'What Can You Say, Words It Is, Nothing Else Going'

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Abstract   This essay examines the capacity of language ('word') to convey what there is ('world'). It draws on philosophical thought, which it seeks to apply to law while making specific reference to comparative legal studies, that is, to the investigation of law that is foreign to its interpreter.

One, everyone, lives in world. No one lives anywhere else.

Although not reducible to any articulation (of it), world is articulable and is indeed articulated through the mediation of language. World cannot be approached other than through language. Any attempt to enunciate a view of world can only manifest itself within language (as is the case with any attempt to enunciate a view of law).

From Aristotle to Kant, there has prevailed a model whereby the workings of language have been explained in terms of the designation of objects, of the

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I borrow my title, which I have formatted to fit this text, from an answer Samuel Beckett gave his interviewer, Niklaus Gessner. For the transcript, revealing that Beckett spoke in French, see Gessner [57], 75:'*Que voulez-vous, Monsieur, c'est les mots, on n'a rien d'autre*'. Throughout, translations are mine unless attributed.

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assignment of names to objects.[1] According to this predilection, language is a tool for re-presenting objects that exist independently from it. This is to say that language's role is to designate what are assumed to be extralinguistic entities. As such, language is apprehended as an instrument of communication remaining external to thought—which means, *inter alia*, that what 'there is' or what is 'present' or what 'signifies' precedes the 'system' of signification. The *Cratylus* is exemplary of the position holding that one must begin with world: '[I]t is far better to investigate [the things that are] and learn about them through themselves than to do so through their names'.[2] Word's burden is thus to say world adequately, faithfully—to achieve what Schleiermacher famously calls a '*Dolmetschung*'.[3] On the view of language as an instrument for fixing and communicating world, linguistic diversity cannot be an objection against the unity of world and the universality of reason. Here, the unity of world resists the multiplicity of languages. Such is Hilary Putnam's claim: '[O]ur conceptual schemes *are* just different "descriptions" of what are in some sense "the same facts"', that is, 'two descriptions are descriptions of *one and the same world*'.[4]

But one can move from a paradigm of perception to a paradigm of understanding. Instead of a view of language as world-restitution based on the model of designation of an object by means of a name, one can adopt a model whereby a property is attributed to an entity through which this entity is interpreted 'as something'. In other terms, the designation of entities by means of a name is no longer to be apprehended in the sense that something already known beforehand is given a name, but in the sense that only through that meaning is that entity's existence instituted: 'Language is charged with the task of making beings manifest'.[5]

Thus, one can say with Martin Heidegger that '[o]nly where there is language, is there world'.[6] Indeed, Novalis stigmatized the habitual 'logology' ('*Logologi[e]*'): 'The ridiculous error of people who imagine speaking for the things themselves is quite simply astonishing. But they all ignore the unique feature of language, which is that it is only occupied with itself'.[7] Already Gorgias, the expounder of what is perhaps the first theory of language in the Western tradition, had argued that word (what he called 'λόγος' or '*logos*') is 'a powerful ruler [whose] substance is minute and indivisible, but [whose] achievements are superhuman'.[8] For him, to begin with word rather than world is to uphold another regime of governance. Ceasing to operate under the aegis of ontology, no longer aiming to say what is as is, one works

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[1] For a historical overview, see Geach [56].

[2] Plato [101], 154.

[3] Schleiermacher [113], 209–210.

[4] Putnam [102], 110 and 122, respectively (emphasis original).

[5] Heidegger [71], 55 ('*Der Sprache ist aufgegeben, das Seiende als solches im Werk offenbar zu machen*').

[6] Heidegger [71], 56 ('*Nur wo Sprache, da ist Welt*').

[7] Novalis [99], 672 ('*Der lächerliche Irrthum ist nur zu bewundern, daß die Leute meinen—sie sprächen um der Dinge willen. Gerade das Eigenthümliche der Sprache, daß sie sich blos um sich selbst bekümmert, weiß keiner*').

[8] Gorgias [59], § 8, 23.

under the auspices of performance which, through intertwined semantic and syntactic word-effects, makes world exist. Word is no longer only a means, but a genuine force: it makes world come to language (thus envisaged as a sign-system). In his (lost) treatise, *On What Is Not, Or On Nature*, Gorgias's critique of ontology shows how entities are not always-already there, how they are effectively but an effect of word.[9]

Here, the idea of language as designating objects, somehow already existing in themselves, is 'disconfirmed': 'Man lives primarily with objects, indeed, since feeling and acting in him depend on his presentations, he actually does so exclusively, *as language presents them to him*'.[10] And if word is a copy of anything, 'it is a copy, not of the object in itself, but of the image thereof produced in consciousness'.[11]

Contrary to the instrumentalist perspective, then, the role of language begins long before any purported communication takes place—which means, *inter alia*, that the 'system' of signification precedes what 'there is' or what is 'present' or what 'signifies'. Such is Richard Rorty's point: '[T]he world does not speak. Only we do'.[12]

On this conception, one must reject 'referential semantics' to explain the working of language (that is, the idea that language is related to world as name to object). Language does not have a passive character. Indeed, it asserts power—in Nietzsche's blazing assertion, '[i]t is the powerful who made the names of things into law'.[13] Consider the following illustrations of the performative character of word: 'They are seen as *black*, therefore they *are* black; they are seen as *women*, therefore, they *are* women'.[14] To be sure, 'what things *are called* is incomparably more important than what they are'.[15] Thus is Jacques Derrida vindicated (again!): textuality, as it institutes through the word and in the word, is intrinsic 'to the world,

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[9] For a discussion of this work, see Kerferd [75], 93–100. What is known of Gorgias's text, written in 444–441 BCE, is credited to detailed commentaries by Aristotle and Sextus Empiricus.

[10] Humboldt [124], 59–60 (my emphasis) ('*nicht bestätigt*'/'*Der Mensch lebt mit den Gegenständen hauptsächlich, ja, da Empfinden und Handeln in ihm von seinen Vorstellungen abhängen, sogar ausschliesslich so, wie die Sprache sie ihm zuführt*')]. Since Humboldt had intended this text to form the introduction to a multi-volume work concerning the Kawi language on the island of Java, it is commonly known, in German at least, as the '*Kawi-Werk*' or '*Kawiwerk*'.

[11] Humboldt [124], 59 ('*[das Wort] ist nicht ein Abdruck des Gegenstandes an sich, sondern des von diesem in der Seele erzeugten Bildes*'). Cf. Wittgenstein [130], § 191, 33: 'The words are not a translation of something else that was there before they were' ('*Die Worte sind keine Übersetzung eines Andern, welches vor ihnen da war*'). This bilingual edition features the German text facing the English translation.

[12] Rorty [110], 6.

[13] Nietzsche [93], III, § 513, 277 ('*Die Mächtigen sind es, welche die Namen der Dinge zum Gesetz gemacht haben*').

[14] Wittig [132], 12. Cf. Nietzsche [96], I, § 11, 16: 'The sculptor of language was not so modest as to believe that he was only giving things designations, he conceived rather that with words he was expressing supreme knowledge of things' ('*Der Sprachbildner war nicht so bescheiden, zu glauben, dass er den Dingen eben nur Bezeichnungen gebe, er drückte vielmehr, wie er wähnte, das höchste Wissen über die Dinge mit den Worten aus*').

[15] Nietzsche [94], II, § 58, 121 (emphasis original in English) ('*dass unsäglich mehr daran liegt, wie die Dinge heissen, als was sie sind*').

to reality, to being'.[16] And '[l]anguage is [seen] not [to be] about description, but about *commitment*'.[17]

Observe that '[t]o bring [world] to language is not to change it into something else, but, in articulating and developing it, to make it become itself'.[18]

'No thing is where the word is lacking'.[19]

As bearer of a totality of meanings, language fixes the categorical framework of everything that can be talked about.

That 'there resides in every language a characteristic *world-view*' is Humboldt's principal insight.[20]

As bearer of a world-view that circumscribes one's understanding, that institutes meaning (within one's horizon), language partakes in the activity of thinking (rather than being incidental to it): 'Thought and language are therefore one and inseparable from each other'.[21] Language is the condition of possibility of all experience of world. *Pace* Hilary Putnam (supra), identity of referent can only be guaranteed indirectly through identity of meaning (which means that ultimately it cannot be guaranteed at all). What one experiences in world is actually *constituted* by language.

If language is constitutive of that about which understanding must be reached, it cannot be envisaged as a mere instrument for achieving understanding about something that would exist independently of it.

That language should be the condition of possibility of ascription of meaning entails that meaning can only be generated after acquisition of language and that meaning is always-already linguistically realized.

'It is the world of words that creates the world of things'.[22]

Language therefore competes with the individual for authorship of the synthesis through which world is constituted. Not only does language 'restrai[n] [one] when [one] speak[s]',[23] but it claims against one, as a 'beyond-one', the authorship of operations constituting the individual's world-view.

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[16] Derrida [32], 253 ('*au monde, à la réalité, à l'être*').

[17] Haraway [64], 214 (my emphasis). Cf. Novalis [98], 558: 'The entire language is a *postulate*' ('*Die ganze Sprache ist ein* Postulat') (emphasis original).

[18] Ricoeur [106], 115 ('*L[e] porter au langage, ce n'est pas l[e] changer en autre chose, mais, en l'articulant et en l[e] développant, l[e] faire devenir [lui]-même*').

