber befindet*'] [hereinafter *Truth and Method*]. This statement encapsulates one of the most important epistemological commitments whereby Heidegger and his successors seek to distinguish their philosophical projects from Husserl's phenomenology regarded by them as indentured to Cartesian assumptions and as promoting the sovereignty of the subject, two features that indeed appear clearly from the phrase, 'I stand *above* the world': Edmund Husserl, *The Crisis of European Sciences and Transcendental Phenomenology*, transl. by David Carr (Evanston, Ill.: Northwestern University Press, 1970 [1937]), 152 ['*ich steheüber der Welt*'] (original emphasis in English).

(¹²) The label 'comparative law', though in common usage, strikes us as problematic. There is indeed no 'law' that can be said to be 'comparative'. At the very least, then, the retention of the misnomer in this paper calls for it to be held in the tweezers of quotation marks throughout.

(¹³) Bearing in mind how any 'origin' requires its origins to be elucidated in their turn, it seems that, in reaction to the French-initiated codification movement and what were perceived in certain academic circles as its attendant isolationist tendencies, Heidelberg professors Karl Mittermaier and Karl Zachariä took an inaugural institutional step in 1829 by launching the *Kritische Zeitschrift für Rechtswissenschaft und Gesetzgebung des Auslandes*, which lasted until 1856. For their part, Montaigne's and Montesquieu's celebrated texts offer noteworthy comparisons *avant la lettre*—of which there are, needless to add, innumerable examples.

(¹⁴) Konrad Zweigert and Hein Kötz, *Introduction to Comparative Law*, 3rd edn, transl. by Tony Weir (Oxford: Oxford University Press, 1998 [1996]), 40 [hereinafter *Introduction to Comparative Law*].

(¹⁵) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 39 ['*bis in Einzelheiten hinein*'].

(¹⁶) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 62 [*(die Irrelevanz der) Unterschiede*].

(¹⁷) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 3 [*eines einheitlichen Gerechtigkeitsgedankens*].

(¹⁸) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 45 [*wissenschaftliche Exaktheit und Objektivität*].

(¹⁹) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 43 [*schlicht, d.h. vor allem ohne kritische Wertung*].

(²⁰) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 35 [*darf (er) sich (...) den Blick durch Systembegriffe des eigenen nationalen Rechts verstellen lassen*].

(²¹) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 10 [*sich (...) von seinen eigenen juristisch-dogmatischen Vorverständnissen und seinem eigenen kulturellen Umfeld lösen*].

(²²) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 44 [*Die Lösungen der untersuchten Rechtsordnungen sind von allen systematischen Begriffen dieser Rechtsordnungen zu befreien, aus ihren nur-nationalen dogmatischen Verkrustungen zu lösen*].

(²³) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 15 [*Physik/Molekularbiologie/Geologie*].

(²⁴) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 15 [*“deutsche” Physik/“britische” Molekularbiologie/“kanadische” Geologie*].

(²⁵) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 45 [*Zeit des Naturrechts*].

(²⁶) e.g. Michael Bogdan, 'On the Value and Method of Rule-Comparison in Comparative Law', in (eds) Heinz-Peter Mansel et al., *Festschrift für Erik Jayme* (Munich: Sellier, 2004), 1233–42.

(²⁷) e.g. Vicki C. Jackson, *Constitutional Engagement in a Transnational Era* (Oxford: Oxford University Press, 2010), 178, who advocates '[c]omparability in the sense of similarity' (emphasis original).

(²⁸) e.g. G. Frankenberg, 'Critical Comparisons: Re-thinking Comparative Law' (1985) 26 *Harvard International L.J.* 411; P. Legrand, 'Paradoxically, Derrida: For a Comparative Legal Studies', (2005) 27 *Cardozo L.R.* 631; Richard Hyland, *Gifts* (Oxford: Oxford University Press, 2009), 63–74 and 94–113.

(²⁹) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 45 [*'internationale Rechtswissenschaft'*].

(³⁰) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 46 [*'Universalrechtswissenschaft'*].

(³¹) J. Gordley, 'Comparative Legal Research: Its Function in the Development of Harmonized Law' (1995) 43 *American J. Comparative L.* 555, 563.

(³²) José Ortega y Gasset, 'La reviviscencia de los cuadros', in *Obras completas*, 2nd edn, vol. VIII (Madrid: Alianza Editorial, 1994 [1946]), 493 [*'Todo decir es deficiente'*/'*Todo decir es exuberante'*].

(³³) Jacques Derrida and Maurizio Ferraris, *A Taste for the Secret*, ed. by Giacomo Denis and David Webb, transl. by Giacomo Denis (Cambridge: Polity, 2001 [1993]), 31.

(³⁴) See generally Simone Glanert, *De la traductibilité du droit* (Paris: Dalloz, 2011). See also Sieglinde Pommer, *Rechtsübersetzung und Rechtsvergleichung* (Frankfurt: P. Lang, 2005).

(³⁵) Meaghan Morris, 'Foreword', in Naoki Sakai, *Translation and Subjectivity* (Minneapolis, Minn.: University of Minnesota Press, 1997), xiii.

(³⁶) cf. Jacques Derrida, *Sauf le nom* (Paris: Galilée, 1996), 61 and 60, respectively.

(³⁷) Lorenzo Bonoli, *Lire les cultures* (Paris: Kimé, 2008), 98 (emphasis omitted). e.g. Heidegger, *Being and Time* (cited in n.8); Jacques Derrida, *Of Grammatology*, rev'd transl. by Gayatri C. Spivak (Baltimore, Md: Johns Hopkins University Press, 1997 [1967]).

(³⁸) The idea of 'survival' is a key motif in Derrida's work. e.g. Jacques Derrida, 'Living On', transl. by James Hulbert, in Harold Bloom et al., *Deconstruction and Criticism* (New York: Continuum, 2004 [1979]), 62–142. Though Derrida wrote his text in French, this English version represents its initial publication. The essay later appeared in French as Jacques Derrida, 'Survivre', in *Parages* (Paris: Galilée, 1986), 117–218. Importantly, an analogous theme, expressed as 'afterlife' (*'Fortleben'*), is present in Benjamin's seminal essay on translation: Walter Benjamin, 'The Task of the Translator', in *Selected Writings*, ed. by Marcus Bullock and Michael W. Jennings, transl. by Harry Zohn, vol. I (Cambridge, Mass.: Harvard University Press, 1973 [1923]), 256 [hereinafter 'The Task of the Translator'].

(³⁹) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 15. The unitalicized French expression is used both in the English translation and in the original German version of the book.

(⁴⁰) Zweigert and Kötz, *Introduction to Comparative Law* (cited in n.14), 3 [*'(der) Zweck (der Rechtsvergleichung) ist die Erforschung der Wahrheit'*].

(⁴¹) Harold Pinter, *Art, Truth and Politics*, available at http://nobelprize.org/nobel_prizes/literature/laureates/2005/pinter-lecture-e.html [hereinafter *Art, Truth and Politics*]. The lecture was released in print by Faber and Faber in 2006.

(⁴²) Gianni Vattimo, *A Farewell to Truth*, transl. by William McCuaig (New York: Columbia University Press, 2011 [2009]), 64.

(⁴³) Ours is not a contention about 'truth' taken as an autonomous 'entity'. To say, as we do, that foreign law in translation can only be accessed through interpretation is not to argue that foreign law's existence is wholly subordinated to the deployment of interpretive resources by the comparatist aiming to know it. For a formulation of the distinction that we are drawing here, see B. H. Smith, 'The Chimera of Relativism' (2011) 17 *Common Knowledge* 1, 14.

(⁴⁴) Jacques Derrida, *L'Écriture et la différence* (Paris: Le Seuil, 1967), 381 [*'la négativité est une ressource'*] (emphasis original) [hereinafter *Écriture et différence*].

(⁴⁵) Derrida, *Écriture et différence* (cited in n.44), 427 [*'l'affirmation joyeuse du jeu du monde'*].

(⁴⁶) Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton, NJ: Princeton University Press, 1979), 377 (emphasis original).

(⁴⁷) Peter Goodrich, *Languages of Law* (London: Weidenfeld & Nicolson, 1990), 1–2.