[19] Heidegger [66], 60 ('*Kein Ding ist, wo das Wort gebricht*').

[20] Humboldt [124], 60 (emphasis original in English) ('*in jeder Sprache [liegt] eine eigenthümliche Weltansicht*'). But this idea can be found already in the theory of 'point of view' ('*Sehe-Punckt*') developed in Chladenius [15], § 308, 185. For an extensive discussion of Chladenius's work, see Szondi [119], 14–66. More recently, the notion of 'world-view' has been claimed by Whorf [127], 212–213.

[21] Humboldt [124], 54 ('*[Die intellectuelle Thätigkeit] und die Sprache sind daher Eins und unzertrennlich von einander*').

[22] Lacan [77], 276 ('*C'est le monde des mots qui crée le monde des choses*'). Note that the claim to the effect that meaning determines reference not only underlies the so-called 'linguistic turn', but also serves as a basis for the analytic tradition initiated by Frege and Russell. For example, see Searle [114].

[23] Humboldt [124], 63 ('*es [ist] die Sprache selbst, von der ich dabei Einschränkung erfahre*'). Cf. Beckett [7], 319: 'I have no language but theirs'. The re-writing from the French is Beckett's own. For the French text, see Beckett [4], 65 ('*je n'ai que leur langage à eux*').

(Utterances, thus, are no longer to be regarded as the most basic 'hermeneutic' unit. Rather, one must begin with the background of presuppositions, which involves an undifferentiated state of knowledge of both language and world—this is because one learns to look at world through the eyes of one's native tongue and because, conversely, the development of one's linguistic capacity becomes articulated on the basis of world as it surrounds one—and indeed as it is incorporated into one (one has world—language, religion, that is, *culture*—within oneself.)

The self is a they-self: there is something like 'absorption in the world' in effect (not to mention absorption of world).[24] In this sense, one's pre-ontological but existential way of being-in-the-world is of being-with-others, which is very much being like everyone else: such an inauthentic form of being-in-the-world is not an accident, but a primordial phenomenon.[25]

'We do not merely speak *the* language—we speak *by way of* it'.[26] To speak implies 'letting something be said to us'.[27]

'*[L]anguage* speaks' (although its voice can be inaudible).[28] There is a 'speaking-to-us' ('*Zuspruch*') at work.[29]

Linguistic world-disclosure has priority over any conversation, which is why '[s]peaking is a listening not *while* but *before* we are speaking. This listening to language also comes before all other kinds of listening that we know, in a most inconspicuous manner'.[30]

Such is (in part) what Jacques Derrida means when he suggests a move from 'ontology' to 'otology' pursuant to which one would be open (to language and to law-as-language), attentive, listening, receptive, hearkening, *lending an ear* to the claims of the text.[31]

(To say, like Humboldt, that thinking is 'inseparable' from language means that it is 'inseparable' from each singular language for '[l]anguage manifests itself in reality only as a multiplicity'.[32])

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[24] Heidegger [70], 121 ('*Aufgehen in der Welt*').

[25] See Heidegger [70], 114–122.

[26] Heidegger [66], 124 ('*Wir sprechen nicht nur* die *Sprache, wir sprechen* aus *ihr*') (emphasis original).

[27] Heidegger [66],124 ('*Sichsagenlassen*') (emphasis omitted).

[28] Heidegger [66], 124 ('die *Sprache* spricht') (emphasis original).

[29] For this translation from Martin Heidegger's philosophical vocabulary, see Lyon [81], 223, not. 14. The reference is to Heidegger [67], 369.

[30] Heidegger [66], 123–124 ('*das Sprechen nicht zugleich, sondern* zuvor *ein Hören. Dieses Hören auf die Sprache geht auch allem sonst vorkommenden Hören in der unscheinbarsten Weise vorauf*') (emphasis original).

[31] For example, see Derrida [34], 410 ('*otologie*'). Rudolf Bultmann likewise advocates 'listening to the claims of the text': Bultmann [12], 228 ('*[den] Anspruch [des Textes] zu hören*'). See also Heidegger [65], 128: '[W]e are compelled, as soon as we set out upon a way of thought, to give specific attention to what the word says' ('*sobald wir uns auf einen Weg des Denkens begeben, [sind wir] schon daran gehalten, eigens auf das Sagen des Wortes zu achten*').

[32] Humboldt [122], 240 ('*Die Sprache erscheint in der Wirklichkeit nur als ein Vielfaches*'). For Humboldt's statement on inseparability, see supra, note 21. Cf. Deleuze and Guattari [20], 14: '[T]here is no language as such, nor a universality of language, but a concourse of dialects, of patois, of jargons, of

Note that one cannot (unlike Humboldt, for example) ground the constitution of linguistic world-disclosure in the activity of talking as such, that is, a world-view cannot be interpreted as the 'product' of the activity of the speaker. Rather, that activity is (unconsciously) dominated by the world-disclosing function of language. In other words, language as medium of understanding is subordinated to language as world-disclosure: it cannot be apprehended as the result of an individual activity, but as a necessary condition of possibility of that activity.

(Accordingly, any attempt to find a foundation prior to language is doomed as this would ultimately deny language's role of world-disclosure.)

(To say that one's language is one's world-view does not mean, *pace* Donald Davidson, that one cannot identify a radically different language—and engage comparatively with it, for instance by purporting to 'translate' it—inevitably disjointly so—into one's 'own' language.[33])

The grasp of language as constitutive of thought amounts to a detranscendentalization of reason since it locates reason in the plurality of languages: reason exists as language. This means that there is no pure reason that is, independently of language, that reason cannot be separated from the actual, cultural conditions of its existence, that reason cannot be envisaged as alingual (or acultural). There are *reasons*.

'[T]he idea of an absolute reason is not a possibility for historical humanity. Reason exists for us only in concrete, historical terms—i.e., it is not its own master but remains constantly dependent on the given circumstances in which it operates'.[34]

(Indeed, not only is language central to the capacity to think about world, but it is also the center of any reason's misunderstandings about itself.[35])

Now, the only 'there is' is that of plurality of words (not unity of world).[36] To translate is no longer a '*Dolmetschung*', but an '*Übertragen*'—and the translator emerges as a '*Fahrensmann*'.[37] In Jacques Derrida's words, 'for the notion of translation, one must substitute a notion of *transformation*: the regulated transformation of a language by another, of a text by another'.[38] He adds: 'We will never have been involved and never have been involved in fact in the "transportation" of pure

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Footnote 32 continued

special languages' ('*il n'y a pas de langue en soi, ni d'universalité du langage, mais un concours de dialectes, de patois, d'argots, de langues spéciales*').

[33] For a detailed and compelling refutation of Davidson's claim to the effect that one cannot be in a situation to judge that others hold a radically different conceptual scheme from one's own, see Forster [49]. For Donald Davidson's position, see Davidson [16], 183–198.

[34] Gadamer [55], 277 ('*die Idee einer absoluten Vernunft überhaupt keine Möglichkeit des geschichtlichen Menschentums. Vernunft ist für uns nur als reale geschichtliche, d. h. schlechthin: sie ist nicht ihrer selbst Herr, sondern bleibt stets auf die Gegebenheiten angewiesen, an denen sie sich betätigt*'). Cf. Nietzsche [93], III, § 522, 283: 'Rational thought is interpretation according to a scheme that we cannot throw off' ('*Das vernünftige Denken ist ein Interpretieren nach einem Schema, welches wir nicht abwerfen können*') (emphasis omitted).

[35] See Hamann [63], 208.

[36] Cf. Humboldt, supra, note 32.

[37] Celan coined this 'nonexistent word that resides somewhere between a "traveling man" and a "ferryman"': Lyon [81], 40.

[38] Derrida [25], 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).

signifieds which the signifying instrument—or the "vehicle"—would leave intact and untouched, from one language to another'.[39] Instead of translation, there is *re-signification* (envisaged as a performative move that is epistemologically positive).[40]

'[W]hat Richard Rorty calls the "moral vocabulary" of Saint Paul and the "moral vocabulary" of Freud should be understood precisely as differences in vocabulary. We shouldn't […] think of Saint Paul and Freud as holding competing "descriptions of the world," for then we should be moved to think of one of them as right and the other as wrong. Instead, we must think of them as playing what (following Wittgenstein) Rorty calls "alternative language games", in which case saying that Freud's beliefs are more true than Saint Paul makes as little sense as saying that German is more true than Hebrew'.[41]

In Martin Heidegger's terms, '[interpretation] is always based on a *fore-having*'. The 'unveil[ing]' is 'always done under the guidance of a perspective which fixes that with regard to which what has been understood is to be interpreted'. 'The interpretation is grounded in a *foresight* that "approaches" what has been taken in fore-having with a definite interpretation in view'. '[T]he interpretation has always already decided, finally or provisionally, upon a definite conceptuality; it is grounded in a *fore-conception*'.[42]

The Heideggerian notions of '*Vorhabe*' ('fore-having'), '*Vorsicht*' ('foresight'), and '*Vorgriff*' ('fore-conception'), as they foreground the Bultmaniann idea of 'pre-understanding' ('*Vorverständnis*') and the Gadamerian conception of 'prejudice' or 'prejudgment' ('*Vorurteil*'), suggest that only within the pregiven sign-system within which one is framed does one understand, does one ascribe meaning, does one experience what one may fancy seizing as 'truth'. In other words, there is a preliminary structure of understanding that is inherently constitutive of any understanding and, as such, that is a *condition* of understanding: how could one understand anything against a 'no-background' situation?[43]

(To write 'like' Heidegger, one could refer to a constellation of fore-constraints or *Vorzwänge*.)