(⁴⁸) For an example of Derrida's critique of metaphysics, see Jacques Derrida, *Marges* (Paris: Editions de Minuit, 1972), 254 [hereinafter *Marges*].

(⁴⁹) Derrida, *Marges* (cited in n.48), 392 [*'ne donne pas lieu "en dernière instance", à un déchiffrement herméneutique, au décryptage d'un sens ou d'une vérité'*].

(⁵⁰) Derrida, *Écriture et différence* (cited in n.44), 427 [*'deux interprétations de l'interprétation'*].

(⁵¹) Derrida, *Écriture et différence* (cited in n.44), [*'L'une cherche à déchiffrer, rêve de déchiffrer une vérité (...) échappant au jeu (...) du signe (...). L'autre (...) affirme le jeu et tente de passer au-delà (...) (du rêve de) la présence pleine, (du) fondement rassurant (...) et (de) la fin du jeu'*].

(⁵²) Derrida, *Écriture et différence* (cited in n.44), [*'ces deux interprétations de l'interprétation (...) sont absolument inconciliables'*].

(⁵³) Note that this opposition is not direct for it would then serve to feed the Hegelian dialectical machine by reaffirming the terms of the dichotomy. Rather, it is 'an oblique movement': Jacques Derrida, *Eperons* (Paris: Flammarion, 1978), 96 [*'un mouvement oblique'*].

⁽⁵⁴⁾ Jacques Derrida, *Limited Inc* (Paris: Galilée, 1990), 174 [*'le projet de remonter "stratégiquement", idéalement, à une origine ou à une "priorité" simple, intacte, normale, pure, propre'*] (hereinafter *Limited*).

⁽⁵⁵⁾ Derrida, *Limited* (cited in n.54), 254 [*'Cela ne peut paraître surprenant ou désagréable qu'à ceux pour qui les choses sont toujours claires, facilement déchiffrables, calculables et programmables: en un mot, si l'on voulait être polémique, aux irresponsables'*].

⁽⁵⁶⁾ For Derrida to allow that this infinite lability is possible only from 'a finite base' such as the alphabet permits him to rebut the accusation of transcendentalism, the kind of attack that would undermine his assault on metaphysics: Christopher Johnson, *System and Writing in the Philosophy of Jacques Derrida* (Cambridge: Cambridge University Press, 1993), 152 [hereinafter *System and Writing*]. Even as it shows itself to be endlessly open, language thus frames the extent of its own possible unfolding; it reveals 'powers of coding and overcoding or, in other words, of control and self-regulation': Jacques Derrida, 'Mes chances', in *Psyché*, 2nd edn, vol. I (Paris: Galilée, 1998 [1988]), 354 [*'pouvoirs de codage ou de surcodage, autrement dit de contrôle et d'autorégulation'*] (hereinafter *Psyché*). The infinity at stake is thus 'a finite infinity': Johnson, *System and Writing*, 51 (emphasis original).

⁽⁵⁷⁾ Derrida, *Limited* (cited in n.54), 122 [*'Mille possibilités resteront toujours ouvertes, alors même qu'on comprend quelque chose de cette phrase qui fait sens'*].

⁽⁵⁸⁾ See Derrida, *Marges* (cited in n.48), 375.

⁽⁵⁹⁾ For a reference to 'empirical saturation', see Derrida, *Marges* (cited in n.48), 376 [*'saturation empirique'*].

⁽⁶⁰⁾ Derrida, *Marges* (cited in n.48), 378 [*'restance non-présente'*] (emphasis original).

⁽⁶¹⁾ Jacques Derrida, *La Dissémination* (Paris: Le Seuil, 1972), 265 [*'déhiscence'*] (hereinafter *Dissémination*).

⁽⁶²⁾ Derrida, *Dissémination* (cited in n.61), 290 [*'(La dissémination) (...) produit une structure topologique qui circule indéfiniment sur elle-même par le supplément incessant d'un tour de trop'*].

⁽⁶³⁾ Jacques Derrida, *Du droit à la philosophie* (Paris: Galilée, 1990), 373 [*'la structure de supplémentarité dans la traduction'*] (emphasis original).