Because thinking is inextricably linked to an always-already-existing language that makes it possible, there cannot be a presuppositionless starting-point.

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[39] Derrida [25], 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 inentamé, d'une langue à l'autre*').

[40] I adopt and adapt the notion of 'resignification' from the work of Judith Butler. Marshalling the inherent instability of linguistic meaning, re-signification allows for the alteration or redirection of a meaning having sedimented within a term on account of its pre-existing relationships. For example, see Butler [13], 191.

[41] Michaels [87], 43, referring to Rorty [110], 5.

[42] Heidegger [70], 140–141 ('*[Die Auslegung] gründet jeweils in einer* Vorhabe. *[…] Die Zueignung des Verstandenen, aber noch Eingehüllten vollzieht die Enthüllung immer unter der Führung einer Hinsicht, die das fixiert, im Hinblick worauf das Verstandene ausgelegt werden soll. Die Auslegung gründet jeweils in einer* Vorsicht *[…]. […] Wie immer—die Auslegung hat sich je schon endgültig oder vorbehaltlich für eine bestimmte Begrifflichkeit entschieden; sie gründet in einem* Vorgriff*'*) (emphasis original).

[43] Bultmann [12], 216; Gadamer [55], 278–306 ('Prejudices as Conditions of Understanding') ('*Vorurteile als Bedingungen des Verstehens*'). Cf. Wittgenstein [130], § 234, 43: 'What happens is not that this symbol cannot be further interpreted, but: I do no interpreting. I do not interpret, because I feel at home in the present picture' ('*Nicht das findet statt, daß sich dieses Symbol nicht mehr deuten läßt, sondern: ich deute nicht. Ich deute nicht, weil ich mich in dem gegenwärtigen Bild heimisch fühle*').

'[T]he essential link of thought to language […] will never dispense with idioms'.[44]

There is the 'screen of words'.[45]

There is, then, 'the prisonhouse of language'.[46]

(Consider José de Acosta's XVIth-century account of his 'discovery' of the Americas: 'There is nothing at Peru of greater riches and profit than the cattell of the country, which our men call Indian sheep, and the Indians in their generall language call them Llama. […] There are two kindes of these sheepe or Llamas, the one they call Pacos, or sheepe bearing wooll, and the others are bare, and have litle wooll, so are they better for burthen: they are bigger than great sheepe, and lesse than calves, they have a very long necke, like to a camel, whereof they have good neede; for being high of stature, they have need of a long necke, else should they be deformed'.[47])

Law-thought is inextricably linked to an always-already-existing law-language that makes it possible (within a horizon), which means that there cannot be a presuppositionless starting-point.

There is, then, the prisonhouse of law (comparatists-at-law beware!).

There is no (scrutable) world-as-such (or 'is-ness') that would warrant something like the 'objectivity' of knowledge about it. Since anything about which an agreement must be reached is not accessible as an entity in itself, but is linguistically prestructured,[48] any understanding of it is unavoidably subject to interpretation.[49]

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[44] Derrida [33], 76 ('*le lien essentiel de la pensée […] au langage […] ne fera jamais l'économie des idiomes*'). Derrida further reflects on the 'impossib[ility] to bring out a concept of essence […] that would transcend idiomatic difference': Derrida [33], 76 ('*impossib[ilité] de dégager un concept de l'essence […] qui transcende la différence idiomatique*').

[45] Legendre [80], 75 ('*l'écran des mots*').

[46] Miller [89], 230. The dissemination of the expression 'prisonhouse' as applied to language owes very much to Jameson [74]. Fredric Jameson claims to borrow the words from Nietzsche, whom he quotes in English translation by way of epigraph. Though unattributed, Jameson's translation evidently replicates Erich Heller's, which initially appeared in 1963 in an essay entitled, 'Wittgenstein and Nietzsche'. This text was subsequently republished as part of Heller [73]. For the relevant passage, see Heller [73], 152: 'We have to cease to think if we refuse to do it in the prisonhouse of language' (emphasis in English omitted). The German original is '*sprachlichen Zwange*': Nietzsche [92], 34 (emphasis omitted). A preferable translation is in Nietzsche [93], III, § 522, 283: 'We cease to think when we refuse to do so under the *constraint* of language' (my emphasis).

[47] Acosta [18], bk IV, ch. 41, 288–289 ('*Ninguna cosa tiene el Piru de mayor riqueza y ventaja, que es el ganado de la tierra, que los nuestros llamá Carneros de las Indias: y los Indios en lengua general los llaman Llama […]. […] Son estos Carneros, o Llamas en dos especies: unos son Pacos, o Carneros lanudos: otros son rasos, y de poca lana, y son mejores para carga: son mayores que carneros grandes, y menores que bezerros: tienen el cuello muy largo a semejança de camello, y han lo menester porque como son altos, y leuantados de cuerpo, para pacer requiere tener cuello luengo*'). The Jesuit José de Acosta, a Spaniard, resided in Peru and Mexico from 1570 to 1587 and initially published his book in Spanish in 1590.

[48] Cf. Nietzsche [95], 82: 'The "thing-in-itself" […] is […] something quite incomprehensible to the creator of language and something not in the least worth striving for' ('*Das "Ding an sich" […] ist auch dem Sprachbildner ganz unfasslich und ganz und gar nicht erstrebenswerth*').

[49] This observation is an opportunity to draw a crucial distinction. It is not that interpretation allows one to 'grasp' or 'get hold of' understanding. Interpretation is not an activity through which one can enter into

Because meaning (or the mode of re-presentation of the *designatum*) is a condition of access to 'any-referent-there-is', a 'referent' is understood through meaning—which is also fore-meaning.

'The only "objectivity" here is the confirmation of a fore-meaning in its being worked out'.[50]

The constitution of meaning must escape any attempt at objectification. Interpretation does not demonstrate 'the' meaning of what would be 'objectively' present, but rather clarifies what is always-already deemed relevant.

The symbolically mediated character of one's 'relation' with world prohibits the possibility of postulating a world-as-such that would be accessible through perception to all interpreters in an identical way. However, it does not prevent presuming a world-in-itself that would simply not be accessible. Assuming one wants to retain the possibility of objective experience (but why would one?), one must turn to the conditions of possibility of communication. The idea is that speakers who share a language would share a knowledge of meanings that constitutes the unitary framework for everything that can appear as world. Thus, the identity of meanings shared by speakers would guarantee the identity of reference of the signs they use. Even allowing for this highly problematic set of premises (why would the fact that two individuals speak French to one another ensure identity of meaning and identity of reference?),[51] how to generate the unity of world as linguistically disclosed through the plurality of historically-contingent world disclosures? The idea that identity of meaning could be guaranteed within the limits of a given linguistic world-disclosure means that at best reference (and 'truth') are turned into intralinguistic notions dependent on a prior and contingent constitution of meaning such that one must, here also, address the incommensurability of linguistic world-disclosures.

'The prejudices and fore-meanings that occupy the interpreter's consciousness are not at his free disposal'.[52]

Footnote 49 continued

possession of understanding. Rather, interpretation channels understanding and thus is constitutive of understanding such that each understanding must assume an interpretation, whether consciously or not. Through interpretation, 'understanding appropriates what it has understood in an understanding way': Heidegger [70], 139 ('*das Verstehen [eignet sich] sein Verstandenes verstehend zu*'). For example, speaking another langage than one's 'own' always involves translation, no matter how well one speaks it and no matter, therefore, how sub-consciously this process operates. Indeed, this is the case within one's 'own' language also, for example when a XXIst-century reader considers a XVIth-century text. Although one tacitly apprehends the XVIth-century 'rose' as a XXIst-century 'rose' and thus fails to detect the ways in which 'the' text has changed on account of the 'foreignness' that temporality has introduced into it, the reader's blindness does not detract from the fact that a process of translation is effectively taking place.

[50] Gadamer [55], 270 ('*Es gibt hier keine andere "Objektivität" als die Bewährung, die eine Vormeinung durch ihre Ausarbeitung findet*').

[51] Cf. Nietzsche [97], I, § 15, 5: 'Never did one neighbour understand the other' ('*Nie verstand ein Nachbar den andern*').

[52] Gadamer [55], 295 ('*Die Vorurteile und Vormeinungen, die das Bewußtsein des Interpreten besetzt halten, sind ihm als solche nicht zu freier Verfügung*').

'[T]hat is why the prejudices of the individual, far more than his judgments, constitute the historical reality of his being'.[53]

'In fact history does not belong to us; we belong to it'.[54]

('[I]t is literally more correct to say that language speaks us, rather than that we speak it'.[55])

In fact, language does not belong to us; we belong to it. (In Derrida's words, 'a language does not belong'.[56])

('There is no mother tongue, but a seizure of power by a dominant language within a political multiplicity'.[57])

In fact, law does not belong to us; we belong to it. (This is one reason why '[a]ny comparison is, at the outset, defective'.[58])

There is no extrawordly observer who could stand over against (law-)world. Rather, one finds oneself within a symbolically prestructured (law-)world within which one finds oneself always-already thrown.