⁽⁶⁴⁾ Jacques Derrida, *Spectres de Marx* (Paris: Galilée, 1993), 43 [*'Si correctes et légitimes qu'elles soient, et quelque droit qu'on leur reconnaisse, (les traductions) sont toutes désajustées, comme injustes dans l'écart qui les affecte: au-dedans d'elles-mêmes, certes, puisque leur sens reste nécessairement équivoque, puis dans leur rapport entre elles et donc dans leur multiplicité, enfin ou d'abord dans leur inadéquation irréductible à l'autre langue et au coup de génie de l'événement qui fait la loi, à toutes les*

virtualités de l'original'] (emphasis original).

(⁶⁵) Jacques Derrida, *Points de suspension*, ed. by Elisabeth Weber (Paris: Galilée, 1992 [1983]), 139 [*'Nous avons reçu plus que nous ne croyons savoir de la "tradition"'*].

(⁶⁶) Heidegger, *Being and Time* (cited in n.8), 145 [*'Enthüllung'/'immer unter der Führung einer Hinsicht, die das fixiert, im Hinblick worauf das Verstandene ausgelegt werden soll'*].

(⁶⁷) Heidegger, *Being and Time* (cited in n.8), 145 [*'Die Auslegung gründet jeweils in einer Vorsicht'*] (emphasis original).

(⁶⁸) Heidegger, *Being and Time* (cited in n.8), 146 [*'Wie immer—die Auslegung hat sich je schon endgültig oder vorbehaltlich für eine bestimmte Begrifflichkeit entschieden'*].

(⁶⁹) Rudolf Bultmann, 'Das Problem der Hermeneutik', in *Glauben und Verstehen*, vol. II (Tübingen: J. C. B. Mohr, 1952), 216 [hereinafter 'Das Problem der Hermeneutik']; Gadamer, *Truth and Method* (cited in n.11), 278–306 ('Prejudices [A]s Conditions of Understanding') [*'Vorurteile als Bedingungen des Verstehens'*].

(⁷⁰) Martin Heidegger, *Identity and Difference*, transl. by Joan Stambaugh (Chicago, Ill.: University of Chicago Press, 2002 [1957]), 41 [*'Was immer und wie immer wir zu denken versuchen, wir denken im Spielraum der Überlieferung'*].

(⁷¹) Derrida, *Écriture et différence* (cited in n.44), 335 [*'Le "sujet" de l'(interprétation) n'existe pas si l'on entend par là quelque solitude souveraine de l'(interprète). Le sujet de l'(interprétation) est un système de rapports entre les couches: (...) du psychique, de la société, du monde'*] (emphasis original).

(⁷²) Derrida, *Écriture et différence* (cited in n.44), 265 [*'ce qu'on appelle le sujet (interprétant) n'est plus celui-là-même ou celui-là-seul qui (interprète). Il se découvre dans une irréductible secondarité'*].

(⁷³) Derrida, *Grammatologie* (cited in n.4), 350 [*'Il n'y a pas, à rigoureusement parler, de texte dont l'auteur ou le sujet soit Jean-Jacques Rousseau'*].

(⁷⁴) Jacques Derrida, *Le Monolinguisme de l'autre* (Paris: Galilée, 1996), 103 [*'la traduction est un autre nom de l'impossible'*].

(⁷⁵) Jacques Derrida, *La Bête et le souverain*, ed. by Michel Lisse, Marie-Louise Mallet, and Ginette Michaud, vol. II (Paris: Galilée, 2010 [2002]), 31 [*'Entre mon monde, (...) ce que j'appelle "mon monde", (...) entre mon monde et tout autre monde, il y a d'abord l'espace et le temps d'une différence infinie, d'une interruption incommensurable à toutes les tentatives de passage, de pont, d'isthme, de communication, de traduction, de trope et de transfert que le désir de monde ou le mal du monde, l'être en mal de monde tentera de poser, d'imposer, de proposer, de stabiliser. Il n'y a pas de monde, il n'y a que des îles'*]. This text is the transcript of the last annual course of lectures that Derrida

delivered at the *Ecole des hautes études en sciences sociales* in Paris in 2002–2003.

(⁷⁶) Gadamer, *Truth and Method* (cited in n.11), 296 [*‘Es genügt zu sagen, daß man anders versteht, wenn man überhaupt versteht’*] (emphasis original).