The preclusion of an appeal to an extraworldly standpoint makes facticity into the obligatory (non-presuppositionless) starting-point: disclosedness is essentially factical—what is disclosed is factical and it is disclosed from a factical vantage.[59]

Language is at once arbitrary/contingent (it cannot be deduced as cultural 'reality' since there is no a priori dimension to it) and necessary/indispensable (it is impossible to speak without speaking a language—and without speaking a language that is always-already structured).[60] Even the enrichment of language (say, through Martin Heidegger's philosophical neologisms) takes place in/through language. It is conditioned by language.

Language is insurmountable.

The insurmountability of language is not only factical. It is also normative: such is the law of language.

(There is, again, 'the prisonhouse of language': supra.)

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[53] Gadamer [55], 278 ('*die Vorurteile des einzelnen [sind] weit mehr als seine Urteile die geschichtliche Wirklichkeit seines Seins*') (emphasis omitted).

[54] Gadamer [55], 278 ('*In Wahrheit gehört die Geschichte nicht uns, sondern wir gehören ihr*'). Cf. Wittgenstein [131], § 94, 15: 'But I did not get my picture of the world by satisfying myself of its correctness; nor do I have it because I am satisfied of its correctness. No: it is the inherited background against which I distinguish between true and false' ('*Aber mein Weltbild habe ich nicht, weil ich mich von seiner Richtigkeit überzeugt habe; auch nicht weil ich von seiner Richtigkeit überzeugt bin. Sondern es ist der überkommene Hintergrund, auf welchem ich zwischen wahr und falsch unterscheide*'). This bilingual edition features the German text facing the English translation.

[55] Gadamer [55], 459 ['*insoweit ist es buchstäblich richtiger zu sagen, daß die Sprache uns spricht, als daß wir sie sprechen*']. Cf. Derrida [43], 38: 'One does not do whatever one wants with language' ('*On ne fait pas n'importe quoi avec la langue*').

[56] Derrida [43], 39 ('*une langue, ça n'appartient pas*'). Cf. Beckett, supra, note 23.

[57] Deleuze and Guattari [20], 14 ('*Il n'y a pas de langue-mère, mais prise de pouvoir par une langue dominante dans une multiplicité politique*').

[58] Mallarmé [86], 138 ['*Toute comparaison est, préalablement, défectueuse*']. This text appeared on the occasion of Tennyson's death.

[59] See Heidegger [70], 203–204.

[60] See Hamann [63], 211.

'Understanding is to be thought of less as a subjective act than as participating in an event of tradition, a process of transmission in which past and present are constantly mediated'.[61]

'Understanding is, essentially, a historically effected event'.[62]

'[W]e should learn to understand ourselves better and recognize that in all understanding, whether we are expressly aware of it or not, the efficacy of history is at work'.[63]

There is something like a 'history of effects' ('*Wirkungsgeschichte*') being 'refracted through language' such that '[t]here are no contexts of human understanding that are not constituted in terms of some linguistic framework and [that] when we understand the world, ourselves, or others, we do so in terms of that framework'.[64]

'[W]e are always already involved in an understanding of being'.[65]

'Whatever and however we may try to think, we think within the sphere of tradition'.[66]

Observe how saying that all understanding is prejudiced in that it is circumscribed by the light that the historical situation sheds on the interpreter himself, and indeed on that which the interpreter is trying to understand, is not inherently negative. The work of prejudice can, in fact, prove empowering.[67] Thus, one can understand Marcel Duchamp's readymades 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. Or, '[on]e can understand a certain text as a novel, for example, because [on]e belong[s] to a history and culture that knows what a novel is'.[68]

Not even anything like 'literal' meaning can be assessed 'as such'. Consider the four following statements by John Searle: '[T]he notion of the literal meaning of a

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[61] Gadamer [55], 291 ('*Das Verstehen ist selber nicht so sehr als eine Handlung der Subjektivität zu denken, sondern als Einrücken in ein Überlieferungsgeschehen, in dem sich Vergangenheit und Gegenwart beständig vermitteln*') (emphasis omitted).

[62] Gadamer [55], 299 ('*Verstehen ist seinem Wesen nach ein wirkungsgeschichtlicher Vorgang*') (emphasis omitted).

[63] Gadamer [55], 300 ('*daß man sich selber richtiger verstehen lerne und anerkenne, daß in allem Verstehen, ob man sich dessen ausdrücklich bewußt ist oder nicht, die Wirkung dieser Wirkungsgeschichte am Werke ist*').

[64] Wachterhauser [125], 66.

[65] Heidegger [70], 4 ('*wir bewegen uns immer schon in einem Seinsverständnis*').

[66] Heidegger [72], 41 ('*Was immer und wie immer wir zu denken versuchen, wir denken im Spielraum der Überlieferung*').

[67] For a 'positive concept of prejudice', see Gadamer [51], 9 ('*einen positiven Begriff des Vorurteils*').

[68] Warnke [126], 92. This argument does not exclude the possibility that one can develop an idiosyncratic view of art or of the novel. Indeed, I readily admit that there can be a basic ability to deviate from an ingrained cognitive pattern in ways that are creative. Cf. Everdell [48], where the author, focusing on the period from 1899 to 1913, illustrates the emergence of notions like multi-perspectivism and ontological discontinuity through narratives devoted to individuals who, although socialized into a particular constellation of ideas, became able to think in a different way than the one presented to them. Examples of persons offering what Everdell regards as disjunctive thought include Freud, Husserl, Strindberg, Kandinsky, Bohr, and dozens of other such luminaries. *Adde*: Rorty [110], 50: '[Human beings can] manipulate the tensions within their own epoch in order to produce the beginnings of the next epoch'. This, however, is '[t]he most they can do'.

sentence only has application relative to a set of background assumptions'; 'these background assumptions are not all and could not all be realized in the semantic structure of the sentence'; '[these assumptions] are not fixed and definite in number and content'; 'each specification of an assumption tends to bring in other assumptions, those that determine the applicability of the literal meaning of the sentence used in the specification'.[69]

If 'meaning' and 'truth' are never given independently of language, if they are epistemologically constrained, they cannot be conceived as existing outside the limitations of a particular culture in a specific time and place. If there is something like '*Vorgriff*', there is a historical singularity to every act of understanding (whether because it reflects institutional conditions or resists forms of institutional appropriation).[70] If there is no account of 'truth' that is not dependent at all upon the particular way in which 'truth' is experienced, there is, then, no sense in keeping 'truth' as a heuristic goal.[71] In the words of Richard Rorty, 'how [can] ontological knowledge […] be more than knowledge of a particular historical position'?[72]

The effort to convince others of the 'truth' of one's interpretations must be redescribed as the attempt to make them speak one's language.[73]

('The conviction that others are mistaken must be redescribed as dislike of the fact that they are different, and the desire to convince them of the truth must be redescribed as the desire to get them to be the same'.[74])

('Truth' is, ultimately, an artificial—and, often, not-so-innocent—attempt to confine contingency and creativity within set limits. It operates as an *exclusionary* tool.)

Different languages are in fact different world-views, strictly contingent and plural.

('Hebrew and German do not contradict each other, and insofar as Saint Paul's and Freud's moral vocabularies are like Hebrew and German, they don't contradict

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[69] Searle [115], 120, 120, 126, and 126, respectively. Cf. Wittgenstein [130], § 716, 123–124: 'What about these two sentences: "This sheet is red" and "this sheet is the colour called 'red' in English"? Do they both say *the same*?' ('*Wie ist es mit den beiden Sätzen: "dieses Blatt ist rot" und "dieses Blatt hat die Farbe, die auf Deutsch 'rot' heißt"? Sagen beide dasselbe?*') (emphasis original).

[70] Indeed, Martin Heidegger acknowledges that 'even the ontological investigation that [he] is [then] conducting is determined by its historical situation': Heidegger [69], 22 ('*die ontologische Untersuchung, die wir jetzt vollziehen, ist durch ihre geschichtliche Lage bestimmt*').

[71] Contra: Apel [1], 81: '[T]he notion of a serious argumentative discourse implies the *regulative idea* of a universal consensus to be reached about all controversial validity-claims, as for example, those involving meaning, truth and even the rightness of norms' (emphasis original). Along converging lines, see Habermas [62], 282: 'The law of a concrete legal community must, if it is to be legitimate, at least be compatible with moral standards that claim universal validity beyond the legal community' ('*Das […] Recht einer konkreten Rechtsgemeinschaft muß, wenn es legitim sein soll, mindestens in Einklang stehen mit moralischen Grundsätzen, die auch über die Rechtsgemeinschaft hinaus allgemeine Geltung beanspruchen*').

[72] Rorty [111], 40.

[73] See Haraway [64], 173, who equates the 'dream of a common language' with that of 'a perfectly true language'.

[74] Michaels [87], 61.

each other either […]: they aren't disagreeing, they're just speaking different languages'.[75])

Different laws are in fact different world-views, strictly contingent and plural.

Singular languages (Babel's babblings!)—historically transmitted and irreducibly plural—prejudice one's experience through the world-views that they provide: 'The object of knowledge and statements is always already *enclosed* within the world horizon of language'.[76]

Singular laws—historically transmitted and irreducibly plural—prejudice one's experience through the world-views that they provide. Making Mallarmé's point again, this is why '[a]ny comparison is, at the outset, defective'.[77]

To learn a new language is to adopt a new world-view. 'But because we always carry over, more or less, our own world-view, and even our own language-view, this outcome is not purely and completely experienced'.[78]

(Can a francophone ever see or hear the word 'onerous' without the French word '*onéreux*' intruding?)