(⁷⁷) Jorge Luis Borges, ‘The Library of Babel’, in *Collected Fictions*, transl. by Andrew Hurley (London: Penguin, 1998 [1941]), 118 [*‘Tú, que me lees, ¿estas seguro de entender mi lenguaje?’*].

(⁷⁸) cf. *Rilke Briefe*, ed. by the Rilke-Archiv in Weimar, vol. I (Frankfurt: Insel, 1950 [1902]), 41: ‘And there stand those stupid languages, helpless as two bridges that go over the same river side by side but are separated from each other by an abyss. It is a mere bagatelle, an accident, and yet it separates...’ [*‘Und da stehen nun diese dummen Sprachen hilflos wie zwei Brücken, die nebeneinanderüber denselben Fluß gehen, aber durch einen Abgrund voneinander getrennt sind. Es ist nur eine Bagatelle, ein Zufall, und es trennt doch...’*]. In this letter written from Paris, Rilke comments on his failure to communicate with Rodin on the occasion of his visit to him. In a letter dated 26 March 1960, the word ‘abyss’ also appears in Celan’s correspondence with specific reference to the separation between languages: James K. Lyon, *Paul Celan and Martin Heidegger* (Baltimore, Md: Johns Hopkins University Press, 2006 [1960]), 37 [*‘Abgrund’*] [hereinafter *Paul Celan and Martin Heidegger*].

(⁷⁹) See Simone Glanert, ‘Comparaison et traduction des droits: à l’impossible tous sont tenus’, in (ed.) Pierre Legrand, *Comparer les droits, résolument* (Paris: Presses Universitaires de France, 2009), 279–311.

(⁸⁰) Jacques Derrida, *Béliers* (Paris: Galilée, 2003), 77 [*‘Je dois traduire, transférer, transporter (übertragen) l’intraduisible dans un autre tour là même où, traduit, il demeure intraduisible’*] (emphasis original).

(⁸¹) F. Raffoul, ‘Derrida et l’éthique de l’im-possible’ (2007) 53 *Revue de métaphysique et de morale* 73, 75 [*‘non pas au sens où il deviendrait possible, mais dans le sens plus radical où l’impossible devient possible comme impossible’*] (emphasis original).

(⁸²) Derrida, *Positions* (cited in n.6), 31 [*‘Nous n’aurons et n’avons en fait jamais eu affaire à quelque “transport” de signifiés purs que l’instrument—ou le “véhicule”—signifiant laisserait vierge et intact, d’une langue à l’autre’*].

(⁸³) Derrida, *Positions* (cited in n.6), 31 [*‘à la notion de traduction, il faudra substituer une notion de transformation: transformation réglée d’une langue par une autre, d’un texte par un autre’*] (emphasis original). Elsewhere, Derrida refers to a ‘mutation’: Jacques Derrida, ‘Des tours de Babel’, in *Psyché* [1985] (cited in n.56), 217 [*‘mutation’*] (hereinafter ‘Tours de Babel’). See also Benjamin, ‘The Task of the Translator’ (cited in n.38), 256: ‘For in its afterlife—which could not be called that if it were not a transformation and a renewal of something living—the original undergoes a change’ [*‘Denn in seinem Fortleben, das so nicht heißen dürfte, wenn es nicht Wandlung und*

Erneuerung des Lebendigen wäre, ändert sich das Original']. Again (see n.38), Benjamin anticipates Derrida.

⁽⁸⁴⁾ An apposite understanding of the word 'economy' as used by Derrida throughout his work would be 'dynamic interplay': Johnson, *System and Writing* (cited in n.56), 20. For the idea of 'negotiation', see Jacques Derrida, *Altérités* (Paris: Osiris, 1986), 85.

⁽⁸⁵⁾ J. Derrida, [Interview], *Magazine littéraire*, April 2004, 26 [*'Ce qui me guide, c'est toujours l'intraductibilité'*].

⁽⁸⁶⁾ Andrew Benjamin, *Translation and the Nature of Philosophy* (London: Routledge, 1989), 82–3.

⁽⁸⁷⁾ This congruence is not to hide the fact that Quine did not esteem Derrida. When the University of Cambridge chose to bestow an honorary doctorate on Derrida, Quine thus joined 18 other philosophers to oppose the decision in a scathing letter to *The Times* published on 9 May 1992. This document is reproduced in full in Jacques Derrida, *Points...*, ed. by Elisabeth Weber (Palo Alto, Calif.: Stanford University Press, 1995), 419–21. It is preceded by Derrida's reflections on the dispute: Jacques Derrida, '*Honoris Causa: "This Is Also Extremely Funny"*', transl. by Marian Hobson and Christopher Johnson, in *Points...* (Palo Alto, Calif.: Stanford University Press, 1995 [1992]), 399–419. Protests notwithstanding, Derrida received his distinction on 11 June 1992.

⁽⁸⁸⁾ Hans-Johann Glock, *Quine and Davidson on Language, Thought and Reality* (Cambridge: Cambridge University Press, 2003), 29 [hereinafter: *Quine and Davidson*].

⁽⁸⁹⁾ Glock, *Quine and Davidson* (cited in n.88), 28 (emphasis omitted).

⁽⁹⁰⁾ Peter Hylton, 'Quine on Reference and Ontology', in (ed.) Roger F. Gibson, *The Cambridge Companion to Quine* (Cambridge: Cambridge University Press, 2004), 118 [hereinafter: 'Quine on Reference and Ontology'].

⁽⁹¹⁾ For a statement to this effect, see Willard Van Orman Quine, *Word and Object* (Cambridge, Mass.: MIT Press, 1960), 22: 'What reality is like is the business of scientists, in the broadest sense, painstakingly to surmise; and what there is, what is real, is part of that question' [hereinafter *Word and Object*]. See also W. V. Quine, *Ontological Relativity and Other Essays* (New York: Columbia University Press, 1969), 84 [hereinafter *Ontological Relativity*].

⁽⁹²⁾ Glock, *Quine and Davidson* (cited in n.88), 230.

⁽⁹³⁾ See Quine, *Word and Object* (cited in n.91), 26–79. Thirty years later, Quine was taking the view that the expression "'indeterminacy of reference" would have been better': W. V. Quine, *Pursuit of Truth*, 2nd edn (Cambridge, Mass.: Harvard University Press, 1992), 50.

⁽⁹⁴⁾ W. V. Quine, *Theories and Things* (Cambridge, Mass.: Harvard University Press,

1981), 23 [hereinafter *Theories and Things*].

(⁹⁵) Glock, *Quine and Davidson* (cited in n.88), 227.

(⁹⁶) Hylton, 'Quine on Reference and Ontology' (cited in n.90), 122.

(⁹⁷) Hylton, 'Quine on Reference and Ontology' (cited in n.90), 122.

(⁹⁸) W. V. Quine, 'Indeterminacy of Translation Again' (1987) 84 *Journal of Philosophy* 5, 5 [hereinafter 'Indeterminacy'].

(⁹⁹) Quine, *Ontological Relativity* (cited in n.91), 27.

(¹⁰⁰) Quine, *Word and Object* (cited in n.91), ix.

(¹⁰¹) Harry Deutsch, 'Extensionalism', in (eds) Jaegwon Kim and Ernest Sosa, *A Companion to Metaphysics* (Oxford: Blackwell, 1995), 160.

(¹⁰²) Robert Kirk, 'Indeterminacy of Translation', in (ed.) Roger F. Gibson, *The Cambridge Companion to Quine* (Cambridge: Cambridge University Press, 2004), 165 (emphasis original).

(¹⁰³) W. V. Quine, 'Reply to Paul A. Roth', in (eds) Lewis E. Hahn and Paul A. Schilpp, *The Philosophy of W. V. Quine* (LaSalle, Ill.: Open Court, 1986), 460.

(¹⁰⁴) Roger F. Gibson, *Enlightened Empiricism* (Gainesville, Fla: University Press of Florida, 1989), 112–3 [hereinafter *Enlightened Empiricism*].

(¹⁰⁵) Eve Gaudet, *Quine on Meaning* (New York: Continuum, 2006), 70 [hereinafter *Quine on Meaning*].