(Can a French lawyer ever regard the organization of English law without the French civil code intruding?)

('Of all the stumbling blocks inherent in learning [French], the greatest for me is the principle that each noun has a corresponding sex that affects both its articles and its adjectives. […] *Vagina* is masculine […], while the word *masculinity* is feminine. Forced by the grammar to take a stand one way or the other, *hermaphrodite* is male and *indecisiveness* female'.[79])

(Research on neural mechanisms regulating the activities of different languages in bilinguals with specific reference to the inhibitory processes enabling the activation of the target language and the concurrent suppression of interaction from the language not then in use demonstrate that there is interference from the language not in use as regards the production of the target word both 'at the levels of lexical selection and phonological representation'.[80])

To learn a new law is to adopt a new world-view. Since one always carries over one's own law-view, the new standpoint is never fully experienced. Consider Montesquieu: '[I]f triangles created a god, they would give it three sides'.[81]

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[75] Michaels [87], 45–46, referring to Rorty [110], 5.

[76] Gadamer [55], 447 (my emphasis) ('*Was Gegenstand der Erkenntnis und der Aussage ist, ist vielmehr immer schon von dem Welthorizont der Sprache umschlossen*').

[77] Mallarmé, supra, note 58.

[78] Humboldt [124], 60 ('*Nur weil man in eine fremde Sprache immer, mehr oder weniger, seine eigne Welt-, ja seine eigne Sprachansicht hinüberträgt, so wird dieser Erfolg nicht rein und vollständig empfunden*').

[79] Sedaris [117], 188 (emphasis original). I am grateful to Professor Andreas Philippopoulos-Mihalopoulos for generously taking the time to contribute this quotation. Cf. Humboldt [121], 621: 'Every language places definite boundaries upon the spirit of those who speak it, and insofar as it provides a determinate orientation, excludes others' ('*Jede Sprache setzt dem Geiste derjenigen, welche sie sprechen, gewisse Gränzen, schliesst, insofern sie eine gewisse Richtung giebt, andre aus*').

[80] Rodriguez-Fornells, De Diego Balaguer, and Münte [108], 139.

[81] Montesquieu [90], LIX, 218 ['*si les triangles faisoient un Dieu, ils lui donneroient trois côtés*'].

'It is enough to say that we understand in a *different* way, *if we understand at all*'.[82]

(In terms of word vis-à-vis world, there is always an 'excess' or a 'deficit' of meaning in the sign: whatever one refers to cannot be what one refers to, no matter how sophisticated one's language proves to be—hence Samuel Beckett's disconsolate exclamation: '[W]hat is the word? What the wrong word?'.[83] Consider Hannah Arendt: 'That the object that is there to underwrite the presentation of things can just as well be called "Tisch" or "table" means that there is something of the real essence of the things that we fabricate and name that escapes us'.[84])

('In the seventeenth century, Locke postulated [and condemned] an impossible language in which each individual thing—every stone, every bird, every branch— would have its own name; Funes once contemplated a similar language, but discarded the idea as too general, too ambiguous. […] Two considerations dissuaded him: the realization that the task was interminable, and the realization that it was pointless. […] [Yet,] [n]ot only was it difficult for him to see that the generic symbol "dog" took in all the dissimilar individuals of all shapes and sizes, it irritated him that the "dog" of three-fourteen in the afternoon, seen in profile, should be indicated by the same noun as the dog of three-fifteen, seen frontally'.[85])

Language is constitutive of one's 'relation' with world. Even access to individual experience from one's inner world can only be disclosed through language and propositional knowledge of it can only be had to the extent that the world-disclosing ability of language will allow. This is not to say that linguistic expressions must be held to determine what there is. 'Referents' can exist independently of meaning and can be treated as being logically independent of any linguistic ~~community~~'s particular ways of conceiving them—which is to say that no 'referent' can be reduced to whatever description one offers of it (and which also means that it might be more productive not to conceptualize one's accounts as 'descriptions' at all).

(I write ~~community~~ deliberately. In this way, I attempt to indicate the inadequacy of the term: the with-world is not (accessed as) a common world.)

Language identifies what there *can* be for a linguistic ~~community~~ (or, which is another way of putting the matter, what a ~~community~~ can say that there is): language

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[82] Gadamer [55], 296 ('*Es genügt zu sagen, daß man* anders *versteht,* wenn man überhaupt versteht') (emphasis original). Cf. Humboldt [124], 63: 'All understanding is always at the same time a not-understanding' ('*Alles Verstehen ist daher immer zugleich ein Nicht-Verstehen*').

[83] Beckett [8], 455. The re-writing from the French is Beckett's own. For a compelling expression of the idea that portrayal is betrayal, see Ortega y Gasset [100], 493.

[84] Arendt [2], 42 ('*Dadurch, dass der Gegenstand, der für das tragende Präsentieren von Dingen da ist, sowohl Tisch wie "table" heissen kann, ist angedeutet, dass uns etwas vom wahren Wesen des von uns selbst Hergestellten und Benannten entgeht*'). Cf. Woolf [133], 81: 'Nothing should be named lest by so doing we change it'.

[85] Borges [11], 136 ('*Locke, en el siglo XVII, postuló (y reprobó) un idioma imposible en el que cada cosa individual, cada piedra, cada pájaro y cada rama tuviera un nombre propio; Funes proyectó alguna vez un idioma análogo, pero lo desechó por parecerle demasiado general, demasiado ambiguo. […] Lo disuadieron dos consideraciones: la conciencia de que la tarea era interminable, la conciencia de que era inútil. […] No sólo le costaba comprender que el símbolo genérico* perro *abarcara tantos individuos dispares de diversos tamaños y diversa forma; le molestaba que el perro de las tres y carorce (visto de perfil) tuviera el mismo nombre que el perro de las tres y cuarto (visto de frente)*') (emphasis original in Spanish).

concerns the possibility of access to an understanding of an entity (and has nothing to say as regards the being of an entity).

'[R]eference *is* nonsense except relative to a coordinate system'.[86]

I agree with John Searle: '[J]ust as it does not follow from the fact that I see reality always from a point of view and under certain aspects that I never directly perceive reality, so from the fact that I must have a vocabulary in order to state the facts, or a language in order to identify and describe the facts, it simply does not follow that the facts I am describing or identifying have no independent existence'.[87] In this sense at least, world is logically independent of our ways of conceiving it. (Yet, 'the distinction between the real and the unreal and the concept of agreement with reality themselves belong to our language'.[88])

(The practice of 'reference' does not presuppose the 'reality' of one world, a single 'objective' world about which interpretations would differ. It presupposes the existence of world—which appears reasonable enough—but remains agnostic on whether one's reference to world is to the same world as other languages' references to world. It could very well be, but who would know?)

(Admittedly problematically, assume 'English law'. There is no way in which that French comparatist's 'English law' could legitimately be said to be referring to an 'English law' that would be the same as this Australian comparatist's 'English law', though both could be apprehended as interpretations of something that can possibly, reasonably, be said to exist as 'English law'.)

If the French language cannot say 'fairness', it does not mean that 'fairness' does not exist in France, but that it cannot exist for the French linguistic ~~community~~ (or that this ~~community~~ cannot say that 'fairness' exists, that it cannot epistemologically access 'fairness'). So, it is not that what is, contingently, linguistically, pre-structured in each historical language determines what entities are, but that it determines what entities can be for a linguistic ~~community~~, that it delineates the frontiers of scrutability of reference. (So, it is not that what is, contingently, legally, pre-structured in each historical law determines what entities are, but that it determines what entities can be for a legal ~~community~~, that it delineates the frontiers of scrutability of reference.)

No interpretation of world can make world not-independent of that interpretation (in this sense, world is always constituted by interpretation such that it exists and can only exist intralinguistically and intratheoretically). And no interpretation of world can make world not not-independent of that interpretation (world is whatever it is, irrespective of whatever one says about it).

(If one wanted to understand another language, one would have to step out of one's 'own'. But, assuming this to be possible—which it is not —, one would no longer have a language with which to do any understanding.)

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[86] Quine [104], 48. See also Quine [105], 22: '[M]eaning determines reference within each fixed ontology'; Quine [103], 53: '[T]erms and reference are local to our conceptual scheme'.

[87] Searle [116], 22. Cf. Dummett [46], 92: 'We do not create the world; we must accept whatever it presents to us'. Indeed, 'we have no control over what we find it to be like': Dummett [46], 92.

[88] Winch [128], 12.

(Everything that is contributing to experience of world is very much a part of world. As one sees world, where one is, when one is, and who one is, everything affects world: it is part of what world is. It is not just that reading *The Merchant of Venice* in the XXIst as opposed to the XVIth century does not mean the same thing. It is also that the meaning of the play varies: the mark that is the play has different meanings (or is made to perform different meanings, what the text means being subsumed by what it does). It is, therefore, that the play varies (and only in a superficial, and therefore inadequate, way is it thus said to be the same play). In this sense, the play is not an object. And 'objecthood' is defeated even as reading is irreducibly re-presentational: the difference between interpretations becomes a difference between plays and the difference between plays concerns a difference between the individuals who are interpreting the plays. It is not so much that there is disagreement between two individual positions since there is nothing, no fact of the matter, to disagree about (as there would be, say, if two individuals were debating the square root of 625). Rather, there is agreement about differentiation. The difference is a conflict of interpretations around, say, determinacy/indeterminacy of meaning—what Jacques Derrida aptly calls a 'conflic[t] of force': different things are meant by those who hold one position (or speak one language) and those who hold another (or who speak another language).[89] Ultimately, the difference is a difference in what the interpreters are. It is a difference about identity.[90])

There is always, then, the *differend* between self and other—which there has to be for the other to exist as other.[91] (If one can only refer to world in an interpretive fashion, this means that world only acquires meaning within a differential process.[92])

(The differend continues even as the self purports to subject the other to the rule of his self-identity, for example, through an extension of his own way of life.)

(And the differend continues even as I decide that things between us cannot go any further, that your divergent view can remain what it is, for this is a determination that I make on the basis of my own set of assumptions.)

('[I]f the Arabs call Mars Qahira and the Japanese call it Kasei, they are not disagreeing. It can only make sense to say that people who give Mars different names are disagreeing if they think that the name they are giving it is not merely its name in their language but its right name—its name for itself. And even if—to imagine an instance of "cultural change"—the people who call Mars Qahira should begin calling it Kasei, it wouldn't be because they had been argued out of the old name'.[93] The process is rather one of *re-signification*: 'Resignification understands giving things new names as giving them the names you want them to have, rather than as giving them what seem to you the right names'.[94])

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[89] Derrida [32], 267 ('*conflits de force*').

[90] For this argument, see Michaels [87], 19–81.

[91] I borrow the neologism 'differend' from the English translation of Lyotard [82]—the relevant French word being '*différend*'. See Lyotard [83].

[92] See Derrida [32], 273. For an exploration of Derrida's thought with specific reference to language and translation, see Davis [17], 10–19.

[93] Michaels [87], 120.

[94] Michaels [87], 120.

The fact that the meaning of terms used by speakers and hearers do not coincide because of a difference in their background knowledge need not imply that they cannot be referring to the same entity. Assume a statute prohibiting the wearing of conspicuous religious signs or '*signes religieux ostensibles*' at school. The (French) speaker and the (Canadian) hearer may mean something different by '*signes religieux ostensibles*'. Let us say one means 'X' and the other means 'Y'. Yet, although no one could possibly know this, it could be that 'X' and 'Y' overlap point for point. Even the fact that the speaker's account does not coincide with the hearer's does not mean that both accounts do not, in fact, identify overlapping 'referents' or, even, an identical 'referent' such that both interlocutors could be, strictly speaking, talking about 'the same thing' (one way of making this argument is to say that different extensions need not entail different intensions). Again, though, one could never possibly know, and one must be content with a 'working understanding'—a kind of cheating. The fact that speaker and hearer offer different accounts (the speaker has in her mind one meaning of '*signes religieux ostensibles*' and the hearer has in his mind another) does not mean that there cannot be negotiation so that one can defer to the other's meaning not because it is right, but as part of a process of re-signification. In this sense, epistemologization of reference, that is, the thesis that 'referring' means 'identifying', is perhaps best understood as 'identifying provisionally' or 'identifying under reserve' such that any identification of 'referents' can be re-signified (this seems much more reasonable than denying an epistemological dimension to reference, than de-epistemologizing reference so as to make it non-epistemological, the point being that linguistic contact with the 'referent' does not necessarily exhaust the matter of epistemological contact with it).

Language being responsible for world-disclosure, that is, for the constitution of entities that can 'appear' to individuals, it predetermines what can/cannot be predicated meaningfully of these entities. Hence, it predetermines beliefs about them rather than their 'truth' or falsity.

The hermeneutical insight into the pre-judgemental structure of understanding is not the ontologization or hypostatization of tradition as 'truth'. For one thing, one is aware that any 'consensus' within tradition can have been achieved through distortion and compulsion. Jacques Derrida refers to 'the colonial structure of every culture' and mentions the 'terror' wrought by culture, whether 'soft, discreet, or screaming'.[95] In the words of John Caputo, 'tradition is largely the story of the winners while the dissenters have been excommunicated, torched, castrated, exiled, or imprisoned'.[96]

The normative presuppositions underlying the constitutive character of language do not imply the epistemological postulate of immediate access to the entity 'as such'. Rather, the epistemological content concerns the entity 'under a certain account'. One can meaningfully commit oneself to the existence of a 'referent', but not to the particular way in which it is described by other speakers. Consider the word 'law' envisaged as an indexical or implicitly indexical expression. It does not

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[95] Derrida [35], 69, 45, and 45, respectively ('*la structure coloniale de toute culture*'/'*terreur*'/'*douce, discrète ou criante*'].

[96] Caputo [14], 264.

contain any descriptive conditions that must necessarily and sufficiently be satisfied by 'entities' in order to allow reference to them as 'law'. Reference to an 'entity' belonging to 'law' cannot be equated with ascription to it of a determinate property that would be regarded as a criterion for 'membership'. While a green lemon is still a lemon and a three-legged tiger is still a tiger, 'law' is that which bears a certain relation to 'law' *around here at this time* (to paraphrase Wittgenstein, law is what explanation of law explains).[97] In other words, law's extension is partly determined indexically, but in highly significant ways it is fashioned culturally.

Approaching the matter from an intercultural perspective, it is not, then, that there is not the same 'reality' for speakers of different languages, but that these speakers can only 'mean' it in idiosyncratic ways, which entails that there can be no communication across languages. Let me refer to this implication as the incommensurabilist consequence. Each language having developed through contingent historical, traditional, epistemological, social—that is, cultural—processes, there is no *characteristica universalis* (not even in Latin!).

(Gorgias's lost treatise, *On What Is Not*, 'offered proofs of three propositions: (a) nothing is; (b) even if it is, it is incomprehensible to man; (c) even if it is comprehensible, it is incommunicable to the next man'—which entails that 'speech cannot communicate the truth'.[98])

The fact is that '[w]e have not *got* a language which will serve as a permanent neutral matrix for formulating all good explanatory hypotheses, and we have not the foggiest notion how to get one'.[99] And the further fact is that we have not got a neutral law either: any purported metalanguage exists 'in' a language. Any claim about law is therefore made in the terms of *a* law (and of *a* language): there is the 'absolute impossibility of a metalanguage' and the '[i]mpossibility of an absolute metalanguage'.[100]

In the absence of meta-language, the differend remains immune to the logic of 'objective' adjudication and cannot be brought to the bar of some tribunal of universal rationality. The differend is not truth-apt. It is, in fact, an abyss.[101]

'Law' is not a translation of '*droit*' (how *could* 'law', which emerges in an idiographic legal culture such as England's, be a translation of '*droit*', which is the product of a nomothetic legal culture like that governing in France?).

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[97] I refer to the definition of 'meaning' propounded by Wittgenstein who, in this regard, claims that 'what the explanation of meaning is […] will be the meaning': Wittgenstein [129], 1.

[98] MacDowell [84], 11 and 14, respectively.

[99] Rorty [109], 348–349 (emphasis original).

[100] Derrida [35], 43 ('*impossibilité absolue de métalangage*'/'*Impossibilité d'un métalangage absolu*'). There is '[n]o historical metalanguage [that can] bear witness in the transparent element of some absolute knowledge': Derrida [39], 57 ('*Nul métalangage historique pour en témoigner dans l'élément transparent de quelque savoir absolu*'). Like Derrida, 'I do not cease to decapitate metalanguage or rather to plunge its head back into the text': Derrida [26], 132 ('*je ne cesse de décapiter le méta-langage ou plutôt de lui replonger la tête dans le texte*').

[101] The word 'abyss' ('*Abgrund*') appears in Celan's correspondence with specific reference to the separation between languages: Lyon [81], 37.

Even 'the words *deux, two, zwei* […] remain bound to a language'.[102]

'What guides me', observes Jacques Derrida, 'is always untranslatability'.[103]

Untranslatability is not so much the fact of no-translation as it is that of the incessant not-translation.

'Peter' is not a translation of 'Pierre'.[104]

Any law-text is inherently historically and linguistically constituted in the sense that it can only exist from within a historical and linguistic perspective, from within an episteme, a culture. It cannot be envisaged as existing otherwise. The law-text, and the law *tout court*, cannot transcend perspective. In the words of Alasdair MacIntyre, '[t]here is no standing ground, no place for enquiry, no way to engage in the practices of advancing, evaluating, accepting, and rejecting reasoned argument apart from that which is provided by some particular tradition or other'.[105]

(The comparatist-at-law bears witness to the differend. He acknowledges singularity—although he knows that it must remain opaque to language since no language (and certainly not his, what he calls 'his') can account for singularity. As best he can, he strives to give expression to the discontinuity of experience, thereby revealing an ethical commitment to (his understanding of) recognition and respect.)

(Note that there is nothing here to suggest that the differend is immune to critique. The point, though, is that because any understanding is a 'participating understanding' ('*teilnehmende[s] Verstehen*'),[106] whatever critique is brought to bear will be *situated*.)

(Any comparison that restricted itself to understanding law in terms of 'truth' would be engaged in the dedifferentiating, tranquillizing, flight from the uncanny (or from pain) into the realm of narcotizing ascetic metaphysics.[107] Theories which only view comparison as being concerned with 'objects'—say, purported

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[102] Derrida [44], 241 ('*les mots "deux", "two", "zwei" […] restent liés à une langue*') (emphasis original). This text is the transcript of the last course of lectures that Derrida delivered at the Ecole des hautes études en sciences sociales in Paris in 2002–2003.