(¹⁰⁶) '[O]bjects figure only as neutral nodes in the logical structure of our total theory of the world': W. V. Quine, 'In Praise of Observation Sentences' (1993) 90 *Journal of Philosophy* 107, 112 [hereinafter 'Observation Sentences'].

(¹⁰⁷) W. V. Quine, 'Reply to John Woods', in (eds) Lewis E. Hahn and Paul A. Schilpp, *The Philosophy of W. V. Quine*, 2nd edn (LaSalle, Ill.: Open Court, 1999), 728.

(¹⁰⁸) Quine, *Ontological Relativity* (cited in n.91), 35.

(¹⁰⁹) For Quine, 'indeterminacy of translation [...] cuts across extension and intension alike': Quine, *Ontological Relativity* (cited in n.91), 35.

(¹¹⁰) Glock, *Quine and Davidson* (cited in n.88), 141. Quine argues that the proper way to describe the causal prompt for assent is the idea of 'neural intake': Quine, 'Observation Sentences' (cited in n.106), 108. In his view, '[n]eural intake is physical and indisputable': Quine, 'Observation Sentences' (cited in n.106), 116.

(¹¹¹) Quine, *Theories and Things* (cited in n.94), 21–2.

(¹¹²) See W. V. Quine, 'Reactions', in (eds) Paolo Leonardi and Marco Santambrogio, *On Quine* (Cambridge: Cambridge University Press, 1995), 353: '[S]entences are tied to languages. A string of marks is true only as a sentence of some specific language L; true in L' [hereinafter 'Reactions'].

(¹¹³) Quine, *Word and Object* (cited in n.91), 22.

(¹¹⁴) W. V. Quine, 'On Empirically Equivalent Systems of the World', (1975) 9 *Erkenntnis* 313, 327. This paper is reprinted in W. V. Quine, *Confessions of a Confirmed Extensionalist and Other Essays*, ed. by Dagfinn Føllesdal and Douglas B. Quine (Cambridge, Mass.: Harvard University Press, 2008). The relevant page is 242.

(¹¹⁵) Yet, Quine asserts that he is not a relativist. He claims that '[i]f a sentence is part of the theory that we hold, then we accept that sentence as true—not true in some relativized sense but flat-out': Hylton, 'Quine on Reference and Ontology' (cited in n.90), 132. See Quine, *Word and Object* (cited in n.91), 24–5.

(¹¹⁶) Quine, 'Indeterminacy' (cited in n.98), 10.

(¹¹⁷) Quine, 'Indeterminacy' (cited in n.98), 9.

(¹¹⁸) Gibson, *Enlightened Empiricism* (cited in n.104), 102.

(¹¹⁹) Gaudet, *Quine on Meaning* (cited in n.105), 70.

(¹²⁰) Samuel C. Wheeler, *Deconstruction As Analytic Philosophy* (Palo Alto, Calif.: Stanford University Press, 2000), 3 [hereinafter *Deconstruction*].

(¹²¹) Horst Turk, 'The Question of Translatability: Benjamin, Quine, Derrida', in (eds) Harald Kittel and Armin P. Frank, *Interculturality and the Historical Study of Literary Translations* (Berlin: E. Schmidt, 1991), 120.

(¹²²) Quine, 'Indeterminacy' (cited in n.98), 9.

(¹²³) Glock, *Quine and Davidson* (cited in n.88), 210.

(¹²⁴) Quine, *Ontological Relativity* (cited in n.91), 49.

(¹²⁵) Wheeler, *Deconstruction* (cited in n.120), 29.

(¹²⁶) The word is Derrida's: *Marges* (cited in n.48), 377 ['*dérive*'].

(¹²⁷) Wheeler, *Deconstruction* (cited in n.120), 29. Here is one of the various respects in which Derrida marks a break with the hermeneutic horizon.

(¹²⁸) Derrida, *Écriture et différence* (cited in n.44), 427 ['*jeu*']. The word suggests 'a kind

of “looseness” in the relations between world and world: Johnson, *System and Writing* (cited in n.56), 203 n.17.

(¹²⁹) We reprise Wheeler, *Deconstruction* (cited in n.120), 28.

(¹³⁰) Johnson, *System and Writing* (cited in n.56), 203 n.17.