[103] Derrida [42], 26 ('*Ce qui me guide, c'est toujours l'intraductibilité*'). See also Derrida [37], 247: '[M]y here-now is absolutely untranslatable and […] the world in which I speak is absolutely heterogeneous. It has nothing in common with that of anyone, here. What I feel within me, what I live within me, the way in which words come to my mind, all of that is absolutely incommensurable. With the multiplicity of those who receive it, understand it each more or less in their own way and each from a here infinitely different from my here, there is no common space; this distance between his here and mine is infinite […]. Between two "here", there is a properly infinite irreducibility, an infinite heterogeneity' ('*mon ici-maintenant est absolument intraduisible et […] le monde dans lequel je parle est absolument hétérogène. Il n'a rien de commun avec celui de chacun, ici. Ce que je sens en moi, ce que je vis en moi, la manière dont les mots me viennent à l'esprit, tout cela est absolument incommensurable. Avec la multiplicité de ceux qui le reçoivent, le comprennent plus ou moins chacun à sa manière et chacun depuis un ici infiniment différent de mon ici, il n'y a pas d'espace commun; cette distance entre son ici et le mien est infinie […]. Entre deux "ici", il y a une irréductibilité proprement infinie, une infinie hétérogénéité*').

[104] Derrida [36], 209. Cf. Humboldt [123], 130, who makes the point that languages '[n]ecessarily feature differences' ('*Es muss nothwendig Verschiedenheiten darbieten*'). Adde: Morris [91], xiii, for whom translation is 'a practice producing difference out of incommensurability (rather than equivalence out of difference)'.

[105] MacIntyre [85], 350.

[106] Bultmann [12], 221.

[107] See generally Glanert and Legrand [58], 513–532.

representations as opposed to admitted re-presentations—remain mired in sterile debates about the 'objectivity' of their practice. They constantly purport to escape from the inescapable tie to the comparatist as *interpretans* and to the diverse law as *interpretandum*: they cannot think of interpretation as differential (non-relating.)

'[B]etween my world and every other world, there is initially the space and the time of an infinite difference, of an interruption incommensurable with all the attempts at passage, of bridge, of isthmus, of communication, of translation, of trope, and of transfer which the desire for world or world sickness […] will attempt to pose, to impose, to propose, to stabilize. There is no world, there are only islands'.[108]

('There is no communication because there are no vehicles of communication'.[109])

'[L]anguage *is* monologue'.[110]

How far can a comparatist, who has assimilated the epistemological assumptions of a legal culture as actively forged and reinforced through a system of schooling within which he has been embedded, come to edge understanding—in the strong sense of the term—closer to the experience of another legal culture and away from mere ventriloquism about that other culture?[111] Such is Dan Sperber's argument: '[Y]our understanding of what I am saying is not a reproduction in your mind of my thoughts, but the construction of thoughts of your own which are more or less closely related to mine'.[112] As Laurence Thomas observes, '[n]o amount of imagination in the world can make it the case that one has the subjective imprimatur of the experiences and memories of another'.[113] In effect, 'there is […] *always* a remainder, much that I do not understand about the other person's experience and perspective'.[114] Acquired knowledge, then, is inevitably derivative or contingent,

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[108] Derrida [45], 31 ('*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 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*'). See also Derrida [45], 31: '[N]either animals of different species nor human beings of different cultures nor any animal or human individual live in the same world as another, no matter how close and how similar these living individuals are (whether human or animal), and the difference between one world and the other will always remain unsurpassable' ('*ni les animaux d'espèce différente, ni les hommes de culture différente, ni aucun individu animal ou humain n'habitent le même monde qu'un autre, si proches et si semblables ces individus vivants soient-ils (humains ou animaux), et la différence d'un monde à l'autre restera toujours infranchissable*']. If you will, though one's existential way of being-in-the-world is of being-with-others, one cannot (knowingly) be *ad idem* with these others.

[109] Beckett [6], 539. Having addressed incommunicability, Pierre Klossowski enters one crucial reservation as he observes the possibility of communication through 'the exchange of bodies through the secret language of corporeal signs': Klossowski [76], 61 ('*l'échange des corps par le langage secret des signes corporels*') (emphasis in French omitted).

[110] Heidegger [66], 134 ('*die Sprache* ist *Monolog*') (emphasis original).

[111] For the view that '[s]eriously to study another way of life is *necessarily* to seek to extend our own—not simply to bring the other way within the already existing boundaries of our own', see Winch [128], 33 (my emphasis).

[112] Sperber [118], 58. This formulation reminds one of Bhabha [9], 31: '[T]he Other text is forever the exegetical horizon of difference, never the active agent of articulation'.

[113] Thomas [120], 235.

[114] Young [134], 354–355 (my emphasis).

which is why linguistics teaches that 'the phonetic boundaries of bilingual speakers are never exactly the same as those for corresponding monolinguals'; in other words, the bilingual 'never reaches the ideal goal of a new phonological norm'.[115] Clearly, idealizing descriptions of extensive commonalities and co-operative mutualities supposedly presupposed by human communication obscure epistemological differences amongst verbal agents not least as regards the significant operation of asymmetrical relations between comparatists-as-observers and their interlocutors-as-observed. Is there, then, a reconstructive approach that would allow the comparatist(-at-law) to escape the situation in which he has always-already been thrown? The answer cannot have much to do with 'contact'—that is, with anything like 'immersion'. The hermeneutic difficulty lies elsewhere, for the issue concerns the absence of shared episteme. No quantity or intensity of contact can change anything to that dissonance: the law under scrutiny by the comparatist will continue to have been produced by a culture that differs from the culture having constituted the comparatist and within which he continues, perhaps unwittingly, to dwell. Both cultures still will not feature a commonality that would be identically accessible from both vantages.

The very notion of 'dialogue'—which assumes that interlocutors are speaking the same language—makes Jacques Derrida uncomfortable and prompts him perspicuously to assert that he prefers the idea of *negotiation*.[116] For him, the language that one hears is always another language. (One is unaccountably reminded of Samuel Beckett referring to 'the simple and necessary and yet so unattainable proposition that their way of being we, [is] not our way and that our way of being they, [is] not their way'.[117]) Of course, this is not to deny the intersections that unite Jacques Derrida and Hans-Georg Gadamer around an anti-positivist stance.[118] Derrida concurs with Gadamer that when it comes to language, the individual is *not in charge* and that, if anything, it is rather the other way around.[119] Yet, Gadamer impels one '[t]o recognize one's own in the alien' and claims that 'to become at home in [the alien] is the basic movement of spirit'.[120] It is precisely this projection of self unto the other, which means that knowledge of the other ultimately constitutes an instrument for achieving a deeper knowledge of self, that Derrida rejects. For him, such a Hegelian manifestation of the will to appropriate and assimilate other to self, such symbolic violence being visited on the other, is inadmissible: '[I]t is not [a matter of] ignorance nor obscurantism nor a failure of

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[115] Bialystok and Hakuta [10], 16. A fascinating study on the limits of acculturation is Lantolf [78], 28–46. See generally Ellis [47], 299–345.

[116] Derrida [28], 85. Cf. Legendre [79], 183: '[D]ogmatic systems as such do not dialogue, […] they can only negotiate' ('*les systèmes dogmatiques comme tels ne dialoguent pas, […] ils ne peuvent que négocier*') (emphasis omitted). Adde: Novalis [99], 672: '[A]uthentic dialogue is naked word-play' ('*das rechte Gespräch ist ein bloßes Wortspiel*').

[117] Beckett [5], 277.

[118] It is no doubt such features that have allowed Derrida to praise hermeneutics as a form of deconstruction. See Derrida [24], 162–163.

[119] Michelfelder and Palmer [88], 2. See also Derrida, supra, note 55.

[120] Gadamer [55], 13 ('*Im Fremden das Eigene zu erkennen*'/'(im Fremden) heimisch zu werden, ist die Grundbewegung des Geistes*').

responsibility before any desire for intelligibility; but it must be that at some point the other remains as other'.[121]

When Roland Barthes, introducing his strategy of the '*not-to-want-to-grasp*', exclaims, 'I throw myself on my bed, I ponder, and I decide: from now on, of the other, not to want to grasp anything anymore',[122] he is very much thinking along Jacques Derrida's lines in as much as he also urges a non-relation which is non prehensile, a non-relation 'which comprehends the other within a certain relation of incomprehension'.[123]

According to Derrida, I do not hear the other when I claim to understand him since 'the will to understand [constrains] the other to yield, to conform himself to the schemes of thought that I inflict on him and that by-pass *his* specificity'.[124] Since understanding is always, despite itself, structurally so to speak, a prisoner of schemes and signs, 'to understand' is inevitably to integrate the other *nolens volens* into one's system—which is incompatible with the recognition and respect to which the other is entitled as other. To the extent that it claims such an 'interpretive totalization',[125] hermeneutics needs to be resisted. Indeed, Derrida opines that '*Verstehen*' must concern not so much a continuous relation of mediation, but rather the *interruption* of such relation.[126] This interruption must manifest itself as 'the condition of understanding'—*understanding* being envisaged in Derridean terms as *non-understanding*.[127] Only interruption, or non-relation, allows otherness to be sustained and permits the ultimate avoidance of an appropriation of it through one's language or epistemology. In this sense, interruption, far from effectively preventing the dynamics between self and other, permits it to take place as it ensures that an 'other' remains.