(¹³¹) Jacques Derrida, *Apprendre à vivre enfin*, ed. by Jean Birnbaum (Paris: Galilée, 2005), 38 [*‘On ne fait pas n’importe quoi avec la langue’*].

(¹³²) Bultmann expressly advocates ‘listening to the claims of the text’: Bultmann, ‘Das Problem der Hermeneutik’ (cited in n.69), 228 [*‘(den) Anspruch (des Texts) zu hören’*].

(¹³³) For this translation from Heidegger’s philosophical vocabulary, see Lyon, *Paul Celan and Martin Heidegger* (cited in n.78), 223 n.14. The reference is to Martin Heidegger, *Holzwege*, in *Gesamtausgabe*, vol. V (Frankfurt: V. Klostermann, 1977 [1950]), 369.

(¹³⁴) See Martin Heidegger, *On the Way to Language*, transl. by Peter D. Hertz (New York: Harper Collins, 1971 [1959]), 124–5.

(¹³⁵) Martin Heidegger, *What Is Called Thinking*, transl. by J. Glenn Gray (New York: Harper Collins, 1968 [1954]), 128 [*‘sobald wir uns auf einen Weg des Denkens begeben, (sind wir) schon daran gehalten, eigens auf das Sagen des Wortes zu achten’*].

(¹³⁶) Christopher Logue, *War Music: An Account of Books 1–4 and 16–19 of Homer’s Iliad* (Chicago, Ill.: University of Chicago Press, 2003 [1997]), 214.

(¹³⁷) Jacques Derrida, *La Voix et le phénomène* (Paris: Presses Universitaires de France, 1967), 117 [*‘la chose même se dérobe toujours’*].

(¹³⁸) For discussion refer to text accompanying n.64.

(¹³⁹) Jacques Derrida, ‘La Chance et l’hospitalité’ (1999) 14/2–3 *Trois* 71, 72 [1995] (*‘La traduction juste, n’est-ce pas l’hospitalité même?’*).

(¹⁴⁰) Ronald Dworkin, *Justice for Hedgehogs* (Cambridge, Mass.: Harvard University Press, 2011), 151 (emphasis original) [hereinafter *Justice for Hedgehogs*].

(¹⁴¹) Dworkin, *Justice for Hedgehogs* (cited in n.140), 338–9.

(¹⁴²) Derrida, ‘Tours de Babel’ (cited in n.83), 228 [*‘une enquête de droit comparé devrait aussi concerner la traduction des textes de droit’*]. This observation must be one of Derrida’s rare remarks expressly devoted to ‘comparative law’.

(¹⁴³) Quine, ‘Indeterminacy’ (cited in n.98), 9.

(¹⁴⁴) Pinter, *Art, Truth and Politics* (cited in n.41).

(¹⁴⁵) Wallace Stevens, 'Asides on the Oboe', in *The Collected Poems of Wallace Stevens* (New York: Vintage, 1990 [1942]), 250.

(¹⁴⁶) Derrida, *Positions* (cited in n.6), 79–80 n.23 ['il faut *la vérité*'] (emphasis original). cf. Quine, 'Reactions' (cited in n.112), 353: 'Truth [...] looms as a haven that we keep steering for and correcting to'.

(¹⁴⁷) Gayatri C. Spivak, 'Bonding in Difference', in (ed.) Alfred Arteaga, *An Other Tongue* (Durham, NC: Duke University Press, 1994), 285.

(¹⁴⁸) G. P. Fletcher, 'What Law Is Like' (1997) 50 *Southern Methodist University L.R.* 1599, 1610.

(¹⁴⁹) Barbara Johnson, *A World of Difference* (Baltimore, Md: Johns Hopkins University Press, 1987), 15.

(¹⁵⁰) Samuel Beckett, *Malone Dies*, in *The Grove Centenary Edition*, ed. by Paul Auster, vol. II (New York: Grove Press, 2006 [1951]), 229 ['*Mais je me dis tant de choses, qu'y a-t-il de vrai dans ce babil?*']. The re-writing from the French is Beckett's own. One will have recognized the biblical allusion, more apparent in the English version than in the French text.



Access brought to you by: University of Kent