For Jacques Derrida, the Gadamerian thesis of 'understanding' and his own claim of 'non-understanding' are 'absolutely irreconcilable'.[128] Consider the two positions. According to Hans-Georg Gadamer, '[o]ne must look for the word that can reach another person. And it is possible for one to find it; one can even learn the language of the other person. One can cross over into the language of the other in order to reach the other. All this is possible for language as language'.[129] But Derrida objects to this brand of consensualism, this Gadamerian/Hegelian 'fusion of

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[121] Derrida [28], 82 ('*Ce n'est pas l'ignorance, ni l'obscurantisme, ni la démission devant aucun désir d'intelligibilité; mais il faut qu'à un moment donné l'autre reste comme autre*').

[122] Barthes [3], 285 ('non-vouloir-saisir'/'*Je me jette sur mon lit, je rumine et je décide: dorénavant, de l'autre, ne plus rien vouloir saisir*') (emphasis original).

[123] Derrida [28], 82 ('*qui comprend l'autre comme autre dans un certain rapport d'incompréhension*').

[124] Grondin [61], 103 ('*la volonté de comprendre [contraint] l'autre à se plier, à se conformer aux schèmes de pensée que je lui impose et qui passent, par le fait même, à côté de* sa *spécificité*') (emphasis original).

[125] Derrida [29], 50 ('*totalisation interprétative*'). In 1986, in a note added to *Truth and Method*, Gadamer showed sensitivity to this argument: Gadamer [55], 376, not. 46. Jean Grondin, a close disciple of Gadamer, discerns here the possible influence of Derrida: Grondin [61], 104–105.

[126] Derrida [31], 53.

[127] Derrida [40], 21 ('*la condition de la compréhension*').

[128] Derrida [23], 427 ('*absolument inconciliables*').

[129] Gadamer [53], 106.

horizons' ('*Horizontverschmelzung*'),[130] which would happen even if the other is remarkably different. The Gadamerian '*Aufhebung*' suggests that the differentiation of horizons is merely a transitory phase destined to 'sublate' itself in a consensus or fusion.[131] For his part, Derrida asserts that sameness between *interpretans* and *interpretandum* simply cannot be contemplated: '[T]here are only islands'.[132] And there is only 'iterability' (even what is repeated is never the same) and 'differance' (even what signifies never has a fixed or fixable meaning)—two idiosyncratic notions that allow one to open oneself to the idea of the singularity of the text and to the further idea of the strangeness of the text, that is, to the decolonization of difference-being-coercitively-assimilated-to-sameness. According to Derrida, 'equivocity is in fact always irreducible': '[W]ords and language in general are not and can never be absolute *objects*'.[133] There is more, since for Derrida 'we cannot—and *must* not—exclude, when someone is speaking, privately or publicly, when he teaches, publishes, preaches, orders, promises, or prophetizes, informs or communicates, that some force within him also efforces itself *not* to be understood, approved, accepted within the consensus'.[134] For his part, Gadamer seeks to eliminate everything having to do with singularity, that is, with difference— according to him, '[w]hatever is alienating in a text, whatever makes the text unintelligible, is to be overcome and thereby cancelled by the interpreter',[135] such that 'understanding is, in the end, always possible'.[136]

While Gadamer asserts that understanding must seek to fashion itself in conformity with the things themselves, for example, with '[t]he *matter* of the text', that is, with 'that which the formal arrangement of the text mediates',[137] and when he claims that understanding must therefore 'keep something at a distance […] as soon as it is rejected by the sense of the text itself',[138] Derrida, though also concerned with the idea of fidelity (he writes that 'reading cannot legitimately

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[130] Gadamer's acknowledgment of a Hegelian influence on his thought is apparent throughout his work. For example, see Gadamer [52], 312, where he refers to the distinctly Hegelian notion of '*Aufhebung*'. This reference is lost in the English translation: Gadamer [55], 306. For Hegel's contribution to hermeneutics, see Forster [50], 174–203.

[131] See generally Grondin [60], 401–418; Rosen [112], 207–218.

[132] Derrida, supra, note 108.

[133] Derrida [21], 106 ('*l'équivocité est en fait toujours irréductible*'/'*les mots et le langage en général ne sont et ne peuvent jamais être des* objets *absolus*') (emphasis original).

[134] Derrida [34], 246 ('*nous ne pouvons—ni ne* devons—*exclure, quand quelqu'un parle, en privé ou en public, quand il enseigne, publie, prêche, ordonne, promet ou prophétise, informe ou communique, que quelque force en lui s'efforce aussi de* ne pas *être compris, approuvé, accepté dans le consensus*') (emphasis original).

[135] Gadamer [54], 41 ('*Das Befremdende, das einen Text unverständlich macht, soll durch den Interpreten aufgehoben werden*').

[136] Gadamer [55], 213 ('*am Ende [gelingt] immer wieder das Verstehen*').

[137] Ricoeur [107], 368 ('*La chose du texte*'/'*ce que l'agencement formel du texte médiatise*') (emphasis original). Gadamer refers to 'the meaning of the text' as 'the thing itself': Gadamer [55], 461 ('*der Sinn des Textes*'/'*die Sache selbst*').

[138] Gadamer [55], 461 ('*etwas fernzuhalten […], sobald es von dem Sinn des Textes selbst verweigert wird*').

transgress the text toward something else than itself'[139]), defends the view that the 'real' and, specifically, the 'reality' of the text is out of reach and inappropriable and, indeed, that it cannot be shown 'as such' or 'in and of itself'.[140] Reading, for Derrida, must '*produce*' a 'signifying structure', that is, '[it] must always aim toward a certain relation, overlooked by the writer, between what he masters and what he does not master of the schemes of the language he is using'.[141]

Jacques Derrida's deconstruction refutes the normalizing procedure that organizes a unique 'logos' of communication. It thus preserves the idea of 'conversation'.[142] Derrida does not believe in the fusional understanding that animates Hans-Georg Gadamer. He does not have faith in an exchange that would be finite and definite, in an agreement: 'I am not convinced that we ever really do have this experience that Professor Gadamer describes, of knowing in a dialogue that one has been perfectly understood or experiencing the success of confirmation'.[143] Alterity is insurmountable. In the midst of 'an unmasterable polytonality, with grafts, intrusions, interferences',[144] '[a] thousand possibilities will always remain open even as one understands something of this sentence that makes sense'.[145] Paradoxically, it is this hermeneutics of resistance to univocity of meaning—this hermeneutics of polyphony, of heteroglossia, of dissemination, of 'destinerrance'[146]—which assists in conferring to Derridean deconstruction its affirmative dimension in that it asserts 'the possibility, for the other tone or for the tone of another, to come at any time to interrupt a familiar music'.[147] Deconstruction, as a gesture of heteronomic confidence, of, say, Deleuzian deterritorialization, is '*more than one language*'.[148] And comparison-at-law, as a gesture of heteronomic confidence, of, say, Deleuzian deterritorialization, is more than one law.

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[139] Derrida [22], 227 ('*[la lecture] ne peut légitimement transgresser le texte vers autre chose que lui*').

[140] Derrida [41], 198 ('*comme tel*'/'*tel qu'en lui-même*').

[141] Derrida [22], 227 ('produire'/'*structure signifiante*'/'*toujours viser un certain rapport, inaperçu de l'écrivain, entre ce qu'il commande et ce qu'il ne commande pas des schémas de la langue dont il fait usage*') (emphasis original).

[142] Cf. Heidegger [68], 181: 'Yet we must guard against the presumption that we now belong among those who really understand. Perhaps we too are mere onlookers' ('*Doch hüten wir uns zu meinen, wir seien damit schon Verstehende; vielleicht schauen wir nur zu*').

[143] Derrida [31], 54.

[144] Derrida [27], 67 ('*une polytonalité immaîtrisable, avec greffes, intrusions, parasitages*').

[145] Derrida [32], 122 ('*Mille possibilités resteront toujours ouvertes, alors même qu'on comprend quelque chose de cette phrase qui fait sens*').

[146] This neologism is a leitmotiv in the work of Derrida. It wishes to convey the idea, intrinsically aporetic, according to which a meaning, although destined for an addressee, is liable to err—which means, for instance, that it may, in the event, travel from the addressee to the addressor (as when the addressee ascribes his meaning to the addressor's utterance).

[147] Derrida [27], 67–68 ('*la possibilité pour l'autre ton ou le ton d'un autre, de venir à n'importe quel moment interrompre une musique familière*'). Cf. Derrida [43], 54: '[D]econstruction is on the side of the *yes*, of the affirmation of life' ('*la déconstruction est du côté du* oui, *de l'affirmation de la vie*') (emphasis original).

[148] Derrida [30], 38 ('plus d'une langue') (emphasis original). The idea of 'deterritorialization' occurs frequently in the work of Deleuze. For example, see Deleuze and Guattari [19]; Deleuze and Guattari [20].

The self, far from seeking to assimilate the other, ought to 'watch over the other's otherness'.[149]

(Foreign law—what I call foreign *law* from my vantage—must remain foreign.)

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[149] Derrida [38], 218 ('*veiller à l'altérité de l'autre*').

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